



BANGLADESH

SUBMISSION TO THE UNITED NATIONS HUMAN RIGHTS COMMITTEE
119TH SESSION, 6 – 29 MARCH 2017

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1. INTRODUCTION

In March 2017, the Human Rights Committee (the Committee) will examine Bangladesh's initial report¹ on measures taken to implement the International Covenant on Civil and Political Rights (ICCPR), in law and practice.

Amnesty International remains concerned at the Bangladeshi authorities' ongoing failure to fully implement the Covenant at the national level. This briefing outlines Amnesty International's main areas of concern on Bangladesh including: increasing restrictions on the right to freedom of expression; human rights concerns around Rohingya refugees who have fled into the country from Myanmar since October 2016; and human rights issues facing Indigenous People in the Chittagong Hill Tracts. Please note that the issues listed below are not exhaustive of Amnesty International's concerns on Bangladesh.

2. FREEDOM OF OPINION AND EXPRESSION AND FREEDOM OF ASSOCIATION (ARTS. 19 AND 22)

Since the current Awami League government was re-elected in 2014, the space for the rights to freedom of expression and association has shrunk alarmingly.

2.1 REPRESSIVE LEGAL FRAMEWORK

Although the Constitution of Bangladesh largely guarantees the rights to freedom of expression and association, the authorities have introduced several laws which restrict these rights.

Amnesty International is greatly concerned about the effects of the **Information and Communications Technology (ICT) Act 2006** (amended in 2013). Several provisions of the ICT Act are vague and overbroad, effectively granting the authorities huge discretion in who can be charged under it. It appears designed to stifle criticism of the government from a wide range of actors. Section 57 of the Act is particularly concerning, as it both criminalizes peaceful expression and is so broadly worded as to allow for arbitrary and abusive application. It criminalizes publishing anything online that prejudices "the image of the State", a provision which has frequently been used to target peaceful government critics. The same Section 57 also criminalises publishing anything online that hurts "religious sentiment", which has often used to bring criminal charges against religious minorities or secular activists who have been found to publish "offensive"

¹ UN Doc. CCPR/C/BGD/1, 3 September 2015, available at http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fBGD%2f1&Lang=en

remarks about Islam.² As such, the ICT Act has been described as a “de facto blasphemy law”. The ICT Act carries punishments of a minimum of seven years in prison and a maximum of 14.

According to the Bangladeshi human rights NGO Odhikar, at least 35 people were arrested under the ICT Act in 2016. This is an increase from 14 in 2014 and 33 in 2015.³ Among these individuals are journalists, secular bloggers and human rights activists, who have been targeted for nothing but peacefully exercising their right to freedom of expression online. On 28 August 2016, for example, the student activist **Dilip Roy** was arrested in Rajshahi under the ICT Act after criticising Prime Minister Sheikh Hasina on Facebook. The case was brought against him by members of the Chhatra League, the student wing of the ruling Awami League party. Dilip Roy was released on bail on 17 November 2016 after spending more than two months in jail without charge.⁴

In another case, **Mithun Chakma**, a well-known campaigner for Indigenous People’s rights in the Chittagong Hill Tracts (CHT), was arrested on 12 July 2016 by police and accused of violating Section 57 of the ICT Act for “publishing false, obscene/vulgar or defamatory information”. The case related to an article Mithun Chakma had published on a blog in 2007, in which he accused an army officer of involvement in the disappearance of Kalpana Chakma, an indigenous rights campaigner who was abducted in 1996. After spending more than three months in jail without formal charges being filed against him, Mithun Chakma was released on bail on 18 October 2016.

On 13 October 2016, the **Foreign Donations (Voluntary Activities) Regulation Act 2016** entered into force.⁵ The Act not only hinders the ability of human rights defenders and civil society organizations to seek and secure resources but it also expands the government’s ability to unlawfully interfere with the work of NGOs and arbitrarily cancel their registrations. Of particular concern is a provision which makes it an offence for NGOs to make “inimical” or “derogatory” remarks against the Constitution or a constitutional body. NGOs found to make such remarks could be deregistered. The words “inimical” or “derogatory” are not defined anywhere in the Act, which could give the authorities wide powers to punish NGOs simply for exercising their right to freedom of expression and peaceful criticism of government bodies.

2.2 RESTRICTIONS ON MEDIA

Media workers in Bangladesh told Amnesty International that restrictions on and official interference in their work has significantly increased in recent years, in particular since the Awami League government was re-elected in 2014. Journalists have increasingly felt the impact of restrictions and believe that there are clear “red lines” they cannot cross in their reporting, in particular related to Prime Minister Sheikh Hasina or her family. Threats to journalists from both state and non-state actors are common, leading to widespread self-censorship. Several outlets have been arbitrarily closed by the authorities in recent years.⁶

Since 2013, a range of media workers have also faced trumped-up criminal charges which appear designed to silence, harass and punish critical outlets or individuals. Charges have been brought against several high-profile journalists and editors, who appear to have been singled out as “examples” to act as a deterrent to other media outlets and journalists.⁷ In April 2016, for example, the veteran journalist **Shafik Rehman** was arrested on suspicion of being involved in an alleged plot to “kidnap and kill” Sajeb Wazed Joy, the son of Sheikh Hasina. He was released on bail on 6 September 2016 after spending almost four months in jail without any formal charges being brought against him, or any evidence presented of his involvement in the alleged assassination plot. Rehman, 82, suffers from several long-term health issues and was denied access to adequate medical care in jail.⁸

Many other journalists who work for smaller media outlets have been charged or threatened with criminal charges simply because of their peaceful work since 2014. Frequently, they have been targeted for exposing

2 Amnesty International, “Stop them now! Enforced disappearances, torture and restrictions on freedom of expression,” 13 October 2014, p. 15, available at: <https://www.amnesty.org/en/documents/asa13/005/2014/en/>

3 Odhikar, Annual Human Rights Report 2016, available at: <http://odhikar.org/annual-human-rights-report-2016/>

4 Amnesty International, Urgent Action, “Student held for Facebook posts out on bail: Dilip Roy”, 18 November 2016, available at: <https://www.amnesty.org/en/documents/asa13/5168/2016/en/>

5 Amnesty International, “Bangladesh: New law designed to stifle civil society must be repealed”, 17 October 2016, available at: <https://www.amnesty.org/en/documents/asa13/4996/2016/en/>

6 Amnesty International research on freedom of expression in Bangladesh, to be published in a forthcoming report in February 2017.

7 See for example Human Rights Watch, “Bangladesh: Charging Editors Is Dramatic Backslide”, 20 February 2016, available at: <https://www.hrw.org/news/2016/02/20/bangladesh-charging-editors-dramatic-backslide>

8 Amnesty International, Urgent Action, “Bangladeshi journalist released”, 6 September 2016, available at: <https://www.amnesty.org/en/documents/asa13/4775/2016/en/>

alleged government corruption or for criticising officials, in particular Prime Minister Sheikh Hasina or members of her family. On 29 August 2016, for example, **Siddiqur Rahman Khan**, editor of Dainikshiksha, a specialist online news portal focusing on the education sector, was arrested under Section 57 of the ICT Act. His alleged offences related to a series of articles he had written alleging corruption in the Secondary and Higher Secondary Education Directorate, the government department that regulates schools and colleges. Although he was released on bail on 7 September, the court case is ongoing and he could face up to 14 years in prison if found guilty.⁹

2.3 FAILURE TO PROVIDE JUSTICE AND PROTECTION TO ACTIVISTS

Since 2013, six secular activists – including bloggers, publishers and online activists – have been killed in targeted attacks by armed groups purporting to act in the name of Islam.¹⁰ Other secular activists have narrowly survived similar attempts on their life. Amnesty International has condemned the killings, stating that they are not only a direct attack on freedom of expression, they also show a callous disregard for human life.¹¹

The response of the Bangladeshi authorities has been concerning. In public statements, senior government officials have often failed to condemn these killings, and even appeared to shift the blame on to the victims themselves. After the online activist **Nazimuddin Samad** was killed on 7 April 2016, for example, Home Minister Asaduzzaman Khan Kamal said the government would scrutinize his writing to see if it contained anything “objectionable” about religion as part of its investigation.¹²

As far as Amnesty International is aware, in the wake of only one such attack has anyone been prosecuted and found guilty – the February 2013 killing of secular blogger Rajib Haider.¹³ Although a number of arrests have been made in other cases, the lack of progress in holding perpetrators to account has contributed to an already deep mistrust of the police among secular activists. Many activists still receive death threats for their work, but told Amnesty International that they had been ignored when they approached police for protection. Others refrained from approaching the police because they feared that they could themselves face criminal charges.¹⁴ In 2013, four secular bloggers were arrested and charged under Section 57 of the ICT Act for “hurting religious sentiments” simply because of their online writings on atheist and secular issues.¹⁵

In September 2016 the police submitted a report to the Rangamati court and requested that the case of the disappearance of Indigenous woman activist **Kalpana Chakma** be closed. Kalpana was allegedly abducted by an army officer and two members of a paramilitary force in 1996 and never seen again. The case has been characterised by numerous procedural failings. Kalpana’s family and civil society have lodged petitions with the court to contest the police report and call for a full judicial inquiry.

Amnesty International recommends that the Bangladeshi authorities:

- Repeal all laws used to criminalise freedom of expression or substantially revise them to meet the requirements of the Covenant and other international human rights treaties and standards;
- Immediately and unconditionally drop all criminal charges against journalists, activists and others who have done nothing but peacefully exercise their right to freedom of expression;

9 New Age, “Journalist Siddiqur Rahman released on bail”, 7 September 2016, available at: <http://archive.newagebd.net/250489/journalist-siddiqur-rahman-released-bail/>

10 Amnesty International, “Bangladesh: One year since secular blogger Ananta Bijoy Das was killed and still no justice,” 11 May 2016, available at: <https://www.amnesty.org/en/documents/asa13/4021/2016/en/>

11 See for example: Amnesty International, “Bangladesh: Authorities must act as another secular activist hacked to death”, 7 April 2016, available at <https://www.amnesty.org/en/latest/news/2016/04/bangladesh-authorities-must-act-as-another-secular-activist-hacked-to-death/>; and Amnesty International, “Bangladesh: horrific pattern of violence against freedom of expression”, 31 October 2015, available at: <https://www.amnesty.org/en/latest/news/2015/10/bangladesh-horrific-pattern-of-violence-against-freedom-of-expression/>

12 The Daily Star, “Govt to scrutinise slain Nazim’s writings: Minister”, 7 April 2016, available at: <http://www.thedailystar.net/city/govt-scrutinise-slain-nizams-writings-minister-1205716>

13 The Guardian, “Two sentenced to death for Bangladesh blogger murder”, 31 December 2015, available at: <https://www.theguardian.com/world/2015/dec/31/two-sentenced-death-bangladesh-blogger-ahmed-rajib-haider>

14 Amnesty International research on freedom of expression in Bangladesh, to be published in a forthcoming report in February 2017.

15 Amnesty International, “Stop them now! Enforced disappearances, torture and restrictions on freedom of expression,” 13 October 2014, p. 17, available at: <https://www.amnesty.org/en/documents/asa13/005/2014/en/>

- Provide protection to secular activists and others whose security is at risk, and ensure that those responsible for violent attacks against activists are held to account in proceedings which meet international standards of fairness and without recourse to the death penalty; and
- Keep Kalpana Chakma’s case open and carry out a full judicial inquiry; the inquiry must be given powers to require all alleged perpetrators and witnesses to appear before it and testify.

3. RIGHTS OF MINORITIES AND INDIGENOUS PEOPLES, FREEDOM OF MOVEMENT, RIGHT TO PRIVACY AND HOME (ARTS. 27, 12 AND 17)

3.1 ROHINGYA REFUGEES

Members of Myanmar’s Muslim Rohingya minority community have arrived into Bangladesh since at least the 1970s, fleeing violence, persecution and discrimination in Myanmar. There are some 32,000 registered Rohingya refugees in Bangladesh, as well as an estimated 300,000-500,000 unregistered Rohingya refugees, living mainly in the southeastern Cox’s Bazar District.

From 9 October 2016 to 6 January 2017, the UN estimates that at least 66,000 further Rohingya have fled into Bangladesh in response to an operation launched by the Myanmar military in Rakhine state.¹⁶ Amnesty International has documented serious human rights violations that may amount to crimes against humanity by the Myanmar security forces in Rakhine state since the operation began, including killings of civilians, rape and other forms of sexual violence, and the destruction of homes and other buildings.¹⁷

Bangladesh’s response to the current crisis

Amnesty International is concerned that the Bangladeshi authorities have strengthened a long-standing policy of sealing the country’s border with Myanmar since the current crisis began. The Border Guard Bangladesh have admitted pushing back thousands of fleeing Rohingya who have attempted to enter the country since October 2016, violating the principle of *non-refoulement*, and thus the Covenant.¹⁸

It is also concerning that the Bangladeshi authorities have placed restrictions on aid to newly arrived refugees. This has placed an enormous strain on host communities in Cox’s Bazar, many of whom are

¹⁶ UNOCHA, Asia and the Pacific: Weekly Regional Humanitarian Snapshot (10 - 16 January 2017), available at: <http://reliefweb.int/report/myanmar/asia-and-pacific-weekly-regional-humanitarian-snapshot-10-16-january-2017>

¹⁷ See “Chapter 3: Grave violations in Myanmar” in Amnesty International, “We are at breaking point” – Rohingya: Persecuted in Myanmar, neglected in Bangladesh”, 19 December 2016, available at: <https://www.amnesty.org/en/documents/asa16/5362/2016/en/>

¹⁸ See for instance Human Rights Committee, General Comment 20, Article 7 (1992), para.9; Concluding Observations: Tajikistan (2013), para. 11; Concluding Observations: Estonia (2003), para. 13.

already living in poverty.¹⁹ Although it is welcome that such restrictions on aid appear to have loosened considerably from January 2017, they have not been fully lifted.

Amnesty International recommends that the Bangladeshi authorities:

- Allow all persons fleeing violence, discrimination and persecution in Myanmar to enter Bangladesh without delay or restriction;
- Strictly apply the principle of *non-refoulement*, by ensuring that no one fleeing Myanmar is transferred to any place, in Myanmar or elsewhere, where their right to life or other key human rights are at risk;
- Provide for the immediate humanitarian needs of refugees and asylum-seekers and end all restrictions – formal and informal – preventing the UN and NGOs from providing aid to refugees; and
- Allow the UN and other aid agencies immediate and unfettered access to all refugees fleeing Myanmar.

3.2 INDIGENOUS PEOPLES (ART. 27)

Indigenous Peoples in the CHT have made numerous complaints that land traditionally owned by them has been occupied either by the army or Bengali settlers who arrived during the war in the 1990s or previously, benefiting from government sponsorship in the process. The Chittagong Hill Tracts Peace Accord of 1997 established a Land Commission to resolve such land disputes, but the Commission has since that time not resolved a single dispute, as the government and parliament have failed to implement an already agreed set of amendments to the Land Commission Act.²⁰

It should be noted that the United Nation Declaration on the Rights of Indigenous Peoples requires that states establish mechanisms for adjudicating claims to land traditionally owned by Indigenous Peoples.

In October 2016 the Inspection Panel of the World Bank informed representatives of Indigenous Peoples, who had submitted a complaint with regard to the proposed Bangladesh Trade and Transport Studies RETF Project, that the Bank would no longer be funding the components of the project which would impact on Indigenous Peoples' lands, due to failings in consultations with affected communities and the feasibility study. The project, to be implemented by government agencies, proposed to dredge waterways, improve sea ports, establish customs stations and build a road.²¹

In January 2015, the government issued a memorandum, entitled "Implementation of decisions regarding the visit of foreign nationals to the CHT, having meetings with local tribal people", establishing a series of procedures which different categories of non-Bangladeshi visitors to the CHT region, home to many of the country's Indigenous Peoples, would need to comply with in order to obtain permission to access the region. Even Bangladeshi citizens would need to apply for permission to hold meetings in the CHT. As Amnesty International stated in an open letter to the Prime Minister²², these measures violate rights to freedom of expression, association and assembly, as they do not comply with Covenant criteria regarding permissible limitations on these rights.

In particular, they place unjustified restrictions on journalists and human rights defenders wishing to travel to the region to investigate allegations of human rights violations. The memorandum also constitutes an impermissible restriction on the right of freedom of movement (Art. 12) and the right to family and privacy (Art. 17). Finally it is overtly discriminatory and thus violates Art. 26 because it - as the title indicates - specifically targets Indigenous Peoples. No justification is given for this targeting. Human rights activists and journalists have reported to Amnesty International that the impact of the memorandum on their work has been chilling.

Amnesty International recommends that the Bangladesh government:

19 See "Chapter 4: Desperation across the border" in Amnesty International, "We are at breaking point" – Rohingya: Persecuted in Myanmar, neglected in Bangladesh", 19 December 2016, available at: <https://www.amnesty.org/en/documents/asa16/5362/2016/en/>

20 Parbatya Chattagram Jana Samhati Samiti, 'A Brief Report on the Implementation of the CHT Accord', January 2016

21 World Bank, "Bangladesh - Trade and Transport Studies RETF and First Proposed Regional Connectivity Project : Request for Inspection (English)", 20 October 2016, available at <http://projects.worldbank.org/P148881/?lang=en&tab=documents&subTab=projectDocuments>

22 Amnesty International, Open Letter to the Prime Minister Of Bangladesh, Sheikh Hasina: Government Memorandum Restricting Access to Chittagong Hill Tracts Poses Serious Human Rights Concerns, 12 October 2015, available at: <https://www.amnesty.org/en/documents/asa13/2625/2015/en/>

- Take all measures to enable the Land Commission to begin work on resolving land disputes, including by submitting the agreed amendments to the Land Commission Act to parliament;
- Not proceed with the elements of the Trade and Transport Studies RETF Project that were the subject of the Inspection Panel complaint, or at minimum engage in consultations with affected Indigenous Peoples, through their own decision-making mechanisms, in order to obtain their free, prior and informed consent, before going ahead; and
- Repeal the January 2015 memorandum.

3.3 RIGHT TO LIFE (ART. 6) IN CONJUNCTION WITH RIGHT OF WOMEN AND MEN TO EQUAL ENJOYMENT OF RIGHTS (ART. 3)

Amnesty International made a submission to the October 2016 session of the Committee on the Elimination of Discrimination against Women, in which we drew attention to the high numbers of cases of murder, rape and other forms of gender-based violence against Indigenous women in Bangladesh, and the failure of the police and judiciary to provide redress for these crimes.²³

Among other recommendations, Amnesty International urged the government to:

- Ensure that full, impartial and independent investigations are conducted into all alleged cases of sexual and gender-based violence and that when perpetrators are identified, they are prosecuted in accordance with international human rights norms, without recourse to the death penalty; and
- Ensure accurate, systematic and comprehensive gender disaggregated data collection and analysis measuring violence against women and girls in Bangladesh (including age, ethnicity, socio economic status, nature of the alleged crime and status of the police report).

²³ Amnesty International, Submission to the United Nations Committee on the Elimination of Discrimination against Women, 20 September 2016, available at <https://www.amnesty.org/en/documents/asa13/4863/2016/en/>

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