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Bangladesh: Stop enforced disappearances, torture and restrictions on freedom of expression

INTRODUCTION

The government of Prime Minister Sheikh Hasina continued in office after her party, the Awami League, was declared the winner in the 5 January 2014 elections. The elections were boycotted by the opposition party, the Bangladesh Nationalist Party, and its allies. The opposition protests against elections were frequently violent resulting in more than 100 people killed, most of whom died in violent clashes between the police and protestors, and some in clashes between rival political party supporters.

To Amnesty International's knowledge, no police or security officials involved in the operations that resulted in those deaths have been investigated through an independent and impartial mechanism. Consequently, no one has been brought to justice for any unlawful killings.

The government of Bangladesh has a responsibility to safeguard the human rights of the people in the country but there have been no strong signals from the new government for a clearly defined human rights protection agenda. Far from that, there have been signals from the authorities that further restrictions, especially on the right to freedom of expression, are underway.

Amnesty International has reported on a catalogue of human rights violations in Bangladesh in recent years, which are ongoing and have not been addressed. These include enforced disappearances, torture, restricting the right to freedom of expression, extrajudicial executions, violence against minorities, violence against women, the situation of the indigenous people of the Chittagong Hill Tracts, and the death penalty.¹

In recent years, Bangladesh has taken strides in reducing the poverty gap, attaining gender parity in primary and secondary education, containing HIV infection, lowering the infant mortality rate and maternal mortality ratio and reducing the under-five mortality rate.² This progress, however, has not been matched by a sustained improvement in the human rights areas mentioned above.

While Amnesty International will continue to call for an end to all human rights violations in Bangladesh, this briefing focusses especially on three of the most pressing concerns that have a long history and which have continued in 2014: enforced disappearances, torture and restrictions on the right to freedom of expression.

A least 20 people have been forcibly disappeared since 2012. Eyewitnesses have reported seeing several people being abducted by the police or Rapid Action Battalion (RAB) personnel, but these two forces have denied being involved. Thorough investigations are necessary to establish the truth – including the fate and whereabouts of those still missing, and to bring perpetrators to justice.

Torture and other ill-treatment has long been rampant in Bangladesh and the practice has continued into 2014. Torture methods have frequently included beating, suspension from the ceiling, electric shocks to the genitals and, in at least two cases known to Amnesty International, shooting the detainees in their legs.

The government's use of Section 57 of the the Information and Communication Technology (ICT) Act, under which at least four bloggers and two human rights defenders have been charged unlawfully (see below) restricts the right to freedom of expression. In addition, human rights defenders or media workers have received threats for criticising the authorities, which they believe have come from the security agencies. At least one TV talk show participant, known to be strongly critical of the authorities, has been attacked by men in plain clothes believed to be from the security agencies.

There were also more than 100 deaths during the street violence that erupted around the 5 January elections.³ The majority of these were killed in clashes between police and the opposition, or between opposition and government supporters. An unknown number were killed from bullet injuries reportedly after police opened fire on demonstrators who were often violent. Information on the number and the circumstances of these deaths has been difficult to obtain either because independent sources have not been able to verify these or their families have been afraid to provide testimonies. Nonetheless, all these deaths must be investigated and those responsible for unlawful killings should be brought to justice. They should include any police officials found to be responsible for unnecessary, excessive or disproportionate use of force.

Furthermore, supporters of opposition parties were allegedly behind arson attacks on bus commuters which took place on days these parties had called for complete shutdown of services as part of their anti-government campaign. At least nine people were killed in such attacks, six of them in early December 2013.

Amnesty International interviewed some of the family members of those killed, who claimed that the investigations were politicised – focussed more on indicting senior opposition politicians rather than identifying the perpetrators of attacks. Three families told Amnesty International that police did not even take statements from the victims while they were still alive, nor from their relatives with whom the victims had shared their recollection of events.

Attack on a bus carrying Masuma Akhter and others

Masuma Akhter, a young woman working as a bank clerk, died from burn injuries after some men threw a petrol bomb at the bus in which she was travelling home after a day's work on 28 November 2013. The attack happened in the Shahbagh area of Dhaka. Masuma was one of around 40 people travelling in that bus. The blast caused serious injuries to 19 of them. Six of the injured, including Masuma, died within 10 days of the attack. Masuma's family told Amnesty International that she was in the same hospital room as some of the others injured in that attack and to their

knowledge, no police officer had ever gone to the hospital to take testimony from any of the injured.

AN OVERVIEW OF AMNESTY INTERNATIONAL'S RECOMMENDATIONS TO THE GOVERNMENT OF BANGLADESH

There is an urgent need for the government of Bangladesh to ensure that human rights concerns, namely enforced disappearances, torture and restrictions on the right to freedom of expression are addressed without delay.

Amnesty International is recommending a thorough and rigorous investigation into the following cases. With the exception of the enforced disappearance and murder of seven people in Narayanganj no such investigation appears to have taken place. In that case, for the first time since the formation of Rapid Action Battalion (RAB) in 2004, three of its officers have been removed from active service, detained and are being investigated for their alleged involvement in the abductions and murders.

Amnesty International welcomes this investigation as a move towards holding law enforcement officials accountable for their alleged abuse of power. There is, however, a danger that if the expressions of outrage about these murders die down, the investigation might slow down or even be abandoned under possible pressure from RAB.

STOP ENFORCED DISAPPEARANCES

Amnesty International has investigated 20 reported cases of enforced disappearances in Bangladesh since 2012, including seven who forcibly disappeared in April 2014. These figures are not necessarily the only cases of enforced disappearances in the country. Human rights groups in Bangladesh believe the total number of the forcibly disappeared may be considerably higher.⁴

Of the 20 men, nine have been found dead after their disappearance. Six have returned to their families after periods of captivity lasting from weeks to months with no news of their whereabouts until their release. There has been no news about the circumstances of the other five.

Testimonies of the families of people subjected to enforced disappearances share a number of common features, which appear to implicate police or RAB. There have been several cases in which a group of between five and 12 men in plain clothes have announced themselves to the victims or others in their proximity as police or RAB officers before taking the person away. The vehicles and weapons used by these men have also led eyewitnesses to identify them as police or RAB personnel.

In some cases, the motives for the enforced disappearances appear to have been political, with the targets being members of the opposition parties. At least eight of the 20 people mentioned above have been prominent members of the BNP or Jamaat-e-Islami.

In some other cases, enforced disappearances have been linked to allegations of corruption. In at least nine of the 20 cases investigated by Amnesty International, the families have alleged that local influential persons bribed RAB personnel to carry out enforced disappearances against business rivals or adversaries.

In all the above cases, families did not receive any information about the fate or whereabouts of the abductees, despite repeated requests to the police. When family members who had strong reasons to suspect that police or RAB were the perpetrators attempted to file a complaint, the police did not accept it. In some cases, the police instructed family members to ask RAB directly. Whenever families did so, RAB denied involvement and instructed them to go back to the police.

Even when the police did file a complaint (known as the First Information Report) after the families had obtained a court order, investigations have been slow and inconclusive. To Amnesty International's knowledge, there have been no progress reports by police in any of the investigations of the five whose whereabouts remain unknown. Their families believe the apparent lack of progress is largely because it is the police who are investigating the complaints against themselves or their RAB colleagues. There is no independent police complaints commission to oversee such investigations.

Amnesty International has investigated the following cases, which it believes are illustrative of the general pattern of enforced disappearances. As mentioned above, only in the Narayanganj case has there been any significant progress towards prosecution.

Enforced disappearance of seven persons in Narayanganj

*Seven persons were abducted in Narayanganj on 27 April 2014, by law enforcement officers. **Nazrul Islam**, a local politician; three of his associates, **Tajul, Swapan and Liton**; and his driver, **Jahangir**, were kidnapped at about 1:45pm as they were leaving the court complex following a hearing in which Nazrul Islam was a defendant. They were taken away in their own car. Around the same time, a senior lawyer, **Chandan Sarkar** and his driver **Ibrahim** were also abducted from the court's vicinity.*

On 30 April, bodies of the seven disappeared persons were found floating in the river Shitalakhya in Narayanganj. Local people told journalists that they saw the hands and legs of all the seven victims tied up. Police recovering the bodies said the victims had had their stomachs slashed and sacks of bricks tied to their bodies. The post mortem report said the victims had been strangled to death after being knocked unconscious by a blow to the head, and that all seven had been killed in the same manner.

Police said they were all abducted by men posing as RAB officers. Subsequent events, however, strongly suggested RAB involvement. Family members of Chandan Sarkar said he and his driver were abducted because they had witnessed the abduction of the first five.

Following a public outcry in the city and throughout the country, the Prime Minister in a rare statement on the incident ordered the Home Ministry to arrest those responsible for their abduction and murder.

The government then formed a three-member committee led by the Additional Deputy Inspector General of Police to investigate the incident. The government announced that three senior police officers serving in Narayanganj had been removed from their positions on grounds of the deteriorating law and order in the city. Later, it appeared they had been removed permanently. They were a superintendent of police, a RAB commander and the Officer-in-Charge of Fatualla Police Station.

On 4 May, the father-in-law of Nazrul Islam publicly claimed that two local politicians had paid RAB members to carry out the abduction and killings. He said, "RAB has murdered my son-in-law taking taka 60 million"⁵ and alleged that, "Eyewitnesses to the abduction on 27 April told me that there was a car at the scene

marked RAB-11.”

He said when he had gone to the RAB office to report this, he had been detained and questioned for six hours. He said he then went to the police to file a complaint against the police and RAB but the superintendent of Fatualla Police Station did not record his complaint. He quoted the police as saying, “A case cannot be filed against government officials”.

Following the public accusations levelled against RAB by Nazrul Islam's father-in-law, RAB's Director General announced on 5 May that he had formed a four-member committee headed by the RAB Additional Director to investigate the alleged involvement of RAB personnel in the case.

On the same day, the High Court in a suo moto ruling ordered the authorities to form a committee to probe the incident. The High Court bench said its attention had been drawn to the matter by the reports in the media. The court specified that RAB officials must not be included in the inquiry committee.

On 7 May, RAB confirmed three officials accused of taking bribes for the seven murders had been discharged of their duties. They included the RAB commander who had already been removed in Narayanganj.

On 8 May, newspapers quoting unnamed RAB sources reported that RAB investigators believed their own officers had been involved in the seven murders. So far an official report of the RAB inquiry has not been made public.

On 17 and 18 May, police arrested the three discharged RAB officers in connection with the Narayanganj murders. Police investigations have continued. As of 5 August 2014, no one had been charged with these murders.

Possible enforced disappearance and release of Abu Bakar Siddique

Abu Bakar Siddique, a businessman, was abducted by six or seven men on 16 April in the Fatualla area of Narayanganj. A microbus carrying the men ran into Siddique's car from behind. As Siddique and his driver exited the car to inspect the damage, the men hit the driver on his head with a pistol butt and sprayed his face with a substance that temporarily blinded him. They then dragged Siddique into the microbus before speeding away.

Siddique's family and human rights activists believed his abduction was a warning to his wife, Rizwana Hasan. She is the executive director of the Bangladesh Environmental Lawyer's Association, which has launched a series of lawsuits against a number of construction, tannery and shipbreaking industries for allegedly engaging in activities harmful to the environment, including industrial pollution. She had been receiving death threats because of her campaigns.

On 17 April at around midnight, some 33 hours after Siddique's abduction, police announced they had spotted him travelling in an auto-rickshaw in Dhaka. They took him to the nearby police station and questioned him for a while. They then told his family to go and collect him. At a media briefing, Siddique said he had told the police that his abductors left him blindfolded in the Mirpur area of Dhaka and gave him 300 taka to take an auto-rickshaw home.

He said during his captivity the abductors did not ask for money directly and revealed no other clear motive for his abduction:

“They changed the car after kidnapping me and after around three or four hours I was taken to a house where I was confined in a room on a higher floor.⁶I told him [the person addressed by other abductors as ‘the brother’] I would talk to my family if they needed money. But ‘the brother’ told me that there would be discussion in the next morning. They brought me breakfast and lunch the next day. ‘The brother’ came

again around 10pm. He told me, 'It will be my loss either way if I kill you or let go of you. I won't get the money if I kill you, but will get it if you are alive. Let's free you.'"⁷

Police announced that they were investigating the incident, but as of 5 August 2014, they have not disclosed any information on the progress or the outcome of the investigation. While Siddique has not claimed police or RAB involvement in his abduction, human rights defenders believe the apparent lack of progress in the investigation could betray a link with the security forces.

Possible enforced disappearance of Abraham Linkon

Abraham Linkon, an employee of Rangpur Medical College Hospital, was subjected to a possible enforced disappearance on 15 February 2014. Eleven days later, Linkon's body was found in Shibganj Upazila of Bogra, some 240 kms from where he was taken, with a bullet wound to the side of his head.

Eyewitnesses told his family that he was abducted from a tea stall in front of the emergency gate of the hospital at around 12:30pm. Four or five armed men, in plain clothes, asked him if he was Linkon. When he said he was, they told him to get in a microbus with blacked-out windows and no number plates. He refused and they forced him in, hitting him and brandishing guns before taking him away. The vehicle was similar to those RAB is known to use.

Eyewitnesses reportedly tried to stop the men from taking Linkon, but the men told them they were from the "administration". One of the people drinking tea with Linkon asked them to show a warrant of arrest. They replied, "We will not show a warrant, but if you ask more questions we will take you too."

The family believes there was a high chance the abductors would have been noticed by the police. The tea stall where Linkon was abducted is just outside the hospital gate and around 20 metres away from the local prison. Intelligence agencies including the Special Branch, National Security Intelligence and the Detective Branch are known to monitor this area constantly, apparently to prevent criminal activity.

The family told Amnesty International that the police were reluctant to search for Linkon. Officers at Rangpur Police Station initially refused to file a First Information Report (FIR), a detailed complaint in which the names of the witnesses as well as suspected perpetrators are given. Instead, police told them to submit a 'General Diary', a report which only provides a brief account of the incident without naming suspects. Left with no other option, the family complied. When they tried to obtain more details about the whereabouts of Linkon, police and RAB both denied being involved.

On 24 February, family members travelled to Dhaka to seek support from human rights organizations to trace Linkon. Two days later, in the morning of 26 February, the family received the news that Linkon's body had been found. Amnesty International is unaware of any investigation into his death.

Enforced disappearance of Saiful Islam Hiru, Humayun Kabir Parvez and Joshim

Saiful Islam Hiru, a former MP and president of the BNP's Laksam branch was arrested by RAB officers at around 10pm on 27 November 2013 along the Laksam-Comilla highway. RAB also arrested two other men who were in the same vehicle, **Humayun Kabir Parvez** (a BNP official and Hiru's cousin) and **Joshim** (a local BNP activist).

Hiru's family told Amnesty International in Dhaka that the three men were travelling to Laksam from Comilla on that day, after Hiru received a phone call that his father had been arrested by RAB.

Joshim, one of the three detainees, was later released. He told the family that RAB stopped the vehicle and took them away in a RAB van. This information is corroborated by the driver who said to the family, as well as later in a TV interview from his hospital bed, that men in plain clothes, whom he believed were RAB officers, were blocking the road. They smashed the windows of the vehicle and beat him before abducting the three passengers.

The family said that on the same night, RAB had arrested another 10-12 people from their flour mill in Laksam. Some of these detainees were members of the BNP, while others were friends and acquaintances of the family. These men and the three who were abducted from the while travelling were later brought together in a field, in RAB vans arriving from different directions.

RAB officers told the men in the two vans to get out and stand in a line. After a while, Hiru and Kabir were separated from the rest, and taken away in the van they had been brought in.

Joshim was left with others who were then taken away in the other van and handed over to Laksam Police Station. On 28 November, police produced all of them except Hiru and Kabir before the court in Comilla. The court ordered their release on bail, and they were subsequently freed. Hiru's family went to the RAB headquarters in Comilla to inquire about his whereabouts, but RAB denied any involvement in having arrested Hiru. The family has had no information of his fate or whereabouts, and no contact with him and his cousin since they were arrested.

The family tried to lodge a complaint, but police said they would not accept it because it alleged RAB was responsible for the abduction. Police officers said if the family removed all references to RAB and changed the wording from "abducted" to "missing", they would accept the complaint. The family did so, as they had no other option. Police never visited or called the family, and to their knowledge none of the other men who had been abducted and later released had been questioned as witnesses.

On 18 May 2014, the family members of the two disappeared persons filed a lawsuit before a court in Laksam, accusing five RAB officers, including one of those accused in the Narayanganj cases, of involvement in their enforced disappearance. The court ordered the police to investigate, but there has been no news of any progress with the investigation.

Possible enforced disappearances in previous years

Amnesty International has investigated the cases of at least six people subjected to possible enforced disappearances in 2012 and 2013. Among them was **Ilias Ali**, Sylhet division secretary of the BNP, who disappeared together with his driver **Ansar Ali** on 17 April 2012. The government promised to investigate the case but has provided no information about their situation, and no one has been brought to justice for their enforced disappearance.

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 suspected that he had been abducted by security forces. He was an outspoken trade union leader known for his ability to mobilise workers for better conditions. The pattern of his harassment in the past appears to support the family's suspicion. He had previously been subjected to arrest and beaten by members of the National Security Intelligence for his trade union activities.⁸To Amnesty International's knowledge, no one has been brought to justice for his murder.

International human rights law prohibiting enforced disappearances

Even though Bangladesh is not a signatory to the International Convention for the Protection of All Persons from Enforced Disappearance, customary international law also prohibits enforced disappearances. Further, Bangladesh has international obligations as a state party to the International Covenant on Civil and Political Rights (ICCPR), as enforced disappearances violate a number of rights in the covenant, including the right to liberty and security of person and the right to fair trial, and, in particular cases the right to life.

Investigations into enforced disappearances are rare in Bangladesh. The police usually refuses to register complaints, only doing so when the families have obtained a court directive ordering an investigation. Even then, police usually do little to investigate the incident.

RECOMMENDATIONS TO THE GOVERNMENT

- *Immediately release anyone subjected to an enforced disappearance, unless they can be charged with a recognizably criminal offence, in which case immediately present them before a court;*
- *Ensure their safety and well-being while they are in custody;*
- *Investigate the perpetrators, taking into account command responsibility;*
- *Bring to justice in a fair trial those found to be responsible;*
- *Ensure that the current investigation into the involvement of RAB officers in the enforced disappearance and murder of seven people in Narayanganj in April 2014 is carried out thoroughly and rigorously and those found responsible are brought to justice regardless of their rank or status;*
- *Ensure that the investigation ordered by the Laksam court into the enforced disappearance of Saiful Islam Hiru and Humayun Kabir Parvez starts without delay;*
- *Ensure that the abduction of Abu Bakar Siddique and abduction and death of Abraham Linkon are investigated thoroughly and rigorously and those found responsible are brought to justice;*
- *Order a thorough and rigorous investigation into the enforced disappearances of Ilias Ali, Ansar Ali, and Aminul Islam and bring to justice those found responsible;*
- *Ensure that complainants, witnesses and others at risk are protected from intimidation and reprisals.*

STOP TORTURE AND DEATHS IN CUSTODY

The use of torture and other ill-treatment persists in Bangladesh despite safeguards in the Constitution (Article 35), the Penal Code (Section 330) and the Torture and Custodial Death (Prohibition) Act 2013.⁹

Torture and other ill-treatment is also prohibited by international human rights law, such as the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT). Bangladesh became a state party to this convention in 1998.

Because torture is pervasive in Bangladesh, the exact number of those tortured is not known. Amnesty International's information indicates that torture is routinely committed during the interrogation period when the detainees are remanded in police custody. In

fact all former detainees with whom Amnesty International has spoken in recent years have testified to being tortured or otherwise ill-treated when remanded in police custody. This would suggest that thousands of detainees are at risk of torture or ill-treatment every year.¹⁰ At least nine people died in police custody between January and July 2014, allegedly as a result of torture.¹¹

This briefing highlights a handful of recent cases.

Police tortured two brothers, one of whom died from his injuries

*On 9 February 2014 a Bihari man, **Ahmed Johnny**, died in the custody of the police after he was arrested from a wedding party the previous day, and severely tortured. Eyewitness testimony collected by Amnesty International, as well as reports in the Bangladeshi media, all point to the arbitrary arrest of Johnny, with police torturing him and causing him grave injuries that led to his death.*

Members of the Bihari community, journalists and human rights defenders with whom Amnesty International spoke about this incident said a police sub-inspector arrested Johnny and tortured him before his death.

According to testimonies, in the early hours of 8 February when Johnny was arrested, there had been a clash between him and a few other men at a wedding party in the Irani Camp in the Mirpur area of Dhaka. Johnny was trying to stop those men from making sexual advances towards women attending the party. The sub-inspector who was assigned to patrol that area entered the wedding party. Eyewitnesses say he also began to behave inappropriately towards some of the women in the wedding party, and Johnny and several others objected.

The sub-inspector then left the party but returned shortly afterwards with a van full of police officers, who surrounded the camp. The sub-inspector arrested Johnny, his brother Ronny and three other men from the Irani Camp. Eyewitnesses say the arrests were made at about 2:30am on 8 February.

*Johnny's brother, **Mohammad Ronny** who was also tortured on that night by the same police officers, told Amnesty International that they began to beat them while he and others were being transported to nearby Pallabi police station in Mirpur. They were held in a room and the sub-inspector began to beat them again with cricket stumps, almost continuously. Johnny was beaten most severely. This continued for several hours. At one point, Johnny said he was thirsty and asked for some water. The sub-inspector reportedly spat on the floor and told Johnny to lick his spit while he was still beating him.*

Towards the end of the night, police untied the handcuffs of Johnny and Ronny, threw them onto the floor and beat them more. They were severely injured from the beating. According to Ronny, Johnny was not moving. Police at that point decided to take them to Mirpur General Hospital.

Family members who had talked to the hospital doctor told Amnesty International that the doctor diagnosed Johnny's situation as being critical and advised specialist heart treatment for him. Police then took him to the Heart Foundation Hospital, but he died on the way to the hospital.

Ronny was held in detention overnight, then taken to the court the next morning and remanded in jail custody. He was later released. Police refused to file a complaint from the family members because it named the sub-inspector as being responsible for Johnny's death. Police also told the family that Johnny was injured during the clash between two groups in the camp, and died of injuries from that.

In response to a series of demonstrations by members of the Bihari community

and reports of the incident in the media, the sub-inspector was reportedly removed from the Pallabi police station. There are also newspaper reports that an official inquiry is underway but there has been no news about the details or outcome of this inquiry.

Amnesty International has also interviewed people who say they were shot in the leg when they were detained and interrogated by the police. Most of the victims or their families did not want to give the details for fear of being targeted again. Two of those prepared to speak with Amnesty International gave the following testimonies, but their names and other identifying details are omitted for security reasons.

Detainee's leg amputated after police allegedly shot him in the leg

One person told Amnesty International that police grabbed him during a street protest in February 2013 and put him in a van together with five other men who had bullet injuries to their arms and legs. They were all taken to a police station in Dhaka and locked in a cell. He said two police officers came to the cell with large guns, and called out for the person who had no bullet injuries. The detainee moved forward. They took him outside the building and told him to close his eyes as they were going to shoot him. A moment later, they shot him around six times in his left leg. He was then taken to hospital where his leg was amputated. Police told the medical staff at the hospital that he was a criminal and had been shot by the police after setting buses on fire. He said he was subsequently released but has not lodge a complaint fearing further exposure to risks.

Detainee died in hospital after police allegedly shot him in the leg

Family members of another victim told Amnesty International that in January 2014, a police sub-inspector arrested him and told him that unless he paid 10,000 Bangladeshi taka¹² he would be tortured and criminal charges would be brought against him. The detainee told the officer he did not have the money. The police officer, with the help of a colleague, began to beat him and then took him to a nearby building where they beat him again. They kicked him and threw him on the floor, severely injuring his left leg. He continued to tell them that he did not have enough money. One of the officers then placed the barrel of a pistol on the detainee's left leg and fired a shot. The two police officers then took the man to the Dhaka Medical College Hospital, telling the doctors that he had been shot during a robbery when police returned fire after he threw a bomb at them. Doctors said that his leg had to be amputated, but six or seven days later, he succumbed to his injuries and died. His mother went to the police to file a complaint after he died, but police did not accept her complaint because she had named a police officer as responsible for her son's death.

Even though safeguards against torture in Bangladesh law were further strengthened by the enactment of the Torture and Custodial Death (Prohibition) Act, 2013¹³, it is clear that these safeguards are not working. As of June 2014, no cases are known to have been filed by the police under the Act.

Taking firm action on all cases of torture, including those highlighted in this briefing, is necessary to send a strong message to perpetrators in Bangladesh that the government will not tolerate torture under any circumstances.

RECOMMENDATIONS TO THE GOVERNMENT

- *Establish an independent body to investigate complaints of torture and other ill-treatment by the police, investigate all complaints of torture or other ill-treatment, promptly, impartially and effectively, and bring to justice those responsible for torture or other ill-treatment, ensuring that trials are fair;*
- *Communicate clearly to all members of the police, military and other security forces that torture and other ill-treatment will never be tolerated;*
- *Ensure that officials are aware that they have the right and duty to refuse to obey any order to torture or carry out other ill-treatment;*
- *Ensure that all detainees are immediately informed of their rights and are able to have a lawyer present during questioning;*
- *Ensure that effective judicial remedies are available at all times to enable relatives and lawyers to find out immediately where a detainee is held and under what authority, and to ensure the prisoner's safety;*
- *Ensure that conditions of detention conform to international standards for the treatment of prisoners and take into account the needs of members of particularly vulnerable groups;*
- *Ensure that complainants, witnesses and others at risk are protected from intimidation and reprisals.*
- *Ensure that the principles contained in these recommendations form an integral part of police training.*

SAFEGUARD FREEDOM OF EXPRESSION

Amnesty International is deeply concerned that the right to freedom of expression is being curtailed in Bangladesh. Of particular concern is the government's use of Section 57 of the Information and Communication Technology (ICT) Act, under which at least four bloggers and two human rights defenders have been charged in the last two years. Section 57 of the Act reads:

"Punishment for publishing fake, obscene or defaming information in electronic form.-- (1) If any person deliberately publishes or transmits or causes to be published or transmitted in the website or in electronic form any material which is fake and obscene or its effect is such as to tend to deprave and corrupt persons who are likely, having regard to all relevant circumstances, to read, see or hear the matter contained or embodied in it, or causes to deteriorate or creates possibility to deteriorate law and order, prejudice the image of the State or person or causes to hurt or may hurt religious belief or instigate against any person or organization, then this activity of his will be regarded as an offence."¹⁴

Under this section, people can be sentenced to a maximum of 10 years in prison, if the charges were brought against them before 6 October 2013. At that time, an amendment increased the maximum punishment to 14 years in prison. The amendment also imposed a minimum punishment of seven years.

As a state party to the International Covenant on Civil and Political Rights (ICCPR), Bangladesh is bound by its provisions, including Article 19 which provides for the right to freedom of expression. ICCPR Article 19 states:

"1. Everyone shall have the right to hold opinions without interference.

2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.

3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

(a) For respect of the rights or reputations of others;

(b) For the protection of national security or of public order (ordre public), or of public health or morals."

In its authoritative General Comment on this Article the Human Rights Committee, the expert body charged with overseeing the implementation of this Covenant, explained, among other things, that "restrictions on the exercise of freedom of expression... may not put in jeopardy the right itself." It added that "the relation between right and restriction and between norm and exception must not be reversed." Restrictions must be provided by law, be imposed on specific grounds (namely the ones listed in Article 19(3)(a) and (b)) and "must conform to the strict tests of necessity and proportionality."¹⁵

Amnesty International is concerned that Section 57 of the ICT Act, both in its formulation and in its application, goes beyond the limits of restrictions permissible under Article 19.

Although disseminating "fake", "obscene", "defaming information" whose effect may be to "deprave" or "corrupt" persons, or "hurt religious belief" are criminalised under the ICT Act, these phrases are never defined, allowing the authorities a large degree of discretion to restrict freedom of expression. Penalising the publication of content which could "tend" or be "likely to" have a deleterious effect on others is similarly vague and open to abuse at the expense of the right to freedom of expression.

While other phrases in the Act may have been defined more tightly, this vague formulation runs contrary to the Human Rights Committee's abovementioned General Comment, which specifies that "restrictions must not be overbroad".¹⁶ The General Comment also states that, "For the purposes of paragraph 3, a norm, to be characterized as a 'law', must be formulated with sufficient precision to enable an individual to regulate his or her conduct accordingly, and it must be made accessible to the public. A law may not confer unfettered discretion for the restriction of freedom of expression on those charged with its execution."¹⁷

Some of the provisions of Section 57, whether or not they are clearly defined, amount to restricting the peaceful exercise of the right to freedom of opinion and expression. For example, penalizing someone for "prejudicing the image of the state" could stifle peaceful expression of political opinion by those critical of the authorities, with a chilling impact on peaceful political debate and freedom of the media.

The Human Rights Committee has said that "States parties should consider the decriminalization of defamation."¹⁸ Amnesty International similarly believes that the use of defamation laws with the purpose or effect of inhibiting legitimate criticism of government or public officials violates the right to freedom of expression.

Amnesty International therefore considers Section 57 of the ICT Act to be incompatible with the right to freedom of expression as provided by Article 19 of the ICCPR. It urges the government to repeal this section and to ensure that all other provisions in the Act comply with the ICCPR.

Bloggers facing trial for expressing their opinion

Asif Mohiuddin, Subrata Adhikari Shuvo, Mashiur Rahman Biplob and Rasel Parvez were arrested in April 2013 and later charged under Section 57 of the ICT Act, accused of making derogatory comments about Islam and hurting religious sentiments. They were in detention for more than a month until eventually being released on bail. However, the charges against them, which carry a maximum prison sentence of 10 years, have not been withdrawn as of June 2014. As far as Amnesty International is aware, their writings amounted to no more than a peaceful exercise of their right to freedom of expression.

Human rights defenders facing trial

Adilur Rahman Khan and Nasiruddin Elan, the secretary and director respectively of the Bangladeshi human rights organization, Odhikar, were charged under Section 57 of the ICT Act for publishing a report on alleged extrajudicial executions by security forces during a protest rally in May 2013.

Adilur Rahman Khan was arrested in August 2013 and held for just over two months. Elan was arrested later and detained for a shorter period. They have both been released on bail but are facing charges under the ICT Act.

The details of the charges brought against them are as follows:

"1. Adilur Rahman Khan @ Shuvro (52) Secretary [of] Odhikar 2. ASM Nasir Uddin Elan (42) Director [of] Odhikar, committed crimes under sections 57 (1) and 57 (2) of the Information Communication and Technology Act 2006 by using the Odhikar computers and other electronic equipment to relay false information of the deaths of 61 persons in the hands of law enforcement officers on the night of 05/05/2013 at Motijheel Shapla Chottor; of destroying the image of law enforcement, the Government and the State internationally; and for destroying the image of law enforcement agencies in the eyes of religious citizens of Bangladesh."¹⁹

The security forces also raided Odhikar's offices in August 2013 and took away computers containing potentially sensitive material such as the identities of witnesses. Odhikar has since reported regular visits to their Dhaka offices by security forces, white vans stationed outside the gates, and increased surveillance of staff throughout the country.

The Non-Governmental Organizations Affairs Bureau, which is in the Prime Minister's Office, has been withholding funding for Odhikar's projects, including for projects on which it had already given its approval.

There are also allegations by journalists and human rights defenders that the government has taken more subtle restrictive measures to stifle freedom of expression. They say these include phone calls by security agencies to news or TV talk show editors pressuring them not to invite people overtly critical of the authorities or the security agencies to write in their newspapers or appear on talk shows.

Amnesty International has interviewed eight journalists and editors, and six people who had frequently appeared on TV talk shows.²⁰ They all said they had experienced attempts by security agencies since late 2013 to control the content of newspapers or television talk shows. Some who regularly appeared on talk shows said that all of a sudden, usually after they had openly spoken against the actions of the authorities, almost all channels stopped inviting them, sometimes for weeks or months. One newspaper editor told Amnesty International that security agencies had given him a list of names of people whose articles he should stop publishing, and had told him whose articles he should publish instead. He said this type of pressure on editors had been there for years but had intensified since mid-December 2013. There are several other instances which strongly indicate that people exercising their right to freedom of expression have been targeted, as the following accounts indicate.

Ain O Salish Kendra reports attempted abduction of its director after he criticised RAB

On 15 May 2014, Nur Khan, director of investigation at the human rights organization Ain O Salish Kendra, noticed a white microbus intent on blocking the movement of the rickshaw which he had just hired to take him home. He was leaving his office at the end of the day with a colleague and the incident happened only a few metres away from their office. Nur Khan, who had been the subject of death threats and an attempted abduction in the past, became suspicious. He jumped out of the rickshaw and ran back to his office.

Nur Khan had been critical of enforced disappearances and extrajudicial executions in Bangladesh prior to the incident. He had experienced increased surveillance of his movements after his appearance on talk shows in the previous two weeks, in which he had criticised the RAB for its alleged involvement in the 27 April 2014 enforced disappearance and killing of seven people in Narayanganj. He had received phone calls from people saying they were from security agencies and warning him against taking part in the talk shows.

TV talk show participant attacked after criticising the authorities

Dr Tuhin Malik, a Supreme Court lawyer who writes in newspapers and regularly appears on TV talk shows, told Amnesty International that he had repeatedly been threatened and physically attacked because of his media work. He had been critical of the authorities and challenged the legality of the government's right to hold elections under an interim administration. He believed this led to threats and attacks against him.

He told Amnesty International that after a talk show at the Bangladesh TV Channel I on 11 June 2013, a group of men in plain clothes came to attack him. It happened when he was leaving his car to enter the building of RTV at Kawran Bazaar, where he was scheduled to appear in another talk show. The men beat his driver and damaged his car. Tuhin Malik said the attackers sent a message through his driver that he should not join talk shows.

He has subsequently been the target of other attacks. On 27 October 2013, three petrol bombs were thrown at his car in Gulshan Avenue and on 1 December 2013, petrol bombs were thrown at the window of his mother's house while he was visiting. On 2 December 2013 at about midnight, a microbus drove into the compound of his own house in Banani and five or six men rushed into the house and made their way to the top floor where he lived. Dr Tuhin ran away before they reached his flat, and

believes he would have been abducted if he had not done so. Since that incident, he has found it increasingly difficult to persuade TV producers to invite him for talk shows.

Most recently, Bangladeshi newspapers and human rights groups have raised the alarm that the government is planning to legislate for a new broadcasting policy that would severely limit the scope for media freedom.²¹

RECOMMENDATIONS TO THE GOVERNMENT

- *Repeal Section 57 of the ICT Act and any other laws that are not compatible with Bangladesh's international human rights obligations to protect the right to freedom of expression;*
- *Drop charges under the ICT Act against bloggers Asif Mohiuddin, Subrata Adhikari Shuvo, Mashiur Rahman Biplob and Rasel Parvez, and the human rights defenders Adilur Rahman Khan and Nasiruddin Elan; Investigate the allegation that Nur Khan was subjected to an attempted abduction – if so, bring to justice those responsible;*
- *Investigate the attack and death threats against Dr Tuhin Malik, and bring to justice those found responsible for the attacks;*
- *Ensure that each of these investigations are carried out in an impartial manner and that any prosecutions meet international standards of fairness;*
- *Ensure that police and other security personnel do not stop peaceful political debates, irrespective of whether or not they are critical of the authorities;*
- *Ensure that complainants, witnesses and others at risk are protected from intimidation and reprisals.*

¹ For a full list of concerns, please see the Bangladesh page on our website:
<http://www.amnesty.org/en/region/bangladesh>

² <http://www.bd.undp.org/content/bangladesh/en/home/mdgoverview/>, (accessed on 6 August 2014)

³ The 5 January elections were boycotted by the opposition parties, Bangladesh Nationalist Party (BNP) and Jamaat-e-Islami. Efforts from within Bangladesh and by the United Nations officials to bring all the political parties together for an inclusive election did not succeed. Candidates from the governing Awami League party participated and took the majority of seats in the elections. More than half of them were duly elected unopposed. The Awami League has more than two thirds of the parliamentary seats. Other, much smaller, parties who took part in the elections share the remaining seats.

⁴ Ain O Salish Kendra says that at least 74 persons were abducted between January and June 2014. See:
<http://www.askbd.org/ask/category/statistics/abduction-by-law-enforcement/> (accessed on 18 August 2014)

⁵ This would be roughly equal to £450,000.

⁶ <http://www.dhakatribune.com/law-rights/2014/apr/20/no-headway-siddique-abduction-investigation> (accessed on 19 June 2014)

⁷ <http://bdnews24.com/bangladesh/2014/04/19/kill-or-free-you-it-s-a-loss-for-me-> (accessed on 19 June 2014)

⁸ <http://www.amnesty.org/en/news/bangladesh-authorities-must-account-deaths-amid-spate-disappearances-2012-04-24>, (accessed on 17 July 2014)

⁹ While there is scope for the law to be more closely aligned with the Torture Convention, it is a step forward in the fight against torture in Bangladesh where police torture and deaths in custody are rife. See <http://livewire.amnesty.org/2013/11/04/bangladeshs-landmark-law-banning-torture/>

¹⁰ Amnesty International has frequently raised its concerns about torture in Bangladesh. See for instance the section on torture in: Amnesty International, "Crimes Unseen", published August 2011 (Index: ASA 13/005/2011) <http://www.amnesty.org/en/library/asset/ASA13/005/2011/en/c18ad74b-75fe-4b15-b043-5982eebdb27d/asa130052011en.pdf>

¹¹ See Ain O Salish Kendra, <http://www.askbd.org/ask/2014/08/10/incidents-alleged-deaths-law-enforcement-agency-january-july-2014/> (accessed on 19 August 2014)

¹² About £90.

¹³ <http://livewire.amnesty.org/2013/11/04/bangladeshs-landmark-law-banning-torture/>

¹⁴ The extract is Section 57 of the ICT Act which is copied into the charge sheet on Odhikar leaders.

¹⁵ Human Rights Committee, General comment No. 34, Article 19: Freedoms of opinion and expression, UN Doc. CCPR/C/GC/34, 12 September 2011, paras. 21-2.

¹⁶ Para. 34.

¹⁷ Para. 25.

¹⁸ Para. 47.

¹⁹ Extract from the charge sheet filed against Adilur Rahman Khan and Nasiruddin Elan.

²⁰ Amnesty International is not naming them for security reasons.

²¹ For instance, see the Daily Star of 5 August 2014: <http://www.thedailystar.net/frontpage/strict-monitoring-plenty-of-scope-for-misuse-35813>, (accessed on 6 August 2014)