



FIDH – International Federation for Human Rights

and its member organization for Bangladesh

Odhikar

Update for the European Union (EU)-Bangladesh Sub-group on Good Governance and Human Rights

24 April 2018, Dhaka, Bangladesh

Key human rights issues of concern

- 1...Thousands detained in renewed crackdown on political opposition
- 2...Enforced disappearances surge
- 3...Extrajudicial killings and custodial torture rampant
- 3...Death sentences on the rise
- 4...Freedom of expression and association threatened by regressive legislation
- 5...Respect and protection of labor rights remains low
- 6...Women and children face high levels of discrimination and violence
- 7...Widespread violations of the rights of minorities
- 8...Rohingya refugees in dire need of long-term durable solutions
- 8...Bangladeshi migrants under threat
- 9...Poor record of cooperation with international mechanisms

Thousands detained in renewed crackdown on political opposition

The ruling Awami League continues to engage in heavy-handed repression of the political opposition, particularly the Bangladesh National Party (BNP). BNP leader Khaleda Zia was convicted by the Dhaka Special Judges Court-5 on 8 February 2018 on charges of alleged corruption and sentenced to five years in jail. The conviction effectively prohibits Khaleda Zia from contesting the next general election, unless the verdict is vacated on appeal. Khaleda Zia still faces charges in another 36 politically motivated cases related to corruption and violence, for which she could be prosecuted at any time.

Starting on 30 January 2018, authorities began arresting BNP supporters ahead of the 8 February verdict. Almost 5,000 opposition supporters, including people who were assumed to be opposition sympathizers, were arrested throughout the country. While authorities claim the arrests were carried out to prevent violence from erupting in connection with the verdict, it is apparent that these actions were politically motivated. In addition, there have been numerous reports of torture and ill-treatment of those detained [See below, *Extrajudicial killings and torture rampant*]. As of the end of March, 2018, most of those taken into custody remained detained under various charges in prisons throughout Bangladesh.

This large-scale crackdown on opposition parties is one of the most severe attacks on fundamental freedoms in Bangladesh since the 2014 controversial parliamentary elections. Almost all local elections since the 2014 polls have been marred by widespread irregularities, vote rigging, and election-related violence. There are significant concerns that parliamentary elections due to be held in December 2018 will be neither free nor fair,

particularly given the Election Commission's lack of independence from the executive and the likelihood that the opposition will be prevented from campaigning freely.

Recommendations

The European Union should call on the Bangladeshi government to:

- Immediately and unconditionally release all the opposition members and supporters arrested between January and March 2018 and put in place measures to ensure that arrests are carried out with respect to domestic and international law and standards.
- Conduct a free, fair, inclusive, and participatory general election under a non-partisan caretaker government and an independent body in charge of the election's administration.

Enforced disappearances surge

Over the past several years, enforced disappearances have significantly increased in Bangladesh. According to data collected by Odhikar, between January 2009 and March 2018, law enforcement agencies have been involved in at least 426 cases of enforced disappearances. From January to December 2017, Odhikar recorded at least 86 cases of enforced disappearances. The government continues to deny the involvement of law enforcement agencies in this practice, despite numerous and credible allegations from eyewitnesses and the families of victims. In many instances, victims of enforced disappearances are later produced before the media or shown being "arrested" in criminal cases. Deaths are often explained as the result of "crossfire."

The Bangladeshi government continues to fail to cooperate with the UN Working Group on Enforced or Involuntary Disappearances (WGEID), including through failing to respond to the WGEID's request to undertake a visit to Bangladesh. In its Concluding Observations on Bangladesh's initial report to the UN Human Rights Committee in March 2017, the Committee expressed its concern about: 1) the lack of investigation and accountability for perpetrators; 2) the failure by domestic law to specifically criminalize enforced disappearances; and 3) the government's continued denial of the practice.¹

Recommendations

The European Union should urge the Bangladeshi government to:

- Criminalize enforced disappearance by ratifying the International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED) and incorporating its provisions into domestic law.
- Issue an invitation to the UN Working Group on Enforced or Involuntary Disappearances (WGEID) for a country visit.
- Take all necessary measures to hold perpetrators of enforced disappearances, accountable, including through the establishment of an independent commission tasked with impartially investigating all cases of enforced disappearances.
- Ensure access to justice and provide adequate compensation and redress to victims of enforced disappearances and their families.

¹ UN Human Rights Committee, 3363rd meeting, *Concluding Observations on the initial report of Bangladesh*, 27 April 2017, UN Doc. CCPR/C/BGD/CO/1, Para. 19.

Extrajudicial killings and custodial torture rampant

Law enforcement agencies in Bangladesh often term extrajudicial killings, which occur with alarming frequency, as deaths in “gunfight” or “crossfire,” despite allegations from families of victims to the contrary. In most cases perpetrators enjoy impunity. The word “crossfire” is often used by law enforcement agencies when they carry out an operation to ‘recover arms’; authorities then claim that associates of the victim opened fire at members of law enforcement agencies, who then shot back in self-defense, resulting in the death of the victim.

The troubling rate of extrajudicial killings – at least 1,377 cases were recorded by Odhikar from January 2009 to March 2018 – is coupled with equally troubling rates of torture and deaths in custody. Over the same period, 121 people died as a result of custodial torture and dozens have become permanently disabled as a result of kneecappings while in police custody.

In the one of the most serious incident in recent months, on 12 March 2018, Zakir Hossain Milon, the Vice-President of the Dhaka North Unit of the BNP’s student wing Jatiotabadi Chhatra Dal, died while in police custody. He had been arrested on 6 March upon returning from a BNP event at the Jatiya Press Club in Dhaka. Zakir’s family members claim that he died as a result of torture.

Recommendations

The European Union should urge the Bangladeshi government to:

- Stop extrajudicial killings and end the use of torture and ill-treatment as tools of law enforcement agencies and bring perpetrators to justice in accordance with international fair trial standards.
- Urgently submit the initial report to the UN Committee against Torture and ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT).
- Take further steps to bring domestic legislation and policies in line with Bangladesh’s obligations under core human rights instruments to which the country is a state party.
- Recognize the competence of the Committee against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to receive and consider individual complaints of torture in accordance with Article 22 of the Convention against Torture.
- Establish an independent complaint mechanism for alleged victims of torture to report incidents, with the authority to investigate cases.

Death sentences on the rise

Bangladesh continues to impose death sentences and execute death row prisoners. In 2016, Bangladeshi authorities executed 10 people by hanging (up from four in 2015), and sentenced at least 245 people to death (up from 197 in 2015), bringing the number of people on death row to at least 1,645 people.²

In its Concluding Observations in March 2017, the UN Human Rights Committee noted that Bangladesh imposed the death penalty for offenses (such as the smuggling or adulteration of food and the financing of terrorism) that did not meet the threshold of the ‘most serious crimes.’

² Amnesty International, “Death Sentences and Executions 2016” (11 April 2017), <https://www.amnesty.org/en/documents/act50/5740/2017/en/>.

Recommendations

The European Union should urge the Bangladeshi government to:

- Establish a moratorium on all executions.
- Ratify the Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR-OP1).
- Amend existing laws to prevent the imposition of the death penalty on minors under 18.
- Amend existing laws to prevent the imposition of the death penalty for crimes that do not meet the ‘most serious crimes’ threshold, such as the financing of terrorism.

Freedom of expression and association threatened by regressive legislation

The Bangladeshi government has taken worrying steps to further restrict the right to freedom of opinion and expression through the introduction of new repressive legislation. The 2018 Digital Security Bill, which was approved by the Cabinet on 29 January 2018 and is likely to be approved by Parliament before the end of the year, contains overly broad grounds for restrictions on freedom of speech and prescribes lengthy prison sentences for violators. The proposed Bill provides for even more draconian provisions against free speech than its predecessor, the Information and Communication Technology (ICT) Act, and is inconsistent with the Bangladeshi Constitution and the country’s obligations under international law.

The ICT Act continues to be used to curtail the rights to freedom of expression and opinion, and particularly those of voices critical of the government, including human rights defenders (HRDs), journalists and activists.³ From January 2014 to March 2018, 96 people were arbitrarily detained and/or charged under the ICT Act for writing comments, sharing or ‘liking’ posts against high-level government officials or/and their family members on social media networks. Journalists and other media professionals have reported self-censoring content as a result of these legal threats.

The government continues to take measures to further restrict space for civil society and the right to freedom of association in violation of its obligations under international human rights instruments to which Bangladesh is a state party. The 2016 Foreign Donations (Voluntary Activities) Regulation Act imposes severe controls over the activities of human rights organizations. Organizations that receive foreign funds face serious challenges because they are obligated to report regularly on their activities and seek prior approval for activities to be funded by foreign funds. The NGO Affairs Bureau, which falls under the direct supervision of the Office of the Prime Minister and is empowered to inspect, monitor, and assess the activities of NGOs that receive foreign funds, has frequently used its authority to curtail and frustrate the activities of civil society organizations. NGOs, including Odhikar, continue to be affected by these actions and many HRDs that are part of Odhikar’s nationwide network face threats and intimidation. Odhikar’s bank accounts have been frozen since April 2014 and its NGO registration request has been pending for more than four years.

Both the UN Human Rights Committee and the UN Committee on Economic, Social and Cultural Rights expressed their concerns regarding the situation for HRDs, journalists, bloggers and civil society organizations. In their Concluding Observations in March 2017 and April 2018 respectively, the two bodies noted the lack of police protection and investigations into threats and attacks against them, the arrest of civil society actors under the ICT Act, and

³ Amendments to the ICT Act passed in 2013 increased penalties for “cyber crimes” and authorized law enforcement officials to arrest without warrants individuals suspected of violated Sections 54, 56, 57, and 61 of the revised ICT Act. Section 57, which makes an offense the publication or transmission of “any material which is false and obscene [...]” and which has a wide range of ill-defined impacts, in particular has been used on multiple occasions to go after journalists who have published articles critical of the government and/ ruling party.

undue limitations created by the 2016 Foreign Donation (Voluntary Activities) Regulation Act, amongst other repressive legislation.⁴

Recommendations

The European Union should urge the Bangladeshi government to:

- Repeal all repressive laws, including the 1974 Special Powers Act, the 2006 Information and Communication Technology Act (amended in 2009 and 2013), and the 2016 Foreign Donation (Voluntary Activities) Regulation Act.
- Refrain from all acts of harassment and reprisals against HRDs, journalists, and civil society activists, and adopt a national law to protect HRDs and promote their work.
- Lift all restrictions on NGOs that seek to receive foreign funds, including unfreezing their bank accounts, and expedite pending NGO registration requests.

Respect and protection of labor rights remains low

Despite widespread attention to labor rights issues in Bangladesh, particularly in the aftermath of the Rana Plaza collapse in 2013, respect and protection of worker rights remains low. This trend is apparent in the ready-made garment (RMG) sector, where working conditions are often in violation of both domestic laws and international labor standards and established codes of conduct. Trade unions remain absent from many factories and women continue to suffer from widespread discrimination in the workplace.

Recruitment policies are highly informal and, in many cases, workers receive no formal contracts or appointment letters. As a result, workers are vulnerable and kept in fear of losing their jobs. The lack of job security when combined with a lack of alternative job opportunities, forces many workers to continue in unsatisfactory employment conditions, including excessively long work hours, wage penalties, late payment of wage or benefits, and unhealthy and hazardous working conditions.

Odhikar has documented the death of 1,164 workers – including at least 1,134 in the April 2013 Rana Plaza collapse – and injury of 7,344 workers in the RMG industry from January 2013 to March 2018. Of those injured, 656 were due to fires and stampedes when fleeing burning buildings. Another 3,319 were injured as a result of police and security personnel violence during protests.

In January 2017, in Ashulia, an industrial hub outside of Dhaka, thousands of workers took the streets to demand higher wages. Bangladeshi authorities responded with arbitrary arrests, violence and the closing of trade unions across the country. Trade unions that remain open are often heavily guarded and monitored by the Industrial Police and the Rapid Action Battalion (RAB), which are responsible for widespread human rights violations, including enforced disappearances. This crackdown has marked a notable increase in anti-union behavior by government officials and companies throughout the country.

Labor rights violations are also prevalent in the informal economy, which continues to account for about 90% of all employment in Bangladesh. Women working in the construction sector are particularly vulnerable and they often work without contracts, with wages below the mandated minimum wage, and without any insurance or service benefits. In addition, there are insufficient safety and health protections, which makes the work very difficult and dangerous.

⁴ UN Human Rights Committee, 3363rd meeting, *Concluding Observations on the initial report of Bangladesh*, 27 April 2017, UN Doc. CCPR/C/BGD/CO/1, Para. 27; UN Committee on Economic, Social and Cultural Rights, 28th meeting, *Concluding observations on the initial report of Bangladesh*, 29 March 2018, UN Doc. E/C.12/BGD/CO/1, Para. 9.

Recommendations

The European Union should urge the Bangladeshi government to:

- Reform the 2013 Bangladesh Labor Act, particularly to expand its scope to the informal economy, and ensure meaningful consultation with civil society and trade unions as part of the amendment process and compliance of the amended Act with international law, including relevant ILO Conventions.
- Establish a national minimum wage and enact legislative provisions to ensure equal pay for men and women doing the same work.
- Increase labor inspections in order to ensure adequate infrastructure in all factories and other risk-prone workplaces to guarantee safety and security for all workers.
- Establish an independent labor complaint mechanism that is accessible to all workers, including those in the informal economy.
- Conduct prompt investigations into all allegations of union busting and ensure that perpetrators are duly prosecuted.

Women and children face high levels of discrimination and violence

Women and girls in Bangladesh continue to face widespread discrimination and violence, including domestic violence, dowry-related violence, rape, acid attacks, and sexual harassment. According to data collected by Odhikar, from January 2010 to March 2018, 3,095 cases of dowry-related violence were recorded, along with 6,067 cases of rape, 2,777 cases of sexual harassment, and 607 cases of acid attacks.

This trend is exacerbated by multiple factors, including: the lack of victim and witness protection laws; the judicial system's inability to deliver effective justice to the victims; an entrenched patriarchal system, with religious laws regarding marriage, divorce, and inheritance, which are discriminatory against women; and corruption within law enforcement agencies.

Although the 1980 Dowry Prohibition Act prohibits dowry in all its forms and the 2000 Women and Children Repression Prevention Act (amended in 2003) make giving and receiving dowry a crime, dowry-related violence remains a prevalent issue and perpetrators are rarely brought to justice due to fear, corruption among law enforcement authorities, and a lack of evidence. Victims are often pressured to reach an agreement with the perpetrators instead of pursuing judicial avenues, and when those are undertaken, a severe backlog of cases, too few judges, and discriminatory and patriarchal attitudes frequently result in a denial of justice.

Bangladesh continues to have one of the highest rates of child marriage in the world and the highest rate in Asia. According to data released by UNICEF in March 2018, 22% of Bangladeshi women aged 20 to 24 were married before the age of 15, and 59% by the age of 18.⁵ In February 2017, Parliament passed the Child Marriage Restraint Act. Section 19 of the Act allows the marriage of children without any age restriction under "special circumstances." Such circumstances could provide a significant loophole and allow a severe regression in child rights in Bangladesh.

Recommendations

The European Union should urge the Bangladeshi government to:

- Take legislative, administrative, and judicial measures to deliver justice to the victims of violence and discrimination against women.

⁵ <https://data.unicef.org/topic/child-protection/child-marriage/#>.

- Undertake reforms to amend or remove any legislative provisions that discriminate against women.
- Repeal Section 19 of the 2017 Child Marriage Restraint Act.
- Carry out public awareness programs in the print and electronic media and in educational institutions in order to eliminate violence against women.

Widespread violations of the rights of minorities

Religious, ethnic, and linguistic minorities and other marginalized groups continue to suffer from widespread violations of their rights, in part due to a lack of explicit constitutional and legislative recognition. Attacks on people belonging to minority communities in Bangladesh are frequent and in many cases involve the active participation, complicity, or acquiescence of law enforcement agencies. Of particular concern are violations of economic, social, and cultural rights of ethnic minorities committed by the authorities with impunity in connection with land confiscation and forced evictions. In many cases, ruling party members and supporters have actively cooperated with the authorities in the commission of such abuses.

Exemplifying this trend is the lack of adequate investigation and prosecution of police officers involved in a November 2016 attack on members of the Santal ethnic minority living on a sugarcane plantation operated by the Rangpur Sugar Mills Company (a state-owned company) in Sapmara Union in Gaibandha District. The community had been demanding the return of their ancestral land, on which the now-closed sugar mill is located and which was subsequently leased to individual farmers, in violation of the original lease agreement. During the November incident, huts were burned and looted, three Santals were killed, and 15 were injured. Perpetrators received token punishment, and a number of police officers involved in the incident were transferred or suspended, but no one was subjected to criminal charges. A year after the attack, the community members who were forcibly evicted from their homes are still living in shanties and claim that they had yet to receive any compensation from the government.

In early June 2017, a group of Bengali settlers attacked members of an ethnic minority community in the Chittagong Hill Tracts as law enforcement agencies stood and watched. About 300 homes were burned, an elderly woman was killed, and hundreds fled into the jungle as a result of the violence. Bangladeshi law enforcement personnel who failed to prevent the attacks and used excessive force against the ethnic minority members have not been held to account. The government's implementation of the 1997 Chittagong Hill Tracts Accord, which provided for the recognition of the special status of ethnic minorities in the area, continues to be slow, particularly with regard to the resolution of land disputes.

Recommendations

The European Union should urge the Bangladeshi government to:

- Protect the rights of religious, ethnic, and linguistic minorities and ensure the fulfillment of their fundamental rights, including their economic, social, and cultural rights.
- Introduce a law that explicitly recognizes the rights and legal status of ethnic minorities in compliance with international human rights law.
- Ensure that adequate investigations and prosecutions are undertaken in relation to attacks on ethnic minorities, including through facilitating the reporting of such violations.
- Expedite the implementation of the Chittagong Hill Tracts Accord and address and resolve outstanding land disputes.

Rohingya refugees in dire need of long-term durable solutions

Since renewed large-scale attacks on Rohingya villages in Myanmar's Rakhine State since 25 August 2017, at least 671,000 Rohingya, of which 55% are children, have fled to Bangladesh and sought safety in the refugee camps and informal settlements of Cox's Bazar District.⁶ Cox's Bazar now hosts close to 900,000 refugees, with the Kutupalong-Balukhali camp being the world's largest refugee settlement. Although the number of new refugees fleeing Myanmar slowed in the last few months of 2017, at least 5,000 have arrived in Bangladesh between January and mid-March 2018,⁷ and the humanitarian needs remain tremendous. With the monsoon season approaching, the risks of landslides and the spread of diseases will increase.

In November 2017, the governments of Myanmar and Bangladesh signed an agreement to repatriate Rohingya to Myanmar. Significant concerns persist that the returns will not be safe, voluntary, and dignified as required under international law and that they would amount to *refoulement*. Moreover, the plan includes provisions that only "eligible" Rohingya and those with ID cards will be repatriated, which, combined with a 16 January 2018 agreement that repatriation will be completed within two years of the first return, raises significant concerns about the selection process and the extent to which the rights of the returned refugees will be protected.

Moreover, the announcement that the Bangladeshi government plans to relocate some 100,000 Rohingya refugees to an island, Bhasan Char, 30km offshore in the Bay of Bengal, is of great concern. The island is extremely vulnerable to flooding and typhoons and humanitarian aid agencies have expressed doubts about the feasibility of delivering aid to the island. Refugees would reportedly be unable to leave the island unless they are returning to Myanmar or being resettled to a third country.

Recommendations

The European Union should urge the Bangladeshi government to:

- Ratify the 1951 Convention Relating to the Status of Refugees, as well as its 1967 Protocol.
- Adopt measures to guarantee the rights of Rohingya refugees in accordance with international principles and standards concerning refugees, including the principle of *non-refoulement*.
- Abandon all plans to relocate Rohingya refugees to Bhasan Char Island.
- Grant NGOs unfettered access to refugee camps and unofficial settlements on the Myanmar-Bangladesh border to allow them to provide assistance to Rohingya refugees.
- Take all necessary measures to protect vulnerable Rohingya refugee women and children from being trafficked and provide them with the best possible care and relief as well as temporary rehabilitation.

Bangladeshi migrants under threat

High numbers of Bangladeshis migrate, both legally and illegally, every year. Some for economic reasons, (Bangladesh has one of the highest unemployment rates in South Asia) some because of political persecution, and some because of an increasingly repressive environment in Bangladesh. In recent years, an increasing number of Bangladeshis have

6 Inter Sector Coordination Group, *Situation Report: Rohingya Refugee Crisis* (25 March 2018), available at: https://reliefweb.int/sites/reliefweb.int/files/resources/180325_iscg_sitrep.final_.pdf.

7 UNHCR *Population Infographic* (as of 18 March 2018), available at: <https://data2.unhcr.org/en/documents/download/62881>.

attempted to make the perilous journey to Europe, paying significant amounts of money to smugglers. Many have lost their lives along the way. Overseas, Bangladeshi migrant workers are subjected to numerous human rights violations, including debt bondage, dangerous working conditions, late payment of wages and other benefits, and inhumane living conditions. The Bangladeshi government has failed to negotiate strong bilateral agreements with receiving countries and to ensure that the rights of Bangladeshi migrant workers are respected.

Recommendations

The European Union should urge the Bangladeshi government to:

- Ensure that comprehensive bilateral agreements are signed with receiving countries to ensure that the rights of Bangladeshi migrant workers are protected.
- Prioritize policies and programs aimed at ensuring that Bangladeshi people have access to employment opportunities in Bangladesh.

Poor record of cooperation with international mechanisms

Bangladesh continues to have an extremely poor record of cooperation with international human rights mechanisms, with all reports either still pending or having been submitted years late. For instance, Bangladesh submitted its initial report to the UN Human Rights Committee (CCPR) on 19 June 2015, 14 years after the ICCPR ratification, and submitted its initial report to the UN Committee on Economic, Social and Cultural Rights (CESCR) on 10 July 2017, 17 years after the ratification of the International Covenant on Economic, Social and Cultural Rights (ICESCR). The submission of Bangladesh's initial report to the Committee on the Elimination of Racial Discrimination (CERD) has been pending since July 2002. Finally, Bangladesh has not submitted any report to the Committee Against Torture, missing its fifth deadline since ratification of the CAT in 1998, its first report being due since November 1999.

Recommendations

The European Union should urge the Bangladeshi government to:

- Comply with all international treaties to which Bangladesh is a state party.
- Immediately begin the process of preparing all outstanding reports to UN treaty bodies and ensure that future reports are prepared and submitted on time.
- Respect Article 1 of the EU-Bangladesh Agreement, which highlights respect for human rights and democratic principles as laid down in the Universal Declaration on Human Rights.