



Stakeholder submission of Commonwealth Human Rights Initiative (CHRI) for the 2013 Universal Periodic Review of Bangladesh

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Commonwealth Human Rights Initiative (CHRI) stakeholder submission for the Universal Periodic Review of Bangladesh (2013)

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1. This UPR stakeholder submission for Bangladesh includes information on cooperation with UN mechanisms, torture, and restrictions on the freedom of expression, including media and press and the criminalisation of same-sex sexual conduct. Information in this submission is predominantly from secondary sources.

2. Cooperation with UN Mechanisms

3. Bangladesh has not extended a standing invitation to the Council's Special Procedures. Visits from the Special Rapporteur on adequate housing and the Special Rapporteur on freedom of religion have been agreed in principle and are under consideration.
4. Several Special Procedures requested visits before the reporting period, and they are still pending response. Unanswered requests include those from the Special Rapporteur on the right to freedom of opinion and expression in 2003, the Independent Expert on minority issues in 2006, the Special Rapporteur on extrajudicial, summary or arbitrary executions in 2006, 2008 and 2009, the Special Rapporteur on independence of judges and lawyers in 2007, the Independent Expert on water and sanitation in 2008, the Special Rapporteur on contemporary forms of slavery in 2008 and the Special Rapporteur on racism in 2008.
5. The last visit by a Special Procedure to Bangladesh was by the Independent Expert on water and sanitation and the Independent Expert on extreme poverty in December 2009. Previous Special Procedure visits took place in 2000 and 2002.¹

6. Recommendations

7. The Government of Bangladesh should:
 - a. Issue a standing invitation to the Special Procedures of the United Nations Human Rights Council
 - b. Clear the backlog of previously and newly requested Special Procedure visits before Bangladesh's next UPR.
 - c. Ensure that, in the future, all requests to visit Bangladesh by Special Procedures are responded to and accepted at the earliest.
 - d. Provide for full involvement of civil society in the follow-up of its review.

8. Torture, Extrajudicial Killings & Impunity

9. Despite the government's promise after its election victory in December 2008 to show "zero tolerance" for abuses committed by its security forces,² the reporting period showed little sign that the situation was improving in this respect. Extrajudicial killings and torture were still common.
10. In February 2009, a mutiny broke out at the Headquarters of Bangladesh's border guards, the Bangladesh Rifles (BDR) lasting 33 hours, resulting in 75 casualties³ and its members were ordered to report to barracks or face lawful action. The high number of deaths during custody, allegations of torture made by families and reports by human rights organisations, all point

¹ Office of the High Commissioner for Human Rights, "Country and Other Visits by Special Procedure Mandate Holders Since 1998" at: <http://www2.ohchr.org/english/bodies/chr/special/countryvisitsa-e.htm> (last accessed 23 January 2012).

² Human Rights Watch, "World Report 2011: Bangladesh" (2011) at: <http://www.hrw.org/world-report-2011/bangladesh> (last accessed on 5 June 2012).

³ BBC News, "Bangladesh mutiny deaths probed" (21 May 2009) at <http://news.bbc.co.uk/2/hi/8060954.stm> (last accessed on 17 February 2010).

towards possible ill-treatment of the BDR members while in custody.⁴ As of March 2010, up to 2,100 of the alleged mutineers were still in custody awaiting trial and the majority had not been charged.⁵

11. Between 2010 and mid-2011, 176 people were reportedly killed extrajudicially by security forces.⁶ In 2010, 67 persons were reportedly tortured by different law enforcement agencies, of which 22 persons were allegedly tortured to death by Bangladeshi police.⁷ Six police officers were reportedly investigated for torturing detainees but none appear to have been brought to trial.⁸
12. There were also cases of disappearances and kidnappings, allegedly committed by the security services, for politically motivated reasons, for money or because of local rivalries.⁹
13. Bangladesh's elite anti-crime force, Rapid Action Battalion (RAB), allegedly kill with impunity.¹⁰ The justification was often that the criminals were caught and killed in "crossfire" or they were acted in self-defence. It is estimated that in 2010, RAB and other police officers detained over 1,500 opposition supporters, many of them arbitrarily, for between one week and two months during student protests or street rallies, which were at times violent.¹¹
14. RAB carried out many violent attacks against political opponents, peaceful protesters and organised work groups in 2010.¹²

⁴ BBC News, "Bangladesh mutiny deaths probed" (21 May 2009) at <http://news.bbc.co.uk/2/hi/8060954.stm> (last accessed on 17 February 2010); *The Daily Star*, "Another BDR jawan dies at Ctg hospital" (1 October 2009) at <http://www.thedailystar.net/newDesign/news-details.php?nid=107800> (last accessed on 18 February 2010).

⁵ Human Rights Watch, "Bangladesh: Hundreds held one year after massacre: Investigate allegations of killings and torture in custody" (17 March 2010) at <http://www.hrw.org/en/news/2010/03/17/bangladesh-hundreds-held-one-year-after-massacre> (last accessed on August 10 2010).

⁶ Odhikar, "Human Rights Report 2010" (1 January 2011) at http://www.odhikar.org/documents/2010/English_Reports/Annual_Human_Rights_Report_2010_Odhikar.pdf (last accessed on 5 June 2012). According to the human rights organisation Ain o Salish Kendra, law enforcement agencies were responsible for 133 deaths in "crossfire" and 74 in jail custody in 2010. Ain o Sailesh Kendra, "Annual Report 2010" (2011) at: http://www.askbd.org/web/wp-content/uploads/2011/08/Annual_report_10.pdf (last accessed on 5 June 2012) From January to June 2011, 84 persons reportedly died in custody. ⁶ Odhikar, "Six Months Human Rights Monitoring Report 2011" (1 July 2011) at http://www.odhikar.org/documents/2011/English/SIX_MONTH_REPORT.pdf (last accessed on 5 June 2012).

⁷ Odhikar, "Human Rights Report 2010" (1 January 2011) at http://www.odhikar.org/documents/2010/English_Reports/Annual_Human_Rights_Report_2010_Odhikar.pdf (last accessed on 5 June 2012).

⁸ *Ibid.*

⁹ South Asians for Human Rights, "Bangladesh: Rights worry over 'disappearances'" (3 October 2011) <http://www.southasianrights.org/?p=4268> (last accessed on 5 June 2012).

¹⁰ *The Daily Star*, "WikiLeaks reveals RAB's image abroad" (23 December 2010) at <http://www.thedailystar.net/newDesign/news-details.php?nid=167076> (last accessed on 5 June 2012).

¹¹ Amnesty International, "Amnesty International Report 2011" (2011) at <http://www.amnesty.org/en/region/bangladesh/report-2011> (last accessed on 5 June 2012). See also Human Rights Watch, "Crossfire: Continued Human Rights Abuses by Bangladesh's Rapid Action Battalion" (10 May 2011) at: <http://www.hrw.org/reports/2011/05/10/crossfire> (last accessed on 16 February 2012); Amnesty International, "Crimes Unseen: Extrajudicial Executions in Bangladesh" (August 2011) at: <http://www.amnesty.org/en/library/asset/ASA13/005/2011/en/c18ad74b-75fe-4b15-b043-5982eebdb27d/asa130052011en.pdf> (last accessed on 16 February 2012).

¹² Amnesty International, "Bangladeshi Security Forces Used Excessive Force During Raid" (1 July 2010) at <http://www.amnesty.org/en/news-and-updates/bangladeshi-security-forces-used-excessive-force-during-raid-2010-07-01> (last accessed on 5 June 2012). See also Human Rights Watch, "Crossfire: Continued Human Rights Abuses by Bangladesh's Rapid Action Battalion" (10 May 2011) at: <http://www.hrw.org/reports/2011/05/10/crossfire> (last accessed on 16 February 2012); *The Telegraph*: Calcutta, India, "Zia eviction sparks clashes in Bangladesh" (15 November 2011) at http://www.telegraphindia.com/1101115/jsp/foreign/story_13178295.jsp (last accessed on 5 June 2012); Amnesty International, "Bangladesh Police Crack Down on Peaceful Protestors" (30 November 2011) at <http://www.amnesty.org/fr/node/19793> (last accessed on 5 June 2012). See also Amnesty International, "The Case of Ruhi Das and Other Garment Workers Killed in Demonstrations in Bangladesh" (2 March 2011) at <https://bangla.amnesty.org/en/how-att-can-help-prevent-armed-violence-case-from-bangladesh> (last accessed November 2011); *The Daily Star*, "Four Killed in RMG Flare-Up" (13 December 2010) at <http://www.thedailystar.net/newDesign/news-details.php?nid=165898> (last accessed on 5 June 2012).

15. Recommendations

16. The Government of Bangladesh should:

- a. Adopt measures to fight impunity and acts of torture and harassment of civilians, including those by law enforcement officials.
- b. Strengthen its national human rights mechanisms and continuously upgrade its laws, policies and institutions in the area of the promotion and protection of human rights in compliance with international standards.

17. Restrictions of freedom of expression

18. The National Constitution guarantees civil liberties, such as freedom of speech and press, but the government has not ensured that these rights are respected in practice. While public criticism of the government was common, because newspapers depended on government advertisements for a major part of their revenue, there was a tendency to engage in self-censorship for fear of retribution from the government.¹³

19. Journalists critical of the government were also subject to government pressure and harassment from the security forces.¹⁴ According to local civil society and media watchdog groups, at least four journalists were killed, 118 were injured, two were arrested, 43 were assaulted, 49 were threatened, and 12 had cases filed against them in 2010. Between January and June 2011, 71 journalists were injured, 34 received threats, 19 were assaulted and four were attacked.¹⁵

20. Media communications were prevented from operating and freedom of expression by political opponents was blocked due to “religious blasphemy” in 2010.¹⁶

21. Throughout 2010, newspapers that published critical reports of its political opponents were continually attacked.¹⁷ In one particular case in 2010, Bangladesh authorities forced a daily newspaper linked to the political opposition, to close down, detained its editor and allegedly tortured him for unfavourable reporting.¹⁸

¹³ Freedom House, “Freedom of the Press 2011 – Bangladesh” (1 September 2011) at: <http://www.unhcr.org/refworld/docid/4e5f71bec.html> (last accessed on 5 June 2012); Committee to Protect Journalists, “Press Freedom has its limitations in Bangladesh” (8 February 2011) at: <https://cpi.org/blog/2011/02/press-freedom-has-its-limitations-in-bangladesh.php> (last accessed on 5 June 2012).

¹⁴ Ibid.

¹⁵ Odhikar, “Six Months Human Rights Monitoring Report 2011” (1 July 2011) at: http://www.odhikar.org/documents/2011/English/SIX_MONTH_REPORT.pdf (last accessed on 5 June 2012).

¹⁶ UK Net Guide, “Bangladesh Temporarily Blocks Facebook” (1 June 2010) at <http://www.uknetguide.co.uk/Latest-News/Bangladesh-temporarily-blocks-Facebook-over-cartoons-19809461.html> (last accessed on 5 June 2012). See also Human Rights First, “Blasphemy Laws Exposed: The Consequences of Criminalizing “Defamation of Religions”” (October 2011) at: http://www.humanrightsfirst.org/wp-content/uploads/Blasphemy_Cases.pdf (last accessed on 5 June 2012).

¹⁷ United News of Bangladesh, “Journalist injured by Chhatra League cadres in Chuadanga” (August 16, 2010) at: <http://www.unbconnect.com/component/news/task-show/id-27722> (last accessed on 5 June 2012); Odhikar, “Human Rights Report 2010” (1 January 2011) at: http://www.odhikar.org/documents/2010/English_Reports/Annual_Human_Rights_Report_2010_Odhikar.pdf (last accessed on 5 June 2012).

¹⁸ International Federation for Human Rights, “Steadfast in Protest - Annual Report 2011 – Bangladesh” (25 October 2011) at: <http://www.unhcr.org/refworld/docid/4ea7b3eed.html> (last accessed on 5 June 2012); Human Rights Watch, “Bangladesh: Re-open Shuttered Newspaper, Free Editor” (7 July 2010) at: <http://www.unhcr.org/refworld/docid/4c3adc2b44.html> (last accessed on 5 June 2012);

World Organization Against Torture, “Bangladesh: Release of Mr. Mahmudur Rahman” (21 March 2011) at: <http://www.omct.org/human-rights-defenders/urgent-interventions/bangladesh/2011/03/d21158/> (last accessed on 5 June 2012).

22. Attacks upon media included both physical ones as well as threats by members of parliament.¹⁹

23. Recommendation

24. Government of Bangladesh should:

- a. Take measures to protect human rights defenders, including journalists.
- b. Strengthen laws and human rights mechanisms regarding fundamental freedoms in compliance with international standards.

25. Criminalisation of same-sex conduct

26. The Bangladesh Penal Code, Section 377 criminalises “voluntary carnal intercourse against the order of nature.”²⁰ A person convicted faces imprisonment that may extend to ten years or life imprisonment, and is also liable to pay a fine.

27. During its last session of the Universal Periodic Review in 2009, Bangladesh rejected recommendations to decriminalise same-sex conduct.²¹

28. As a state party to the ICCPR Bangladesh has an obligation under Article 17 to protect individuals against “arbitrary or unlawful interference” with their “privacy, family, home or correspondence” and this renders the above sections incompatible with this obligation.²² The criminalisation of same-sex conduct is also incompatible with Bangladesh’s obligation under Article 26 of the ICCPR that requires Bangladesh to treat individuals equally before the law.²³

29. While prosecutions for same-sex sexual conduct are rare, the existence of the law, whether enforced or not, encourages and reinforces intolerance and abuse against the lesbian, gay, bisexual, transgender (LGBT) community.

30. Bangladesh has acceded to ICESCR and as such under Article 12 recognises the right of “everyone to the enjoyment of the highest attainable standard of physical and mental health”.

31. The criminalisation of same-sex conduct interferes with the realisation of this right and the Committee on Economic, Social and Cultural Rights has held that the criminalisation of same-sex conduct has the effect of “nullifying or impairing the equal enjoyment or exercise of the right to health”.²⁴ Members of the LGBT community in Bangladesh have experienced discrimination whilst trying to access health care services.²⁵

¹⁹ Odhikar, “Six Months Human Rights Monitoring Report 2011” (1 July 2011) at:

http://www.odhikar.org/documents/2011/English/SIX_MONTH_REPORT.pdf (last accessed on 5 June 2012).

²⁰ The Penal Code of Bangladesh (Act No. XLV of 1860) < http://bdlaws.minlaw.gov.bd/print_sections_all.php?id=11> Accessed 4 October 2012.

²¹ Report of the Working Group on the Universal Periodic Review, Addendum –Bangladesh, 9 June 2009, A/HRC/11/18/Add. 1 < <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G09/139/56/PDF/G0913956.pdf?OpenElement>> Accessed 4 October 2012.

²² The Human Rights Committee in *Toonen v Australia* held that the criminalisation of same sex conduct was incompatible with a state party’s obligations under Article 17.

²³ Human Rights Committee, Concluding observations of the Human Rights Committee Barbados, U.N. Doc. CCPR/C/BRB/CO/3, 11 May 2007, para. 13.

²⁴ Committee on Economic, Social and Cultural Rights (August 2000) *General Comment No. 14: The right to the highest attainable standard of health (article 12 of the International Covenant on Economic, Social and Cultural Rights)*, U.N. Doc. E/C.12/2000/4, paragraph 18.

²⁵ Bandhu Social Welfare Society ‘Briefing Note on Sexualities, Masculinities, Identities, Risks and Vulnerabilities in Bangladesh’ <http://www.bandhu-bd.org/breif.html>

32. A UNESCO report on homophobic bullying in the education sector found that 50% of homosexual men in Bangladesh have experienced harassment in school or college from teachers or fellow learners.²⁶ It also reports cases of LGBT students being denied access to school.²⁷
33. The criminalisation of homosexuality creates stigma and secrecy. Many choose to conceal their sexual orientation because of the negative social impact. For example, gay men that disclose their sexual orientation to their families have been forced into heterosexual marriage.²⁸

34. Recommendations

35. CHRI recommends that Bangladesh should:

- a. Repeal Article 377 of the Penal Code
- b. Promote and facilitate constructive dialogue on sexual orientation and gender identity with stakeholders, including government ministries, civil society actors and religious leaders.

²⁶ UNESCO, 'Education sector responses to homophobic bullying', Good Policy and Practice in HIV and Health Education, Booklet 8, May 2012 < <http://unesdoc.unesco.org/images/0021/002164/216493e.pdf>> Accessed 4 October 2012.

²⁷ UNESCO, 'Education sector responses to homophobic bullying', Good Policy and Practice in HIV and Health Education, Booklet 8, May 2012 < <http://unesdoc.unesco.org/images/0021/002164/216493e.pdf>> Accessed 4 October 2012.

²⁸ International Lesbian, Gay, Bisexual Trans and Intersex Association, 'Homophobic tendencies still abound in South Asia, 11 February 2011, < <http://ilga.org/ilga/en/article/mQA910J1Qp>> Accessed 4 October 2012.