

Dissent under attack:

Submission to the 44th session of the UPR Working Group, November 2023

Bangladesh

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In this submission Amnesty International considers freedom of opinion and expression, freedom of assembly, prohibition of torture or cruel, inhuman, or degrading treatment, extrajudicial killings, enforced disappearances, the rights of minorities and Indigenous peoples and economic rights in Bangladesh. The use of excessive force by police to curb protests, the state's ever-expanding crackdown on dissent, shrinking civic space, retention of the death penalty, impunity for enforced disappearances and extrajudicial killings, marginalisation of religious and ethnic minorities and Indigenous peoples, and devastating impacts of climate change exert a significant chilling effect on the exercise of rights and freedoms

Summary

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FOLLOW UP TO THE PREVIOUS REVIEW

1. Bangladesh has made little progress towards fulfilling its obligations under international human rights law since its last review in May 2018.
2. At the last review, the government accepted recommendations to safeguard freedom of expression, including by amending Section 57 of the Information and Communication Technology Act and relevant provisions of the draft Digital Security Act (DSA). Despite repealing the former law, certain provisions of the newly enacted DSA continue to curtail freedom of expression in similar ways.
3. The government supported recommendations to enhance efforts to prevent enforced disappearance, to prosecute perpetrators promptly, thoroughly investigate all allegations of extrajudicial executions and enforced disappearances and bring those responsible to justice.

4. The government regrettably merely noted a recommendation to respond positively to pending visit requests from UN Special Procedures, including the Working Group on Enforced or Involuntary Disappearances. 4 Both extra judicial executions and enforced disappearances have persisted in the last five years with alarming frequency, such as through the Rapid Action Battalion (RAB)'s anti-drug campaign launched in May 2018, the same month as Bangladesh's last UPR.

5. The government accepted recommendations on ensuring the right to freedom of peaceful assembly. However, the police have continued to suppress peaceful protests on a range of civic issues, including those by university students, schoolchildren, workers, and political activists, using tear gas, rubber bullets, batons, stun grenades and water cannon, and in some instances, lethal force.

THE NATIONAL HUMAN RIGHTS FRAMEWORK

6. Bangladesh has ratified all core UN human rights treaties except for the Convention for the Protection of All Persons from Enforced Disappearance (CED), despite repeated concerns and recommendations by the UN Working Group on Enforced or Involuntary Disappearances. It has also not ratified the Convention on the Status of Refugees. Regrettably, Bangladesh merely noted recommendations on ratification of CED and the Refugee Convention in the previous review.

7. Bangladesh enacted several controversial laws, particularly the DSA, a draconian law which has been weaponized by the ruling party and its affiliates to stifle dissent and thwart freedom of expression online.

8. Bangladesh continues to retain and use the death penalty. The newly enacted Narcotics Act 2018 mandates the death penalty or life imprisonment for several non-violent drug offences. Following countrywide protests against legal impunity for sexual violence in 2020, the government amended the Suppression of Violence against Women and Children Act 2000 to reinstate the death penalty for single perpetrator rape, with life imprisonment remaining a mandatory minimum sentence for any and all forms of rape.

9. The long-awaited reform failed to address key protection gaps in rape legislation highlighted by protestors and local campaigners, such as the Rape Law Reform Coalition's 10-point demand for legal reforms to address: the gender discriminatory legal definition of rape, proportionality of punishment, the lack of a witness protection system and compensation fund for rape survivors.

10. Bangladesh has failed to fulfil its obligations to submit reports to four UN Treaty Bodies in their most recent reporting cycles.

11. The absence of robust official data coupled with lack of transparency makes human rights monitoring particularly challenging in Bangladesh, despite the existence of a National Human Rights Commission (NHRC) intended to act as the key statutory body to 'protect, promote and ensure human rights' in Bangladesh. The NHRC has been criticized by human rights experts as lacking independence from the ruling party. The current and former chairpersons of the NHRC are both retired government bureaucrats. The NHRC last published its report entitled 'human rights violations statistics' in 2018.

12. The lack of independence and limited investigative powers of the NHRC severely impact independent monitoring of human rights in the country. In March 2021, the NHRC submitted a proposal to the Ministry of Law seeking expansion of its powers to independently investigate complaints made against the police, since most of the complaints it has received

since its establishment were reportedly made against the police, and the Ministry of Home Affairs seldom provides reports when asked by the NHRC to do so. In March 2023, the proposal remained under consideration.

13. In the first half of December 2022, the police conducted mass arrests of 23,968 individuals nationwide, including at least several hundred opposition party leaders and activists.

THE HUMAN RIGHTS SITUATION ON THE GROUND

Freedom of peaceful assembly

14. Since the last review, the police have persistently used unnecessary and disproportionate force to quell popular uprisings and protests on a wide range of issues.

15. The police, along with individuals who were part of the student wing of the ruling Awami League, brutally cracked down on country-wide student led protests on quota-reform in April 2018 and on road safety in August 2018. In March 2021, the police used lethal force in demonstrations against the visit of Indian Prime Minister Narendra Modi, leading to the deaths of at least 14 protestors and injuring hundreds of others. In 2022 alone, the police used batons, sound grenades and rubber bullets against student protestors in Sylhet, fired bullets and tear gas shells to disperse garment workers protesting in Dhaka, fired tear gas and water cannons against demonstrators from leftist organizations and opened fire on protests by opposition party activists.

16. In September 2022, police shot to death a young activist and injured dozens more after opening fire on demonstrators at a protest against power. In December 2022, a man died from a bullet wound and at least 60 others were injured after the police opened fire on thousands of protesters outside the headquarters of the Bangladesh Nationalist Party (BNP), the largest opposition party in Dhaka.

17. Between January 2019 to December 2022, the state reportedly banned 99 protests under Section 144 of Criminal Procedure Code.

Death penalty

17. Between January 2018 and December 2022, Amnesty International recorded that at least 13 people were executed, and 912 death sentences were imposed. As of December 2021, at least 2000 individuals were believed to be under the sentence of death. The death penalty continues to be imposed in violation of international law and standards. While most individuals are sentenced to death for murder, there is a notable trend of death penalty being imposed for non-fatal offences such as rape and drug possession. Additionally, the controversial International Crimes Tribunal, continues to sentence individuals to death, even in absentia, despite concerns about lack of due process. Freedom of expression

18. Sections 25 (publication of false or offensive information), 29 (Publication of defamatory information), and 31 (Offence and punishment for deteriorating law and order) of the DSA have been weaponized to target and harass dissenting voices, including those of journalists, activists, and human rights defenders (HRDs).

19. Writer Mushtaq Ahmed died in prison in February 2021 following his 10-month detention without trial under the DSA, for criticizing the government's response to the Covid-19 pandemic. He was denied bail at least six times.

20. The draft Data Protection Bill seeks to introduce new restrictions on freedom of expression and threatens people's right to privacy. Broadly worded exemptions granted under the law would give the authorities authority to access the personal data of individuals and institutions without judicial oversight.

Extrajudicial killings and enforced disappearances

21. In May 2018, the Rapid Action Battalion (RAB) launched a lethal anti-drug campaign after the government declared a 'zero tolerance' policy against drugs. By the end of 2018, Bangladeshi authorities had reportedly killed at least 466 people under the guise of this anti-drug campaign in what appeared to have been a wave of extrajudicial executions.

22. Amnesty International investigated seven of these extrajudicial executions of suspected drug offenders and interviewed their family members and witnesses. A clear pattern of enforced disappearance followed by extrajudicial executions was discovered in these cases. One such case was that of Suleman, a 35-year-old who lived with his eight-year-old daughter in a thatched hut and was picked up and tortured in custody for money, and later killed in a 'gunfight'. At least five witnesses interviewed by Amnesty International have revealed that they had not seen the killings but were asked by the police to provide fabricated statements supporting the police version of the deaths as having taken place in alleged 'gunfights' or 'crossfire'.

23. According to Odhikar, at least 31 people were killed in extrajudicial executions and 21 people became victims of enforced disappearances in 2022.³⁷ Although this represented a significant reduction compared to 2021, these grave human rights violations persisted at concerning levels despite sanctions imposed by the USA against the Bangladesh police in December 2021.

24. Cartoonist Ahmed Kabir Kishore told Amnesty International that he was forcibly disappeared from his Dhaka residence at least three days prior to the date in official records of his arrest.

Torture and other ill-treatment

25. Ahmed Kabir Kishore also told Amnesty International that both Mushtaq Ahmed and he were tortured in custody by one or more state security agencies. On 10 March 2021, Ahmed Kabir Kishore filed a case with the metropolitan sessions judge's court in Dhaka, under the Torture and Custodial Death (Prevention) Act – 2013, seeking redress.

26. In August 2022, Netra News exposed details and satellite imagery of a secret facility operated by the Directorate General of Forces Intelligence (DGFI), the state's principal military intelligence agency to detain victims of enforced disappearance in central Dhaka. Former detainees described cruel, inhuman and degrading prison conditions in the facility. Shortly afterwards, the vice-president of the Awami League's Rangpur district unit filed a case under the DSA against Netra News "for spreading propaganda" as well as against one of the survivors of the secret prison system who had shared their testimony with the news agency.

Discrimination

27. Rights of minorities continued to be threatened on the ground along religious, ethnic and caste-based lines.

28. The long-anticipated Anti-Discrimination Bill, introduced in parliament in April 2022, remains pending. If enacted, it would outlaw discrimination on various grounds, including gender, religion, ethnicity, place of birth, caste and occupation and also introduce a complaints mechanism for victims of discrimination to seek remedies.

29. There have been at least five large-scale orchestrated attacks against Hindu minorities since 2019 that typically involve calculated looting and then violent destruction ostensibly in response to a social media post, which would often turn out to be fake. These include mob attacks in Bhola district in October 2019, Cumilla district in November 2020, in Sunamganj district in March 2021, in Rangpur and several other districts during Durga Puja celebrations in October 2021, and in Narail district in July 2022.

30. In February 2023, a young Hindu man, Paritosh Roy, charged under DSA was sentenced to five years imprisonment in connection with a Facebook post made from his account which perpetrators used as a pretext for the anti-Hindu attacks in October 2021.⁴⁹ Previously he was also held in pre-trial solitary confinement for a period of eight months. In March 2023, Iqbal Hossain, the man charged with inciting the anti-Hindu attacks in October 2021 by placing a copy of the Quran at the knee of a Hindu deity (which was later photographed and caused uproar on social media), was sentenced to 16 months' imprisonment. Those who committed the attacks on Hindus are not known to have been convicted.

31. Twenty-five years since the Chittagong Hill Tracts (CHT) Peace Accord was signed by the Bangladeshi government & the Parbatya Chattagram Jana Samhati Samiti, militarisation of the region persists, violating the Accord. In March 2022, Indigenous rights activist Nabayan Chakma Milon reportedly died in military custody. In May 2022, the CHT Commission issued expressed deep concern over the deployment of new units of the Armed Police Battalion to replace vacant army camps in the CHT which it argued violated the Accord.

32. Marginalized groups from coastal south-western Bangladesh, such as the Indigenous Munda people and Hindu Dalits reported their access to water being severely impeded by not only climate change-induced damage to water and sanitation infrastructure but also systemic discrimination. For Dalits, this discrimination was driven by notions of impurity and untouchability.

Rohingya refugees

33. Hosting Rohingya refugees continues to pose a challenge for Bangladesh. Between December 2021 and April 2022, the government reportedly shut down and dismantled about 30 community-led schools. Rohingya refugees alleged that some schoolteachers were detained by the Armed Police Battalion and released only after signing a paper confirming that they would stop teaching.

34. Bangladesh government persisted in its plans to relocate at least 100,000 Rohingya refugees to the remote and floodprone Bhasan Char island. In October 2022, 963 Rohingya refugees were relocated to Bhasan Char, bringing the total number to 30,079, according to official figures. Refugees attempting to flee the remote island were reportedly detained by police, raising doubts as to the voluntary nature of the relocation.

RECOMMENDATIONS FOR ACTION BY THE STATE UNDER REVIEW

Amnesty International calls on the government of Bangladesh to:

Right to peaceful assembly

35. End the excessive or otherwise unlawful use of force when responding to public demonstrations, fulfil its obligations to protect and facilitate peaceful assemblies, and ensure that any responses (including restrictions) are lawful, necessary and proportionate in line with international standards.

36. Effectively investigate the excessive or otherwise unlawful use of force against protestors and take appropriate disciplinary action against relevant law enforcement officials, including those with command responsibility

37. Release all those arbitrarily arrested and detained solely on the basis of their political affiliation during the mass arrests that took place in the first half of December 2022.

Death penalty

38. Pending full abolition of the death penalty, restrict the imposition of the death penalty to the 'most serious crimes', which has been interpreted under IHRL as intentional killing, and establish an official moratorium on executions as first steps towards full abolition of the death penalty.

39. Ensure individuals charged with capital offences have access to competent and adequate legal representation, paying special regard to the additional needs of foreign nationals, such as translation services and regular access to communication with their family members abroad.

Freedom of Expression

40. Repeal the Digital Security Act 2018 unless it can be amended in line with international human rights law including the International Covenant on Civil and Political Rights, to which Bangladesh is a state party.

41. Immediately and unconditionally release and drop all charges against all those charged under the DSA solely for exercising their right to freedom of expression, such as journalists and human rights defenders.

42. Ensure public participation and consultation, including members of the press, in drafting any new legislation and policy related to human rights online, including but not limited to the draft Data Protection Act before it is tabled in Parliament.

Enforced disappearances and extrajudicial killings

43. Launch effective, independent and impartial investigations into the conduct of the Rapid Action Battalion, particularly in relation to allegations of enforced disappearances and extrajudicial killings perpetrated by its agents.

44. Ratify the Convention for the Protection of All Persons from Enforced Disappearance and accept the UN Working Group on Enforced or Involuntary Disappearances request to conduct an official visit to Bangladesh.

Discrimination

45. Launch an immediate, impartial, and thorough investigation against the five large-scale anti-Hindu attacks in Narail (July 2022), Rangpur and other districts (October 2021), Sunamganj district (March 2021), Cumilla district (November 2020) and Bhola (October 2019), prosecute all those who perpetrated violence in accordance with international standards of due process, and ensure reparations for all Hindu families victimized by the carnage.

46. Fully implement the human rights provisions of the Chittagong Hill Tracts Peace Accord, by de-militarizing the region, prosecuting those responsible for violence against Indigenous leaders and individuals in the region and protecting the rights of the Indigenous peoples over their traditional land.

47. Conduct inclusive and participatory loss and damage needs assessments considering the adverse effect of climate change on the enjoyment of human rights with special attention to individuals and groups most affected by climate change, such as the Indigenous Munda people and Hindu Dalits including in the coastal south-western region of the country.

48. Allocate more resources to public sector goods and services including health, education, agriculture and social protection whilst prioritizing the most disadvantaged and marginalized.

Rohingya Refugees

49. Ensure that journalists, representatives of the UN, civil society organizations, including donor and humanitarian agencies and human rights organizations, have unfettered access to Bhashan Char island, to independently assess conditions. 50. Ensure Rohingya children have access to proper and timely education. 51. Respect the principle of non-refoulement by ensuring that Rohingya refugees are not transferred to any place, including their country of origin, where they may be at risk of serious human rights abuses and violations.

52. Ratify the Optional Protocol to the ICCPR and issue a declaration under Article 22 of the Convention Against Torture so individuals facing violations of human rights guaranteed by these treaties can send complaints directly to the Human Rights Committee and Committee Against Torture.

53. Submit all overdue state party reports to UN Treaty Bodies.