

Chapter I

BANGLADESH

*Rights Disappear
in Governance Abyss*

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Introduction

The enjoyment of human rights has disappeared from people's life in Bangladesh. After the illegitimate authoritarian government retained office through the sham 5 January 2014 election, the incumbent government has relentlessly impinged upon the rights of citizens. Basic freedoms that are universally recognized and constitutionally enshrined are now non-existent in Bangladesh. Repressive laws and arbitrary amendments to the Constitution have taken away even the rights that were once guaranteed on paper. The exercising of any freedom and any rights depends entirely on one's political and economic status in Bangladesh; exercising the right to freedom of expression by an ordinary person, or by someone who is a supported of any opposition party, will lead to fabricated criminal charges, detention, and imprisonment.

Policing in the country involves arbitrary arrest and detention, and fabrication of criminal cases. Law-enforcement agencies shoot detainees in their limbs in order to cause permanent physical disability. Endemic torture persists, without any punishment for perpetrators, or remedy for victims, and state agents use all manners of torture as tools of extortion. The anti-torture law passed by Parliament has been rendered useless, both by the government and by civil society groups.

The police directly shoot people participating in peaceful processions conducted by political opponents. Extrajudicial executions are the continuing order of the day, and are given labels synonymous with killings in "crossfire". Enforced disappearances are increasing in Bangladesh day-by-day. The terror this is creating in society will persist for generations. The police, who refuse to register cases, manipulate the complaint mechanisms. Subsequent intimidation and threat for those with the temerity to make a complaint has created further panic in society.

Meanwhile, prosecutors and state attorneys continue to be recruited from the political cadres of the ruling parties to benefit the regime, rather than to uphold the rule of law. The Judiciary decides cases on the basis of the political identities of litigants and their attorneys, in order to please ruling authorities. The Election Commission and the Anti-Corruption Commission are also eager to uphold the partisan agenda of the incumbent government. All of Bangladesh's state institutions are politicized to the extent that they are unable to undertake their true function of serving the people.

Telephone tapping and spying into computers and private Internet communications is legalized in the name of "national security". Workers are denied their fundamental living expenses and regularly become victims of fabricated cases coupled with repression. Violence against women of all ages is manifest. This, in sum, is the state of human rights in Bangladesh in the year 2014.

ICCPR, Article 9

1. *Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.*
2. *Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.*
3. *Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgement.*
4. *Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.*
5. *Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation.*

Right to Liberty & Security of Person

Deprivation of the fundamental rights of personal liberty and security is the way of law-enforcement in Bangladesh. The law-enforcement agencies, the police, and the Rapid Action Battalion (RAB) in particular, arrest people at will and detain them arbitrarily every day. Intelligence agencies also detain people in their detention centers, some of which are known, others secret. Such acts are committed without legitimate warrant from a competent court.

The law-enforcement agencies keep detainees in prolonged detention by distorting their official records in the police stations. The agencies often deny their actions of arbitrary arrest and detention of persons when relatives approach police stations or the camps of the RAB. The question of guaranteeing legal representation of the detainees' choice is unthinkable in Bangladesh. Appearance of the detainee before a competent Magistrate's Court within twenty-four hours depends on the victim's capacity to influence the police through bribery or political pressure. The systemic lack of holding the law-enforcement agencies accountable perpetuates the practice of detaining people arbitrarily. Such infringement of fundamental rights continues despite there being no official proclamation of a state of emergency in the country.

The arbitrary arrests take place mostly due to the chain of corruption within the law-enforcement system. The more the police arrest, the more they earn through extortion and torture. Threats of fabricated charges are used to extort money from victims and their relatives. There are two types of victims of arbitrary arrest and detention: ordinary poor people and political opponents.

Activists of the opposition political parties are regularly detained on fabricated charges. In fact, the incumbent government and the police randomly use the excuse of "conspiracy" against the regime in arresting political leaders and activists. Apart from the regular pattern of arbitrary arrest, law-enforcement agencies arrest hundreds of opposition supporters and ordinary people whenever any political programme protesting against the government is announced.

The trend has reached a level where the police arrest ordinary citizens who do not have any political affiliation, and brand them as opposition activists, as if arresting and detaining the opposition is de facto acceptable. The Judiciary ratifies and justifies such arrests and detentions. Without any credible evidence, the detainees are accused of being involved in "sabotaging" the government.

Different draconian laws like the Anti-Terrorism Act, 2009, Special Powers Act, 1974, and the Information and Communications Technology Act, 2006, are

used to detain people. In all cases, the police bargain with detainees for a higher amount of bribe. Partial or insufficient payment invariably annoys the police or the RAB, and entangles the detainees in prolonged harassment. The law-enforcement agencies implicate the detainees that fail to meet their demands in pending cases, if the victims are lucky. The unlucky victims are eliminated in extrajudicial executions.

The majority of the victims of illegal arrest and arbitrary detentions are poor. If they are implicated in false cases, they languish in prisons for months and years without any remedy, as they cannot afford to pay litigation costs and bribes.

ICCPR, Article 10

1. *All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.*
2. *(a) Accused persons shall, save in exceptional circumstances, be segregated from convicted persons and shall be subject to separate treatment appropriate to their status as unconvicted persons;*

(b) Accused juvenile persons shall be separated from adults and brought as speedily as possible for adjudication.
3. *The penitentiary system shall comprise treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation. Juvenile offenders shall be segregated from adults and be accorded treatment appropriate to their age and legal status.*

Right to Human Dignity of Persons

The pattern of arbitrary detention contributes to overcrowding the prisons of Bangladesh. The 67 prisons in Bangladesh have a capacity of 28,000 persons; however, Bangladesh prisons have around 80,000 detainees, including convicts. Apart from this there are uncounted numbers of detainees in the country's 630 plus police stations, the dozens of camps maintained by the Rapid Action Battalion, and in the undisclosed number of secret and private detention centers operated by the intelligence agencies.

The right to security of detainees is presently inconceivable in Bangladesh, with endemic torture and extrajudicial executions being the norm. The basic and inherent dignity of the detainees is systematically denied in numerous ways.

Severe forms of inhuman and ill-treatment are integral to the law-enforcement and prison management system.

Humiliation of the detainees takes place systematically in all courts in the country. For instance, the detainees are primarily kept in court lockups before the hearing of the individual cases start, and during the period between the post-hearing and departure for the prison, where there is no proper place to even sit. In the courtrooms, the detained defendants are deprived of the ability to even sit; they are bound to stand at the time of the hearing of their cases. The only exceptions are the hearings of high profile cases in which the political and financial elites face trial as defendants.

Another humiliation to be suffered by detainees is the police and paramilitary forces identifying them as “criminals”, even though many of the complaints are fabricated. Subsequently, detainees are exposed before the print and electronic media during the process of an investigation or even before the investigation, where the police and paramilitary version is parroted. This causes serious social stigmatization to the detainees, even though many end up acquitted by the end of the trial.

In prison, pre-trial detainees, who are detained in fabricated cases or whose investigation is yet to be conducted, are detained in the same cell as convicted prisoners. The conditions in the overcrowded cells are inhuman and amount to the denial of human dignity.

ICCPR, Article 7

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.

Right Against Torture

Despite torture and custodial deaths having been criminalized in October 2013, policing and torture are inseparable in Bangladesh. There are multiple justifications for the torturous policing system commonly cited. The use of colonial laws even after 43 years of independence is often blamed as one of the main reasons of the practice of torture; people are also blamed for being “illiterate” and “unaware” of the law; and it is argued that criminal suspects do not “confess” their crimes to the police unless tortured.

Other excuses given by the police to justify their use of torture are: the police to public ratio (one policeman for 1065 people, as of 2012¹); the insufficient logistic facilities and poor salaries provided to the police; the 16-18 hour work day; the protocol duties for VIPs; long detachments away from family, due to accommodation shortages; and constant political intervention in the policing system.

Torture victims, meanwhile, observe that the Bangladesh police are mad after money; torture is one of the default tools that the police use to extort the people of Bangladesh. Torture is a must in day-to-day policing in Bangladesh today. It has been found that extortion and bribery are an integral part of the law-enforcement system. Every step, such as registering a General Diary Entry or a complaint, adding or removing one's name from the list of accused of a criminal case, getting the police to investigate a case or recovering a body for autopsy, or getting a police report in one's favour, all requires bribes. Law-enforcement agents such as those under the Rapid Action Battalion (RAB) can be hired as killers to murder persons for financial and political interests.²

It is impossible to find a person in Bangladesh who was arrested but not tortured by law-enforcement agents. More than a million people are tortured every year in Bangladesh. There is an underground economy maintained by the law-enforcement agencies in Bangladesh. Each torture victim is forced to pay bribes that may amount to billions of Taka per year. This overwhelming reality has not merited the attention of policy-makers and researchers, although the financial life of Bangladeshi citizens remains crippled by this brutal system. Similarly, the mental health of Bangladeshis continues to remain abysmal, due to the torturous and fearful law-enforcement system that persists in the country.

Torture exists in Bangladeshi society because each incumbent regime likes what it can do. The rulers of successive regimes have all used torture to silence their opponents. The recruitments, promotions, and postings in the law-enforcement agencies are decided mostly based on the candidates' previous record of torturing persons and their ability and willingness to use torture against opponents in the future. For example, Mr. Harun-ur Rashid, an Additional Deputy Commissioner of the Dhaka Metropolitan Police has been promoted to the post of the Deputy Commissioner of Police. He publicly tortured Mr. Zainal Abedin Farooq, a former Chief Whip of the Opposition.

1 http://www.police.gov.bd/userfiles/file/Statigic_Plan_14-11-12_color_print.pdf

2 <http://www.scoop.co.nz/stories/WO1405/S00124/bangladesh-chains-of-corruption-strangle-nation.htm>

