

BANGLADESH: The State of Human Rights in 2012

Government's Deceptive Actions Continue

Bangladesh's human rights situation has not improved a single degree, as its government has not changed its coercive attitudes. The same may be said about the actions of various agencies of the Bangladesh state, which have remained active in depriving citizens their fundamental rights throughout the year 2012. Constant and systematic denial of justice has put the country's citizens in a highly vulnerable condition. Civil and political rights of the people in general, and of the political opposition to the ruling regime in particular, have been zealously denied the government, which has used the state's law-enforcement and intelligence agencies to routinely crack down on whoever has had the gall to try and enjoy freedom of assembly, freedom of association, and freedom of expression against the government's immediate interest. Fair and uncensored access to the complaint mechanism for even common crimes such as violence against women, has remained impossible without intervention by influential persons, while registration of complaints regarding state-sponsored crimes has been completely obstructed by the police, unless the complaints in question have been suitably distorted and emasculated by the 'law-enforcers.'

Torture, followed by custodial killings, committed by law-enforcement agencies, security forces, and intelligence agencies have been taking place unabated. Deprivation of right to life through extrajudicial executions in the pretext of 'crossfire', 'gun-fight' and several other innovative terms and methods have are a continuing trend without remedy. Enforced and involuntary disappearances are on the rise. And, the country's judicial institutions remain constant in their utter failure to hold the perpetrators accountable. State attorneys contribute to the process of maintaining impunity for the perpetrators of gross human rights violations due to the politicized 'disposable' recruitment process of the attorneys.

The media in Bangladesh faces imminent threat from the authorities, amidst physical attacks on journalists, by state agents and state-sponsored actors, for any attempts of meaningfully exercising the freedom of expression and opinion. Journalists are not only facing torture, following constant intimidation and threats, by the state machineries; some outspoken journalists have been assassinated, while several are losing jobs, due to the alleged interventions by influential political forces. The ruling regime, including Prime Minister Sheikh Hasina herself, has also often verbally attacked journalists publicly, for criticizing governmental actions that fail to benefit ordinary people and for exposing corruption.

Those human rights groups and civil society involved in helping victims without compromising with the ruling regime, in a politically polarized country, have experienced threat and intimidation in 2012 as well. There had been several occasions when rights defenders have been harassed and threatened by the government to close down organizations that criticize the actions of the rulers and their agents.

The basic rule of law institutions survive merely in buildings and uniforms, rather than any effective administration of justice for the people. Ordinary justice-seekers of Bangladesh have been stamped into a

life-in-death-condition by the criminal justice institutions made dysfunctional by the power-parasites that know only how to suck-up tax-money of the people. One can only see any correlation between the pledges of the government to the people for protecting their constitutional rights and reality, if one is determined to fool oneself and some. The government is systematically deceiving its citizens non-stop¹.

Fear & Speculation in Dhaka

Bangladesh's political situation remains explosive due to a culture of hatred and intolerance among power-hungry political groups. Democracy is merely a format in which they participate in – and if possible win – elections, by manipulating the weak electoral institution, garnering administrative and military support, depending on possibilities of establishing influence over the trigger points and strategic players.

There is only one thing common among the power-hunting political groups. None of them is interested in strengthening the Election Commission – which legally remains under the office of the Prime Minister – by making it an independent and effective institution. The reason behind this unity is that each of the parties wants to take advantage of the Commission's weakness, so that the strength of any group having ability to influence the system can win the election. Winning election means the particular political group has been 'democratically mandated' to do or undo whatever the regime wishes to. What remains missing in the electoral process is 'credibility' of the election, which allows the losing party to blame the winners for untrue representation of the people. As a result, the moment the election result is declared, the losing party refuses to accept the result and announce their vow to 'throw away' the 'illegal regime' for the so-called sake of establishing the people's right to vote. The political parties apparently believe that their political success mostly depends on their ability to orchestrate violence in the street. The people's sufferings never end in Bangladesh due to the blind addiction for power among the political parties.

Political violence persists inseparably in the everyday life of the people of Bangladesh despite the fact that the whole population of all ages, and all walks, sincerely hates it, everyone except the so-called political leaders and their active thugs. The endless political violence takes numerous lives of ordinary people, which creates new occasions, and statistics, for the rival groups to claim the deceased or injured persons as their own party supporter and blame the opponent for shedding blood. The bloody game for grabbing power intensifies at the cost of destruction of countless lives, assets, trusts, and dreams of the people. Both the ruling and opposition parties enjoy this condition, hoping it may pave the way for them to either remain in, or return to, power, if they succeed in applying their propaganda machineries.

Whenever a general election approaches in Bangladesh, the political environment takes an extreme turn toward intensified violence. The opposition invests its resources and engages muscle-power in the face of crackdowns by the state's law-enforcement agencies, security forces, and intelligence wings that by default work as the ruling regime's hired gunmen to attempt virtual elimination of the opposition from the scene.

¹ <http://www.humanrights.asia/news/alrc-news/ALRC-PRL-005-2012>

Reasonable argumentative intellectual discourse among the political groups is replaced by violence between, and among, the state and non-state actors. It is so, because, the relationship between the top leaders of the two major political groups is based on hatred, envy and distrust that not only spreads to the supporters of both parties, but also contaminates the larger population in general, resulting in a visible polarization on the basis of political attachments.

In fact, political communication between the two major political groups is only visible either in their use of abusive language and character assassinations, or in physical attacks on each other's supporters. The existing pattern of political exercise does not require politicians with merit and wisdom. Rather, it requires more number of musclemen having physical strength and vast armories. The political parties often declare crusade for democracy and 'public interest'; however, these are but rote ritual chants which have lost any meaning. Instead, the leading political parties are 'owned' by persons from certain families, where others have roles to amuse the 'owner of the party' and amass wealth undeservingly once his or her party succeeds in acquiring power. Given such conditions, democracy has hardly found a piece of land with sunlight and water to sprout, let alone find nourishment to grow up in the country of Bangladesh. Democracy is on life-support in Bangladesh, having somehow not yet succumbed to unnatural death.

Since the 1990s, Bangladesh has experienced severe and bloody political violence before every general election in the post-military dictatorship era. In 2014, the nation will be ravaged by another general election to form its 10th parliament in four and a quarter decades since the inception of the country. The political scenario is already taking its warlike shape now in the closing days of 2012.

The country's Election Commission (EC), which has the most important role to play for a fair, transparent, and credible general election, is creating confusion among the public regarding its ability to hold an election that could be acceptable to the people in general. Moreover, the EC has repeatedly been accused of having bias to the ruling regime, which has again recruited the top officials on the basis of the candidates' loyalty to the rulers as per usual practice. For example, a large number of field level staff of the EC has been recruited recently, while the newly recruited officers are allegedly selected for their background of having attachment with the ruling political party's student wing. In response to such allegations, the EC, headed by a group of five retired civil and military bureaucrats, has failed to provide a trustworthy answer to the citizens. The silence of the EC regarding the allegation of partisan recruitment transmits the message to the people that, as an institution, it either owes nothing to the public and its concerns, or simply accepts the allegation as a truth and thus maintains silence for the purpose of implementing the agenda of the ruling regime, as its master, has expected it to do.

When such is the condition, few words are often heard peppered in political speeches, i.e. people, and people's safety, when the fact is that the parties are competing against each other to put the 'people' in a more vulnerable and dreadful condition by their actions. For example, the ruling regime and the opposition in October 2006, who have now been in a changed position, started fighting each other on the streets of the country, resulting more than a dozen deaths. Continued violence with exchanges of bullets and hand-bombs in public places put the residents in confinement in many cities, including the capital city of Dhaka. Subsequently, the military took this opportunity to grab power by insisting that the then

President Prof. Iazuddin Ahmed impose a state of emergency and curfew in the country in January 2007. Bangladesh was thus militarized again for two years, causing much damage to the growth of real democracy.

Observing the ongoing political deadlock and eruptive situation, many Bangladeshis fear that the ruling regime and the opposition may lead the country to a similarly disastrous condition as the people faced in the late 2006 and onwards. Bangladeshis can thus only face up to the coming violence-ridden election slugfest, representative of formal democracy, with trepidation.

Supreme Court's Time in the Political Sun

The Supreme Court of Bangladesh has found itself trapped and forced by politically polarized and influential legal professionals, and the executive, something that has deepened political dispute and led the nation deeper into a crisis. The matter relates to holding general election under a non-party care-taker government after completion of an elected term, as per the 13th Amendment to the Constitution.

Bangladesh's 6th and shortest surviving elected parliament, which lasted only 15 days in February and March 1996, passed the 13th Amendment to the Constitution. The opposition at the time, led by the Bangladesh Awami League – presently leading the incumbent ruling regime – put the country through an endless series of nation-wide general strikes to establish the system of a non-party care-taker government.

The Bangladesh Nationalist Party (BNP), which was ruling in the period between March 1991 and March 2006, on the other hand, stood against the opposition's demand for a care-taker governmental system. According to the Bangladesh Awami League, the care taker governmental system was the only solution for holding a free and fair general election in Bangladesh, as the elections unto then, under any regime, did not meet the basic requirements of credibility. The ruling BNP government, when it completed its tenure in 1996, failed to convince its opposition to participate in the general election due to the question of lack of credibility in the prevailing electoral process. The government then held a controversial election, without the participation of any major opposition political parties, enjoying a one-sided massive victory. The victorious government then went on to amend the Constitution, inserting the provision of a 'Non-party Care Taker Government' to be headed by the latest retired Chief Justice or the senior-most judge of the Supreme Court, comprising ten more technocrats in its council of advisors. This care-taker government's main responsibility, according to chapter II A of the 13th Amendment was to hold a general election. Since this amendment, two general elections – one in June 1996 and the other in October 2001 – have been held in Bangladesh; these elections have found opposition ousting incumbents.

The 13th Amendment to the Constitution made a huge impact on judges of the Supreme Court of Bangladesh. The incumbent regimes began to feel that a 'loyal' judge must be given the position of Chief Justice in a calculated way so that the most loyal judge retires prior to the upcoming general election. The BNP regime allegedly attempted to appoint the judge of their choice as Chief Justice by extending the age

of retirement of the highest judiciary in the 14th Amendment to the Constitution. Following violent political actions, the particular judge withdrew himself from the position of head of the caretaker government in late 2006. Later, some of the judges had started to dream of, and compete for, acquiring the position as head of the government, even if for few months.

In 2011, the Appellate Division of the Supreme Court of Bangladesh passed a judgment declaring the 13th Amendment of the country's Constitution "void and ultra vires the Constitution" in the introduction to the Judgment. The Court also declared, "The election of the Tenth and the Eleventh Parliament may be held under the provisions of the above mentioned Thirteenth Amendment on the age old principles, namely, quod alias non est licitum, necessitas licitum facit (That which otherwise is not lawful, necessity makes lawful), salus populi suprema lex (safety of the people is the supreme law) and salus republicae est suprema lex (safety of the State is the Supreme law)."

The judgment observed that "the parliament, however, in the meantime, is at liberty to bring necessary amendments excluding the provisions of making the former Chief Justices of Bangladesh or the Judges of the Appellate Division as the head of the Non-Party Care-taker Government." It further asserted that "the Judgment in detail would follow".

The judgment summary was pronounced in the Court on May 10, 2011, by the full bench of seven judges of the Appellate Division, headed by Chief Justice A B M Khairul Haque, of the Supreme Court of Bangladesh. This judgment was passed on a majority note by four in favour and two against, while another judge had a different view on the same matter. However, the complete judgment was signed by and only made available by the judges on September 6, 2012, i.e. after more than 16 months. The Chief Justice, who led the hearing of the case, retired from his service in the judiciary just one week after this judgment was passed.

Several jurists of the country have criticized the process followed by the former Chief Justice, arguing that once any judge retires from judicial service he or she returns as an ordinary civilian, does not remain under the oath that the judges have to take while assuming in the office, and loses his or her judicial authority to adjudicate or sign on a judgment.

Meanwhile, the ruling regime took advantage of the verdict and passed the 15th Amendment to the Constitution on June 30, 2011, abolishing the non-party care-taker government system, without waiting for the complete judgment of the Supreme Court. This latest amendment, which got the country's presidential assent on July 3, 2011, and was published in official gazette on July 4, 2011, enabled the ruling party to remain in power during the period of the upcoming general election.

Divide Ruling of Court Multiplies the Plight of Justice Seekers

The separation of Bangladesh's judiciary from the Executive Branch remains a theoretical exercise, with the appointment of judges to the higher judiciary continuing to be highly politicised. The judiciary does not enjoy independence as far as the administration of justice is concerned in terms of logistics, manpower, integrity, and the adjudication of cases. Besides, there is a serious lack of judicial competence and commitment to upholding the rule of law among many judicial officers. The Supreme Court acts systematically in favour of the ruling party. Furthermore, the present Awami League-led alliance government deployed mobile courts under the Mobile Court Act, 2009, in the name of preventing 'anarchy' during general strikes. The mobile courts arrested and sentenced people after summary trials, without scope of defence, violating the fundamental rights of citizens. The mobile courts, which operate under the Executive, give the government unlimited power of misuse to fulfill political agenda. It illustrates the government's failure to implement the recommendation to ensure independence of the judiciary.²

Frequently, the judges of the Division Bench of the High Court Division appear to have divided opinion in deciding writ petitions of the litigants. In many cases, the judges hardly make a valid legal point while disagreeing with his or her colleague on the Division Bench.

The AHRC can share one such recent example. A Habeas Corpus petition on the disappearance of Mr. Immam Hassan (Badal) was heard by a Division Bench comprising Justice Seyed Refaat Ahmed and Justice Sheikh Hassan Arif on November 13, 2012. Imam had 'been disappeared' since March 16, 2012, when his parents last met him at the office of the Rapid Action Battalion (RAB)-2 headquarters at Sher-E-Bangla Nagar in Dhaka. Imam's father, Mr. Md. Ruhul Amin, and Bangladesh's human rights organization Odhikar's Director A S M Nasiruddin Elan, filed the habeas corpus petition with the High Court Division.

The petitioners' attorney Mr. Adilur Rahman Khan, secretary of Odhikar, submitted to the Court that "the state has obligation of protecting the rights of its citizens while the state had been found to be indifferent in the matter of disappearance. A man was disappeared for failing to paying bribes to the members of the Rapid Action Battalion." In response, one of the two judges asked the lawyer, "If RAB denies its involvement in the incident of disappearance, then what would happen?" The petitioners' attorney told that "they [RAB] had been doing [denying] so. That's why the statistics of disappeared persons rose to 71, according to our documentation on the basis of facts." Then, the same judge said, "Generally, disappearance happens to the political leaders," and asked, "Why should he [Imam Hassan] be disappeared?" The petitioners' attorney requested the Court to order the respondents to produce the disappeared person within 24 or 48 hours before the same Court, however, the junior judge disagreed with his senior colleague, who expressed his view in the open Court for passing an order according to the

² <http://www.alrc.net/PDF/ALRC-UPR-16-001-2013-Bangladesh.pdf>

submission made by the petitioners' attorney. Instead, the Court issued a Rule directing the respondents as to why they should not be asked to produce Mr. Imam Hassan before the Court within one week.

A citizen's fundamental right to life and liberty had been denied by the state's paramilitary force – Rapid Action Battalion (RAB), which enjoys blatant impunity – and required maximum attention from the highest judiciary of the country when a habeas corpus petition was being heard. The judiciary's constitutional and universal obligation is that of locating the disappeared person alive and ensuring his right to life and liberty, leading to prosecution of the perpetrators. Ironically, the junior judge was more concerned about RAB's denial, which it systematically maintains when questioned about its involvement in disappearances, in order to appease the paramilitary force rather than holding the perpetrators accountable. The judge's remarks also appeared to suggest that he was okay with the incidents of disappearance of a politician but struggled to accept it when an apolitical person is victim to disappearance.

Many litigants of the country have been facing similar challenges from the highest judiciary, let alone the difficulties expecting any redress from the lower branches. Thanks to the ongoing culture of recruiting judges in the higher judiciary on the basis of loyalty and political affiliation with the ruling regime, in the recent years, one of the most important institutions of the state has been burdened with individuals having the poorest moral standards. The nation urgently needs to act to reverse this trend. Any delay or failure to transform the subjugated mindsets to normative standard-based ones will result in the people paying a high price.

Pre-Planned Assault on Ethnic Minorities

The ethnic minority communities of Bangladesh have experienced an immensely shocking and tragic blow in 2012. The entire governmental machinery of Bangladesh, with its retinue of law-enforcement units, intelligence agencies, and security forces, has totally and abysmally failed to protect minority communities in the South Eastern region of the country. A large number of monasteries, temples, houses and establishments of the Buddhist communities of the area, and even those belonging to some of the Hindu communities, have been subject to open arson and looting.

Starting on September 29th, 2012 for 3 straight days the rampage continued in Cox's Bazar and Chittagong districts. The devastating attacks began at Ramu sub-district town on the evening of September 29th and spread around the region in the following two days, virtually without even token measures by the authorities to protect the assets and trust of the affected communities. It is the local leaders of the ruling political party, in collusion with few leaders of other parties, along with locally known and unknown individuals, have been found to have provoked the hate-mongering and violence.

Victims and witnesses noted how local police acted as silent spectators to the firestorms lit up and fanned by the attackers. Bangladesh's policing system has been conditioned to turn a blind eye to any violence orchestrated or committed by anyone having any connection to the ruling political parties. The police's

role, as silent spectator, further points a finger to the comprehensive culture of impunity for offenders having links to power, especially the ruling party.

Cox's Bazar, like every district town, has a Police Line, accommodating reserve police forces, stationed there to tackle such violence. The Rapid Action Battalion (RAB), which is officially termed as an 'elite force', has a unit in every district headquarter to control 'law and order.' At least two battalions of the Border Guards Bangladesh (BGB) are stationed within half-an-hour driving distance from Cox's Bazar and at Naikkhongchhari sub-district of Bandarban Hill district, which is adjacent to Ramu. Moreover, there is a military barrack within ten kilometers from Ramu town and an engineering core in Cox's Bazar town. The authorities did not engage any of these agencies or forces in preventing the attacks before or after the incidents occurred.

It became evident that the country's intelligence agencies failed to, or didn't want to, predict the possibility of the attacks, even though profile government officials including the Prime Minister and Home Minister of Bangladesh termed the pillage as 'pre-planned attacks.' One of the glaring incidents in the series of attacks was the attack that took place at Paschim Marichchya Dipankar Buddha Bihar at Ukhia sub-district, 24 hours after the attacks occurred at Ramu. The authorities did not take any effective measure to ensure security of the affected community in Ukhia area, although the events in Ramu had become known to the whole world through media by that time.

The people affected by the attacks are terrified, fearing this sort of attack might happen again. The witnesses and victims declined to expose their personal identity, due to the fear of further attack or harassment. Such apprehension reiterates the extreme necessity of an effective witness protection mechanism, something missing in Bangladesh. Hundreds of families are still homeless and living under imminent threat. An unknown number of victims have received various forms of injuries as a result of the multiple types of attacks. None has been able to ascertain whether the victims have been given access to adequate medical treatment facilities or not.

The police arrested people en-mass, without substantial evidence against the suspects. According to the police, at least 17 criminal cases have been registered with three police stations of Cox's Bazaar and one police station of Chittagong district.

More than hundred people were arrested and detained by the police of Ramu pursuing eight related criminal cases filed with the police station. Two of these eight cases have been transferred to the Detective Branch (DB) of police, which has further arrested 30 more suspects, in Cox's Bazaar. The police officers have denied disclosing the individual identities of the detained suspects, although they claim that the suspects belong to all major political parties including Awami League, BNP, Jatiya Party and Jamaat-E-Islami. They have confirmed that none of the detainees are from the Rohingya community.

Four cases have been registered with the Ukhia police, which had arrested 49 suspects. The police claimed that few of the detained suspects are members of BNP and Jamaat-E-Islami. However, the officers refuse to reveal the details of the suspects or how the police have determined their involvement in the crimes. The

Officer-in-Charge (OC) of Ukhia Police Station, Mr. Oppela Raju Naha said, "We are scrutinizing the suspects. No comments can be made while the matters are under investigation."

Two cases have been registered with the Teknaf police, who have arrested at least 36 people as suspects. According to the Officer-in-Charge (OC) Md. Farhad Hossain, two of the detainees belong to the Jamaat-E-Islami, while none has yet been identified as Rohingya. He said, "More people might be arrested in the coming days in these cases."

It has been learned from the Patiya police of Chittagong district that three cases have been registered with the police regarding the attacks in monasteries and temples within its jurisdiction. At least 35 people have been arrested and detained up to October 16th.

The political parties of Bangladesh had once again exposed their failure to face the gruesome truth. The ruling and opposition parties have been publicly playing their traditional blame-game against each other instead of addressing this unprecedented disaster to the country's communal harmony. Both ruling and opposition politicians have failed to stand beside the victims, who deserve assurance from the larger powerful communities that recurrence of attacks would be prevented at any costs.

It was learned from the witnesses in Cox's Bazaar that the incident started at around 7.00 pm on September 29, 2012 following a post in a personal facebook account of a Buddhist young man named Mr. Uttam Kumar Barua, who is a resident of Baruapara at Ramu upazila of Cox's Bazaar district. Another user had posted as a photo that allegedly insulted the Holy Quran, which was shown to be underneath a girl's foot. And, this was tagged to Uttam's personal facebook account.

The meetings and processions that took place before the attack on the homes and places of worship of the minority Buddhist and Hindu communities were led by the local leaders and activists of the Awami League. However, the local people said that during the attack, a few strangers were also seen along with those who were known. Many people claimed that kerosene and gunpowder were used during the attacks to start fires.

All of the local people were in shock, given that so many places of worship were being attacked at the same time. They had never witnessed such events before, and they could they imagine that such incidents could ever occur. Accurate information was not found regarding exactly how the inflammable substances were used, collected, and who collected them. The gunpowder was of import. However, the alarming fact is that although two months have passed, the local authorities and intelligence agencies have yet to take any action. As a result, the feelings of insecurity among those affected by this attack have escalated.

The views of the victims and eyewitnesses made it clear that religious sentiment was used to mobilise a large number of people. It is believed that even though people from all faiths lived harmoniously in the past, the communal tension has now a tinderbox.

Whether the torture of the Rohingyas in Myanmar had any influence on these attacks was not the subject of this particular fact-finding mission. However, a social fact-finding mission and adequate explanation is

required to understand the perspective mentioned above. It was clear that the people who gave information to the fact-finding team did not say anything about the Rohingyas being involved. Imaginary news about the Rohingyas being involved was released by some of the media.

Information received from the priests of the temples, the local people, and the members of law enforcement agencies revealed there was no evidence regarding the involvement of the Rohingyas. Nonetheless, some media outlets have published news about a few Rohingyas being arrested and accused long before the incident took place. Attempts are being made to wrongly frame the Rohingyas. This is in order to hide the alleged involvement of the local Awami League leaders and activists, together with the massive, unpardonable, failure of the administration to act. In the context of the recent killings that have taken place in Myanmar, such misleading facts and unfair allegations may create dangerous impact for the Rohingyas in Myanmar and Bangladesh. Attempts might be made to arrest them in order to show that the Rohingyas were the instigators.

Instead of assuring a fair and proper investigation, the government was seen to be spending too much time in blaming their political opponents. Similarly, the opposition parties are busy criticizing the government instead of taking steps to gain the trust of the Buddhist and Hindu communities. The one and only political duty at this time should be in establishing good inter-community relations to ensure the security of the lives, belongings and places of worship of all the citizens of Bangladesh. The failure of the political parties in realizing the social and political consequences involved is a matter of grave concern. The government's attempt to blame others instead of admitting their own faults makes the situation even more complicated.

There was tremendous doubt in the minds of the people of Bangladesh on whether the investigation will be fair and independent of political influence. It appears that the people given responsibility for investigating the crimes are the very officials who had command responsibilities when these crimes were committed.

The demand for an independent and impartial investigation committee was made by the rights groups concerned in order to unveil the real reasons behind the attacks, to identify the culprits, and bring them to justice. However, the investigation into the attack upon minorities, its process and outcome, and subsequent handling of the event by the Government Bangladesh remained highly questionable. The incident in question was the arson of properties of the minority communities, particularly of the Buddhists and Hindus in Cox's Bazar and Chittagong districts that occurred on September 29th.



(photo: A procession against the Buddhist community at about 8:30pm on 29 September at Ramu town³. Photo courtesy: Newspaper of Bangladesh)

The Probe Committee, headed by the Additional Divisional Commissioner of Chittagong, and comprising a civilian officer and two police officers, claims that the Committee has completed its investigation on October 13th. However, the government has suppressed the report. The members of the public are being kept in the dark regarding the Committee's findings.

The investigation generated more controversies than make contributions to the victims' pursuit for justice. The victims have challenged the Committee's report, though what are available so far are only some snippets of opinion made by members of the Committee. The victims have also demanded an independent judicial investigation, since they do not trust a government-sponsored Committee and their intentions.

A number of Buddhist clergy have already objected to the police action that seeks to implicate some political opponents of the ruling regime as responsible for the arson. For example, the President and the Secretary of the Pashchim Ratnashashon Teertha Sudarshan Bihar Management Committee have prepared notarised affidavits on October 18th suggesting that they are not pleased with the government's actions. The affidavits allege that the Buddhist community received support from Mr. Mahmudul Haque Chowdhury and one Mr. Darbesh Ali, two prominent public figures from the locality, to prevent the attacks upon the local Buddhist monastery. Both Mahmudul and Darbesh are however accused by the police for attacking and looting the monastery.

The media have quoted the Committee, when it reported that Mr. Tofail Ahmed, a leader of Jamaat-E-Islam and the Chairman of Naikkhongchhari Upazila Parishad of Bandarban district, were the mastermind behind the entire incident. The local leaders of the ethnic communities that were under attack challenged this version of the Committee. In a press conference held on October 21st at Cox's Bazar, the local leaders have challenged the Committee's report.

Irrespective of the truth behind these statements made by the Buddhist and other ethnic community leaders, the government owns the responsibility of providing answers to the public. It is however a sad reality that what is now available in public space is mere rumour about the Committee's findings.

By suppressing the investigation report, the government has denied the people's right to know the truth. It is not for the government to decide what and who led the arson attacks. It is for an independent investigation to investigate and for a court to decide, since arson is a crime. Instead, by hiding the probe report, the government is contributing to the generation of public speculation and creating rifts between communities when relationships are already strained.

³ Mr. Saddam Hossain (wearing jeans pant and ash colour T-shirt), a leader of Bangladesh Chhatra League of Ramu, is seen at the centre of the procession. On his right, Mr. Hafez Mohammad (with a cap and black and grey stripe Punjabi), is a brother of a leader of Awami Jubo League.

Apart from this, the local police have detained some persons as suspects. These persons have already withdrawn their statements from the courts, alleging that state officers tortured them and forced them to confess to crimes they have not committed. The allegation of torture must also be a subject for investigation, since torture is prohibited in Bangladesh. It is also reported that the persons currently in custody accused of the crime have been threatened by the state officers that they would be extra judicially executed in a cross-fire, if they refused to give statements as directed by the state officers.

The government kept all its forces as silent spectators when the devastating arson attack happened. It has not yet done anything better by suppressing the probe report, filed in by a committee that the government itself had formed to investigate the crime.

Arbitrary Arrest, Detention, Torture: Tools for Lucrative Police Business

The people of Bangladesh often live in serious fear of arbitrary arrest and detention. In particular, whenever the opposition announces any protest rally in the country, the situation gets worse for the ordinary people, as happened prior to a mass rally in Dhaka on March 12, 2012 that was called by the opposition parties, and led by the Bangladesh Nationalist Party (BNP), against the ruling regime.

The opposition political parties had organised a march towards Dhaka, on March 12, which was aimed at showing their political strength by gathering as many of their supporters as possible and bringing them to the capital. The opposition parties claim that they had wished to host a peaceful rally peacefully, as it is their right to freedom of assembly. They have now accused the government of arresting hundreds of their activists and supporters prior to the rally.

The government, which held a rally on March 7th in participation with public employees and was planning to hold another one in two days time, had deployed all of its agents, including the police, Rapid Action Battalion and other intelligence agencies, to prevent the public rally of the opposition. The ruling regime attempted to deny its opponents the right to hold political meetings and rallies in public. It has been blaming the opposition for conspiring to cause a breakdown of law and order in the country.

Law-enforcing agents of Bangladesh have indeed arrested hundreds of ordinary people and activists of the opposition political parties, en masse. And these arrests continued. The authorities were detaining the arrestees arbitrarily under Section 54 of the Code of Criminal Procedure-1989 and several other draconian laws including the Dhaka Metropolitan Police Ordinance-1976 and Anti-Terrorism Act-2009. According to available information, several thousand people have already been illegally arrested and arbitrarily detained only in last three days.

Amongst the detainees, the poor people have been victim to the on-going random arrests by the law-enforcing agents. Most of the detainees are identified as day-labourers, transport-workers, street-hawkers, students, and pedestrians. Many of the detainees have been named in fabricated cases as they have failed to pay bribes to the police. The country's magistracy, which deals with such arrested persons, appears to be of

no use at all in ensuring the fundamental right to liberty, even when almost everyone is being sent to prison.

The Dhaka Central Jail authorities admitted that in three days they had received around four times more detainees than normal. Similar reports of arbitrary detentions were being recorded in other cities and towns, although the exact statistics remain under wraps.

Apart from arrest and detention, the government had ordered the public transportation companies to stop, or reduce, operation to and from the capital city in order to prevent the presence of the pro-opposition supporters in Dhaka. Residential hotels had reportedly been ordered to keep closed from March 9th on, with threats of further harassment if the hotels would accommodate anyone. The police and the RAB have been raiding the houses of the citizens, of leaders of opposition parties, and other places, including private dormitories where students having no alternative shelter for studies reside, and all this without any credible search warrant, as per their whims.

In the given situation, the ordinary people have been scared of making even necessary movements for their livelihoods. Passengers in limited number of private and public transport that still dare to operate in the streets are facing endless harassment in the name of security checks all around the city of Dhaka. Bangladesh appears to have become a complete police state. Most of the families of the detained victims have been helpless with regard to the release of their loved ones from prison – not only failing to afford the costs needed to be incurred, but also having to brave the ruthless attitude of the government, and the chain of corruption of the policing system of the country.

Showing political strength in public through violent forms and propaganda against each other has been an integral part of the political culture in recent past of Bangladesh. But what is always ignored by every regime is the lives and livelihood of the ordinary people who never wish to be victims of political game of power. Nobody cares for the ordinary people who suffer the pain, torture and involvement in fabricated cases in such circumstances.

The government of Bangladesh, no matter which party is in power, denies that in a democracy everyone has freedom of peaceful assembly as one of the fundamental rights that no authority can deny by any excuse. The government has obligation to ensure the right to liberty of the people by all means. It has no authority to deny any citizen's personal liberty by abusing the law arbitrarily.

Several rights groups have demanded immediate end to the mass arrest and detention of the people in Bangladesh followed by credible investigations by competent officials other than the police who are known to be institutionally corrupted. There have been strong demands for immediate release of all the victims of arbitrary detention, who were illegally arrested prior to the opposition rally. The government has been asked to provide legal aid to the detainees, if the poor victims have been unable to afford the expenditure – an extra burden on their hardships. Some victims have also demanded compensation from the authorities for the suffering they had been subjected to. However, the government has not cared about any of these requests made by the victims or the rights groups.

Anti-Terrorism Amendment Bill Widens Net

The government adopted the Anti-Terrorism Bill on February 19, 2009, without any public consultation. And, on February 16, 2012, the Parliament of Bangladesh adopted the Anti-Terrorism (Amendment) Bill, which widens the scope of sanctions provided in the Anti-Terrorism Act of 2009 (ATA) by approving the death penalty as the maximum penalty for financing terrorist activities.

The vague definition of ‘terrorists activities’ provided under the ATA is open to abuse, and is incompatible with the principle of legality requiring that criminal liability and punishment be limited to clear and precise provisions. This principle is enshrined in Article 15 of the ICCPR, which Bangladesh ratified in 2000. By retaining a vague and broadly applicable definition of ‘terrorist activities’ and making terrorism-related offences punishable by death, the Amendment Bill makes the Anti-Terrorism Act even more vulnerable to the worst kind of abuses. Documentation shows how it is being used to repress political opponents, journalists and other dissenting voices.⁴

Environmental Rights Depend on Blessings of Thugs

Illegal sand mining in the Meghna River adjacent to the Mayadip and Nunertek islands and in other places of Bangladesh continued in 2012 despite intervention from the UN mandate holder. The Asian Human Rights Commission issued an Urgent Appeal⁵ regarding illegal sand-mining and death threats to local rights activists and inhabitants on February 24th 2012. The UN Special Rapporteur on Adequate Housing intervened in the matter, urging the government of Bangladesh to initiate investigation on March 22nd. On March 29th, the Permanent Mission of Bangladesh in Geneva informed⁶ the Ministry of Foreign Affairs in Dhaka about the intervention of the UN mandate holder. On April 22nd, the Foreign Ministry forwarded the request⁷ to the Cabinet Division⁸ of the Government of Bangladesh, which asked the district administration of Narayanganj district on April 25th to conduct an investigation regarding the matter. Accordingly, the district administration of Narayanganj conducted an enquiry within one week of receiving the instruction from the Cabinet Division. However, the authorities did not make the investigation report public and no information was provided regarding the outcome of the report.

Despite conducting the investigation, authorities of Bangladesh have failed to stop the illegal sand mining. On the contrary, influential politicians and parliamentarians of the ruling regime have allegedly been protecting the sand mining companies. And, these companies constantly harassed the activists at Sonargaon in Narayanganj district for resisting the illegal mining of sand from the Meghna River by filing fabricated criminal cases with the help of a compromised police. Three persons, including one of the key

⁴ <http://www.alrc.net/PDF/ALRC-UPR-16-001-2013-Bangladesh.pdf>

⁵ <http://www.humanrights.asia/news/urgent-appeals/AHRC-UAC-033-2012>

⁶ <http://www.humanrights.asia/news/urgent-appeals/images/2012/AHRC-UAU-033-2012-02.jpg/>

⁷ <http://www.humanrights.asia/news/urgent-appeals/images/2012/AHRC-UAU-033-2012-03.jpg/>

⁸ <http://www.humanrights.asia/news/urgent-appeals/images/2012/AHRC-UAU-033-2012-04.jpg/>

activists protesting against the illegal mining, were recently detained in prison in relation to the fabricated cases. Around 8 acres of cultivated land has already eroded into the Meghna River as a result of the illegal sand mining. The subsistence of the whole locality, i.e. the livelihood and shelter of around 9,000 people, is under serious threat at the moment. The interventions of the High Court Division of the Supreme Court of Bangladesh and the investigations conducted by the governmental authorities sounded hollow at the end of the day when no action was taken to protect the environment or the livelihood and neighbourhood of the people who have been victimized by the illegal mining in the country.

At Risk: Human Rights Defenders

Human rights defenders had faced severe forms of challenges in Bangladesh throughout the year. Documenting the cases of gross human rights abuses and supporting the victims and their families brought repeated threats and harassments on the rights defenders themselves. In most cases the state agents orchestrated the harassments against the human rights defenders.

In June, the Government of Bangladesh planned to arrest members of human rights organisations and activists whom the authorities suspected of providing information for a report⁹ published by Human Rights Watch titled “*Bangladesh: Torture, Deaths of Jailed Mutiny Suspects*” immediately after the publication of the report.

There were discussions among some quarters in the Bangladesh government of arresting human rights activists and members of human rights organizations and to charge them with treason, sedition and other criminal charges. Earlier, the Ministry of Home Affairs accused Human Rights Watch of conspiring against Bangladesh for publishing this report.

The government's attempt continued even though reporting on human rights matters is the mandate of human rights organisations, as recognized by the United Nations, and all the authoritative organs of the United Nations have repeatedly affirmed this role. Human rights organizations merely carry out the duties of observers of the human rights covenants to which states are parties. Under article 2 of the International Covenant on Civil and Political Rights (ICCPR), states are required to take legislative, judicial and administrative measures to ensure that people enjoy the rights guaranteed by these conventions.

Rights groups urged the government of Bangladesh not to take any action against anyone, any human rights organization, or human rights activists, for whatever contribution they may have made in pursuit of the above conventions. The United Nations, all human rights organizations, international bodies, and all governments were also urged to intervene on behalf of human rights defenders for their protection, and to take all measures to prevent arrest, detention, torture and fabrication of charges against human rights defenders. A number of diplomatic missions from Bangladesh and different parts of the world immediately

⁹ <http://www.brw.org/news/2012/07/04/bangladesh-torture-deaths-jailed-mutiny-suspects>

intervened into the matter regarding the plan of arresting the human rights defenders by the government of Bangladesh, which later changed its hard-line position.

For participating in human rights activism, individual activists like Mrs. Shampa Goswami, a female human rights defender cum schoolteacher who works for Odhikar from Satkhira, faced suspension from her job as teacher for standing up for a victim of gang rape. The alleged perpetrators, well connected to influential political leaders, have been directly attacking her person, by circulating doctored and morphed sexually explicit images of Mrs. Goswami. The Kaliganj police of Satkhira district in Bangladesh are siding decidedly with the alleged perpetrators, and preventing other fair investigations. The human rights defender fears further sexual harassment and insecurity to her life and work as a result of the absence of legal and administrative remedies to injustice in Bangladesh.

The National Security Intelligence (NSI) has harassed several human rights defenders and civil society persons in the country. Many of them have not dared to speak out in fear of worse consequences they may face in the future. Two journalists / human rights defenders of northern Bangladesh faced arbitrary arrests and detention in Kurigram district. Mr. Ahsan Habib Neelu, general secretary of Kurigram Press Club and district correspondent of the Daily Jugantor, documented factual information regarding the extortion conducted by NSI Assistant Director Mr. Idris Ali, who used to force innocent people to pay bribes by threatening arrest and detention. Ahsan's colleague Mr. Shafiqul Islam Bebu, journalist of Bangla Vision – a private TV channel, also joined Ahsan to make the documentation about harassment by the intelligence agent. A detailed report was published in the Daily Jugantor on September 27, 2012, regarding the matter. Since then the intelligence agency officer has constantly threatened Ahsan and Shafiqul that he would 'see' them. On November 22nd, at 1 am early in the morning, NSI Assistant Director Idris Ali led almost a one platoon police force to raid the houses of the two journalists.

The police handcuffed the two journalists and forced them to run half a mile in the handcuffed condition. When the members of the two journalists' families wanted to know from the police officers about the reason behind the illegal arrest the police officers ill-treated the family members. A team of police headed by the Superintendent of Police (SP) of Kurigram district Mr. Mahbubur Rahman interrogated the detained journalists the following afternoon at the district police office. NSI officer Idris and Assistant Superintendent of Police (ASP) Akram Hossain were part of the interrogation team as well. The police and intelligence officers falsely accused the two journalists for posting defaming caricatures in facebook accounts. They forced the journalists to disclose their username and passwords before the police team, who logged in their accounts and failed to get any substance regarding their own allegations. During the interrogation, the journalists were ill-treated, intimidated and verbally abused them. After 10 pm on the same night they were released following interventions from a number of local and national civil society organizations. No authorities have taken any action against the officers involved in extortion and such illegal use of state machinery.

Endemic Torture with Endorsement & Impunity

Torture in the hands of the law-enforcing agents is unavoidable according to the current law-enforcement system. Torture is also not 'unwanted' in the country as every ruling regime use torture against their political opponents. The police, Rapid Action Battalion, security forces and intelligence agencies of the country use torture against everyone as part of their 'official' practice. Wherever there is presence of any member of such agencies of the State, the possibility of someone being, or about to be, tortured is likely.

Bangladesh's State Minister for Home Affairs Mr. Shamsul Haque Tuku has advised the journalists to keep a 'safe distance' from the country's police while both the journalists and the police are on duty. The minister is cited in the national media including The Daily Star's online edition on May 30, 2012, as having said, "I will tell my journalist friends that they can avoid such unwanted incidents if they collect news or take photos through keeping a safe distance {from police}. I hope you {journalists} will consider it." The remarks were made in a meeting held at the Dhaka Reporters' Unity on May 29th.

It is understood that the minister was referring to the incidents of police brutality against three journalists of Daily Prothom Alo, who have gotten their limbs fractured as a result of police torture at Agargaon in Dhaka on May 26th. The remarks of the State Minister for Home Affairs sound dangerous; he has in essence asked journalists to keep a safe distance from the police, instead of taking action to change the police habit of using torture against the people of Bangladesh. Did the minister not think about what he was telling the audience? Or was it a deliberate threat? The minister's comment exposes the unrealistic mindsets of cabinet members, as the people may ask a counter question: how many million people can maintain the so-called safe distance from the torture-happy police in a country where torture is endemic?

Notably, the minister, who is legally authorized to control the law-enforcing agents of the country, made this advice to the journalists in a meeting in the morning, while, during the rest of the day, another group of three journalists, two lawyers, and a family with two women, were publicly tortured by the police at the premises of the Chief Metropolitan Magistrates' Court of Dhaka.

Why did the police torture the journalists and lawyers at the Court premises? The answer is, according to the media reports, that the journalists were listening to a teen-aged girl, who was molested by the police at the Police Club, while her parents were tortured by the police at the CMM Court area, and the three persons of the same family were arbitrarily detained. The police did not want the journalists to get the girl to share the story of her being molested while her parents were being tortured. So, they beat the journalists up! Two lawyers, who argued with the police officers for illegally arresting the same girl and her parents, were also tortured in public and in the Kotowali police station. The police also allegedly threatened to fabricate charges against the lawyers for their imaginary involvement in an Islamic militant group. However, they were released following interventions by a human rights group and a number of lawyers of the Dhaka Bar Association.

The volume and trend of using torture establishes the fact that no place is safe for protecting someone from torture. Obviously, the truth is, no distance is a 'safe distance' unless a person is out of the boundary of the national territory of Bangladesh.

The State Minister for Home Affairs and his colleagues in the cabinet should develop effective and practical mechanism to prevent the law-enforcement agencies from using torture, if the minister was not joking with the journalists at the meeting on May 29, 2012. The government, if it has sincere commitment to stop the torturous culture in the country, should immediately legislate "Torture and Custodial Death (Prohibition) Bill-2011", which has been unanimously recommended by the Parliamentary Committee on Private Members' Bill and Resolution¹⁰ to enact as a law, in the ongoing Budget Session of the Jatiya Sangsad¹¹, as one of the priorities. The government must implement 'zero tolerance against torture' by establishing right to fair trials for every victim of torture whenever torture takes place regardless of political or social or religious identities of the survivors of torture, without any form of impunity to the perpetrators torture of any agency. In order to ensure justice to the parties, the government should also initiate thorough reforms of the country's criminal justice institutions, including the criminal investigation system, prosecutorial system and the system of administering justice by enabling them to function credibly and independently with judicial mindsets. There is an immediate need of an effective 'witness protection mechanism' in Bangladesh for the sake of establishing justice as well.

Rule of Law Undermined in Flawed Criminal Justice System

The authorities habitually undermine the Rule of Law, while the country's Criminal Justice Institutional System itself is apparently flawed. When Bangladesh was celebrating the 42nd year of its independence, the nation was found to be debating the truth of its history related to the war of independence. The country had witnessed manipulation of public institutions, even judiciary, on the part of the successive governments, to distort historical facts in favour of the government.

The High Court on March 6, 2012, asked Bangladesh Open University authorities to sue, in 24 hours, 17 teachers, three of them of Dhaka University, for mentioning in two BOU textbooks that Ziaur Rahman proclaimed independence of the country. The court asked the BOU authorities to sue the teachers on the charge of distorting the history of the liberation war in its textbooks.¹²

The court reportedly said while hearing the writ petition, "Those who distorted history should be hanged to death as they committed treason." The court asked the two parliamentarians of the party in power to

¹⁰ An unofficial English version is available here:

<http://www.humanrights.asia/countries/bangladesh/laws/legislation/CommitteeReportOnBillCriminalizingTorture10Mar2011-English.pdf>

¹¹ The original Bangla version Report of the Parliamentary Committee:

<http://www.humanrights.asia/countries/bangladesh/laws/legislation/Committee%20Report%20on%20Bill%20Criminalizing%20Torture%2010Mar2011.pdf>

¹² <http://www.humanrights.asia/news/abrc-news/AHRC-STM-072-2012/>

arrange a ship and send the professors to Pakistan. The court said, "We will deal with the issue with an iron hand." It continued, "Those, who were against the creation of Bangladesh, want to show Ziaur Rahman [former president of Bangladesh and husband of the leader of the opposition, Begum Khaleda Zia] in positive light in the history of liberation as he was not an actual freedom fighter". The Court also said, "If they [the professors] are allowed to stay in Bangladesh they would continue to work to make it Pakistan." During a hearing on March 12, 2012, the same High Court Bench reiterated its earlier statement that these professors should be hanged to death, according to the national dailies.

This was absolutely under the jurisdiction of the High Court of Bangladesh to decide, as per the Constitution and relevant laws of the land, as to whether it will hear a given complaint brought before it by an aggrieved party. Yet, the judiciary has fundamental obligation to follow universally accepted norm of presumption of innocence of the defendants for ensuring fair trial recognised in Article 14 of the International Covenant on Civil and Political Rights (ICCPR). No court is entitled to derogate from the principle of equality before law guaranteed as fundamental right in Article 27 of the Constitution of Bangladesh. The court, which declares during only the hearings of the writ petition and before the completion of its verdict that the defendants should be hanged to death, goes against the basic principles of justice.

Rights groups including the AHRC have expressed serious concern over such derogation on the part of the High Court. The Court cannot use abusive words against any person facing trial because every person inherently has the fundamental right to dignity, recognized in Article 10 of the ICCPR. The court's remarks suggesting the defendants be sent to another country and hung to death amounts to intimidation, and derogation from all the internationally recognized standards and the constitution of Bangladesh.

The state machinery continued making scandalous and repeated attempts to brand a college student named Limon Hossain as a criminal, after he was shot point-blank and maimed in his left leg by officers of the Rapid Action Battalion (RAB). Following the brutal injury, due to which Limon Hossain's left leg had to be amputated, two criminal cases have been fabricated against Limon Hossain to brand him a criminal¹³. It was documented that an 'informer' of RAB physically attacked Limon and his mother unwarrantedly. This informer then also later went on to fabricate a murder case, when the deceased reportedly died of 'heart failure'. This case was taken under the cognizance of a judicial magistrate in violation of the criminal procedure law of the country.

By dropping all charges against the officers of the Rapid Action Battalion, police investigators had closed the window for Limon Hossain to get justice from the country's maimed criminal justice system, something overwhelmingly apparent in the actions of the judiciary in last 21 months. An example is the latest order passed by Senior Judicial Magistrate Ms. Nusrat Jahan, which is oblivious to provisions of the criminal procedural law of Bangladesh.¹⁴

¹³ <http://www.humanrights.asia/news/urgent-appeals/AHRC-UAG-075-2011>

¹⁴ <http://www.humanrights.asia/news/urgent-appeals/AHRC-UAU-028-2012/>

According to [Section 205D](#) of the Code of Criminal Procedure-1898¹⁵, the Magistrate shall stay the proceedings while an investigation by the police in relation to the same offence is in process. The provision reads:

"Procedure to be followed when there is a complaint case and police investigation in respect of the same offence:

205D.(1) When in a case instituted otherwise than on a police report (hereinafter referred to as a complaint case), it is made to appear to the Magistrate, during the course of the inquiry or trial held by him, that an investigation by the police is in progress in relation to the offence which is the subject-matter of the inquiry or trial held by him, the Magistrate shall stay the proceedings of such inquiry or trial and call for a report on the matter from the police-officer conducting the investigation.

(2) If a report is made by the investigating police-officer under section 173 and on such report cognizance of any offence is taken by the Magistrate against any person who is an accused in the complaint case, the Magistrate shall inquire into or try together the complaint case and the case arising out of the police report as if both the cases were instituted on a police report.

(3) If the police report does not relate to any accused in the complaint case or if the Magistrate does not take cognizance of any offence on the police report, he shall proceed with the inquiry or trial, which was stayed by him, in accordance with the provisions of this Code."

The order was passed by Magistrate Ms. Nusrat Jahan, on August 23, 2012, regarding Ibrahim's complaint against Limon Hossain and his relatives while another police investigation was already in progress regarding the death of Forkan Hawladar. An aggrieved person may also suspect that the Rapid Action Battalion insisted that the Magistrate pass such an order to multiply the ongoing harassments on Limon Hossain, who has been nationally recognized as an innocent college student on the basis of factual information, while the rabid law-enforcement agency has invested everything to brand him a criminal.

The RAB officer included Ibrahim Hawladar in the list of prosecution witnesses, something justified by the police in their investigation, and this despite the fact that every eye-witness refused the version of the law-enforcement agents regarding the original attack on Limon. Now, when public criticism has reached its height, the RAB has begun claiming that Ibrahim Hawladar is not their 'source' or 'informer.' In fact, at the time when Ibrahim himself attacked Limon Hossain and his family, Ibrahim himself openly claimed to be RAB's man! The entire neighborhood knows Ibrahim to be RAB's informant. Question was asked by rights groups and the victims that if the RAB had 'disowned' Ibrahim, why were they not taking any action against Ibrahim for claiming to be an RAB source?

¹⁵ http://bdlaws.minlaw.gov.bd/pdf_part.php?act_name=&vol=IV&id=75

This is, however, but one of the litany of unanswered questions surrounding this case. Neither had the government – specifically the Ministry of Home Affairs – nor had the RAB or the police, even cared to answer people's questions for the past 21 months, i.e. since Limon Hossain was first shot at.

Endorsing the statements of the RAB and the police, the Parliamentary Standing Committee on the Ministry of Home Affairs had reiterated their impunity for lawless actions of the RAB as part of the country's entrenched political and administrative culture.

The shamelessness of the state was exposed further when Mr. Ashok Kumar Bishwas, Deputy Commissioner (DC) of Jhalokathi District, later offered a proposal to the family of Limon Hossain and his mother, Mrs. Henowara Begum, to withdraw Henowara's 'no confidence petition' against the police investigation report. The investigation report had claimed that her case against the officers of the RAB, for shooting Limon's leg and causing permanent disability, was "not proved during investigation."¹⁶

Mrs. Henowara was expected to withdraw the whole case, which she filed against the perpetrators of the RAB. In exchange, the DC, the top administrative officer in districts of Bangladesh, someone having ex-officio authority of a District Magistrate, will make an application to the Ministry of Home Affairs with suggestions that the government should withdraw the two fabricated cases registered by the RAB officers against her son Limon. This proposal was offered to Limon and his mother on 24 October 2012.

Mrs. Henowara Begum stated that "the official vehicle of the UNO [Upazila Nirbahi Officer, a top administrative officer at the sub-district level] of Kawkhali upazila suddenly came to our rented house at 11 am on Wednesday [24 October]. The driver told us that the UNO wanted to talk to us. Then, we were taken to the official residence of the UNO, who talked to us for sometime."

She further said, "We had no idea that the DC will be there! He [DC] came there and wanted to hear the account from Limon. After hearing everything he told us, 'I can recommend the Ministry of Home Affairs to withdraw the two cases filed by the RAB against Limon, if you apply [to my office]. Provided that you [Henowara] have to withdraw your 'no confidence petition' that you submitted to the Court against the police investigation report'."

Mrs. Henowara lamented by saying, "Limon was shot by the RAB more than one and half years ago [23 March 2011]. Not a single public official of any level had come to see our plight during this whole period. I don't properly understand why the DC was caring about us after so long time?"

Later, on October 31, Limon Hossain received another call from an unidentified officer of the RAB asking him withdraw his case against the members of the paramilitary force. A man, without disclosing his name and rank, made the phone call at 8 pm on that day from the number +8801713 374473. The caller talked to Limon and his mother Mrs. Henowara Begum wanting to know from both persons about their decision with regard to the proposal offered by the DC of Jhalokathi a week ago.

¹⁶ <http://www.humanrights.asia/news/abrc-news/AHRC-STM-218-2012>

When checked the AHRC found that the cell phone number, which was used to make phone call to Limon Hossain on October 31st, was one of the official cell phones used by Lt. Col. Ziaul Ahsan, Director of RAB's Intelligence Wing at its headquarters.

The proposal of withdrawing the case against state sponsored perpetrators who have committed gross human rights violations, in exchange for getting the fabricated cases lodged by state agents withdrawn in Bangladesh, is not a surprise at all. This is but one of the methods applied routinely by the state agents of Bangladesh to ensure impunity to the "licensed criminals" of the state. The proposal of the DC, and the enquiry by the RAB intelligence officer about the same, establishes the fact that this proposal was an officially organised attempt to show the audience at home and abroad that "the matter is settled between the contesting parties."

After many months of struggle for justice, the victim and his family, who went through countless forms of harassment, were literally being dragged to a tiny corner of a battle field, where all odds are stacked against them, without any room for them to fight for justice.

For the entire period, the State's own gunmen continuously invested their muscle power and money to brand Limon a criminal in public. A number of human rights organisations, media and civil society groups stood beside Limon, who had nationally been proven as an innocent college student, and this has countered state sponsored efforts more desperate to brand him a criminal.

Bangladesh's Constitution, in Article 31, enshrines the right to protection of law to all citizens. The Article reads:

"To enjoy the protection of the law, and to be treated in accordance with law, and only in accordance with law, is the inalienable right of every citizen, wherever he may be, and of every other person for the time being within Bangladesh, and in particular no action detrimental to the life, liberty, body, reputation or property of any person shall be taken except in accordance with law."

Moreover, as a party to the International Covenant on Civil and Political Rights of the United Nations, Bangladesh has obligation to ensure justice to the victims of human rights abuses through competent judicial, administrative, or legislative authorities. According to Article 2 of the ICCPR,

- 1. Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.*
- 2. Where not already provided for by existing legislative or other measures, each State Party to the present Covenant undertakes to take the necessary steps, in accordance with its constitutional processes and with the*

provisions of the present Covenant, to adopt such laws or other measures as may be necessary to give effect to the rights recognized in the present Covenant.

3. *Each State Party to the present Covenant undertakes:*

(a) To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity;

(b) To ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy;

(c) To ensure that the competent authorities shall enforce such remedies when granted."

The authorities of Bangladesh did not hesitate to expose their shameless character in their naked attempt to shut the doors of justice in the disguise of this quid pro quo proposal, which is nothing but a threat to the victim and his family, given the current context of the country. The state machinery had reduced the provisions of fundamental constitutional rights, and universally recognised rights enshrined in the international laws, to a tasteless joke, in order to protect the powerful minority vested interests and to deprive millions of ordinary citizens. The organised attempt of the authorities in Limon's case once again exposed the kind of insanity-ridden mindset the state machineries possesses. The state had clarified its position: only insanity can be offered, not justice to citizens. The authorities must end impunity to its law-enforcing agents, who act like 'criminal-makers' in the country, running vicious businesses.

The political game of presidential clemency denies rule of law:

The President of the People's Republic of Bangladesh Md. Zillur Rahman exercised his power of clemency repeatedly more than ever in the country's history. In a question and answer session in parliament it was revealed that the incumbent President had fully pardoned or commuted sentences at least to 21 convicts in less than four years while all other Presidents since the inception of the country exercised the same power to pardon 4 persons. The clemency was offered by the incumbent President to those convicts who had direct affiliation with the ruling regime. Many of the presidential clemency cases have been seriously criticized by the civil society, media and rights groups.

It was learned that the president's office had commuted the sentence of a convict formerly given a life sentence to that of a ten years' imprisonment. It is not surprising that the same person has received two commutations in a row. He belongs to the ruling political regime and is alleged to be a thug who controls "political business" for the Bangladesh Awami League, which includes murder.

The authorities have not yet revealed what is the normative principle or assessment based on justice that is followed by the Office of the President in granting clemency in Bangladesh. Is there a standard in compliance with the purpose of justice that compels the Office of the President to exercise an extraordinary power as it is doing in granting clemency that is applicable in the country?

Awarding clemency in Bangladesh has no other standard other than political considerations and the incumbent President is no exception. Often it is done to suite the writ of a ruling political regime rather than serving any purpose of justice or humanity, as it appears in this particular case. From experience, granting clemency in Bangladesh is an exercise that, in essence, overrules the writ of the judiciary in the country, which the judiciary also obtains from the same constitution that the President invokes in cases where clemency is granted.

Such random and slipshod approach in invoking extraordinary powers of the President's office, in particular, concerning the remitting of sentences in criminal cases, and also for the withdrawal of prosecutions, is an encroachment into the authority of the court, negates the premises of impartiality and trivialises and subjugates the very notion of justice process -- an institution that is mandated to deliver justice in the country. In a practical sense, it demoralises not only the judiciary but also the other professionals associated with the criminal justice process, including the investigation organs of the State like the police and lawyers, including prosecutors. Such arbitrary unwarranted and politically motivated presidential clemency indirectly justifies extrajudicial execution and torture.

According to the information received, A H M Biplob was convicted in the case of murdering a lawyer, whose body was cut into pieces and thrown into river. The Sessions Court awarded him the death penalty for the murder in absentia. He was further convicted for the murder of two other persons on separate occasions. He committed the crimes in 2000 and 2001 when the Bangladesh Awami League was in power. The High Court held the judgement of the Courts of Sessions in the case of murdering the lawyer but remitted the death penalties of two cases to life imprisonments. Following applications from Biplob's mother the President pardoned Biplob in the murder case of the lawyer in July 2011 and, now, remitted the two other life imprisonments to ten years imprisonments.

As it had happened in this case, the Presidential clemency trashes the very right to know the truth of the victims who are either murdered disappeared without a trace or had to put up with other physical or mental injuries when all of sudden the government withdraws prosecution of criminal cases on the excuses that such prosecution was initiated on pure political motives. One may also argue that if such a large number of prosecutions are initiated by political parties according to the whims and fancies as they hold fort in Dhaka, it throws light to the alarming fact that the criminal justice apparatus in the country is wholesomely misused by the political parties. If this is true, the country's justice apparatus is used to call black as white and white as black on a rotation of every five years. This also implies a huge amount of public money is spent on sheer waste and for fabrication of cases than, in fact, serving any purpose of justice.

Article 49 of the Constitution of Bangladesh empowers the country's President to exercise prerogative authority to "grant pardons, reprieves and respites and to remit, suspend or commute any sentence passed by any court, tribunal or other authority".

There is no disagreement to the fact that the President can exercise this constitutional power. But, as a matter of fact, Mr. Zillur Rahman as the president of the country is just playing the same cards as his predecessors had and his successors would, with no sense of justice or humanity, help the associates of his political party. The president is exercising his official prerogative to fit the requirements of the ruling political regime. What has made Pakistan today what it is from which Bangladesh rightfully wrestled its independence is also similar misuse of presidential authority. In that country it was more at the whims of the military than any political party. There is no guarantee that the military in Bangladesh would not learn bad lessons from its distant neighbour.

According to Article 48 (3) of the Constitution of Bangladesh the President shall act in accordance with the advice of the Prime Minister. This constitutional provision indicates that the President has materialised the decision made by the other organs of the State controlled by the Prime Minister.

The President misusing the constitutional texts is a scandal. A Prime Minister, who requires a President to do so, is equally responsible for the consequences. Unfortunately, the direct casualty of this despicable situation in Bangladesh is the very notion of justice, the foundation upon which the concept of democracy is built. The question is how far can the country and its people ignore the alarming reality that these scandals are eroding the foundation of the nation itself?

The Pillage of the Policing System



Bangladesh's law-enforcement agents have a reputation for abusing authority through coercive means. They are, and have been, the hired thugs of all the ruling regimes. Policing in the country is an industry that produces victims of torture and fabricates criminal charges against civilians and political opponents. Corruption has replaced the chain of command within the police. And, the constant failure of the police to investigate crimes is the single largest impediment within the criminal justice system in the country. *(photo: Police are seen receiving money from relatives of a detainee for allowing to send a bottle of soft drink at the Dhaka Court's custody.)*

To keep the police subservient to the ruling elite, the government has kept the salary of the police force very low. This opens the floodgates and serves as greater incentive for the police officers to demand and accept bribes. Impunity provided to the force, against prosecution for corruption and all other crimes these officers commit, is repaid by the force when it undertakes cleanup work for the ruling elite, most often by

'dealing' with political opponents. The disparity between the wealth of some police officers and their actual income is proof to this illegal nexus of corruption and protection between the police and politicians in Bangladesh.

Ordinary people, for whom the police is the most visible and powerful presence of the state in both the rural and urban setting, pay the police bribes on a daily basis. Citizens pay bribes to the police for registering a General Dairy entry and complaints; to prevent officers from torturing or ill-treating them; for inclusion or exclusion of a person's name from the lists of accused or witnesses in a complaint and the like. They pay the police for arresting a suspect, while the same suspect pays the police to obtain release from custody. Complainants pay the police for bringing a charge against the respondent in the police investigation report, while the respondent pays for dropping the charge. People pay bribes for the police to collect and preserve evidence in criminal investigations – known as *alamot* in Bangladesh - until the evidence is handed over to the courts. In cases of unnatural death, if the body is to be recovered and sent to a public hospital for autopsy, the relatives or those interested in the case have to bribe the police for transporting the body. Without bribing, nobody can expect the police to undertake a proper inquest. Equal amounts or perhaps more has to be paid at the hospital as well. This is the case in rape charges as well.

Any hawker, from those who sell peanuts or candy squatting on a footpath, or moving around in streets or public parks, must bribe the police routinely, failing which the police would fabricate false charges against the hawker. Likewise, the illegal drug-peddlers or arms dealers bribe the police to sustain their business. Officers who are responsible for maintaining road-traffic demand and accept bribes from drivers and transport company owners. If a case of traffic accident were to be registered, the complainant should bribe the officer; however, if the accused pays higher amount to the police, the police could shift burdens of the accused and the complaint as the officer chooses. Most officers own assets disproportionate to their legitimate source of income. Many officers, to avoid problems, maintain these assets in the names of their relatives.

As for public opinion and experience about the policing system of Bangladesh, on one hand, most do not have adequate access to the information about the dealings of the police due to the ferocious attitudes of the force. At the same time, the AHRC has had opportunities to interview a large number of survivors of torture and families of extrajudicial killings in the country. According to the victims, who had suffered detention and had faced, or still struggling to get release from, fabricated criminal charges brought by the police against them, every survivor of torture had been forced to pay a minimum amount of BDT 10,000 for several reasons. The reasons include:

- 1) escaping torture while in custody;
- 2) stopping or reducing the ongoing torture to a detainee;
- 3) escaping fabricated charges of serious crimes such as murder, robbery and firearms case that may lead to languishing in prison for many years (as police officers often find no option but that creating one or more fabricated charges for the sake of saving their jobs, to show their superior officers their success at nabbing

'culprits' for crimes taking place within their respective jurisdictions, and also for acquiring credentials from the State every year);

4) affording food during prolonged detention in the name of police remand;

5) escaping 'police remand', synonymous to torture;

6) escaping torture while in 'police remand' etc.

Bangladesh Police has more than 600 police stations. Apart from that there several hundred 'police outposts' that are locally known as 'police fari'. Police officers stationed in a police station or a police outpost make arrests on a daily basis. Then, almost each of the arrested person or detainee or his/her relatives are forced to pay bribes to the police for the above, and n number of, reasons. The understanding of the minimum amount of daily bribery of the police, only against their arrest business, is approximately $BDT\ 10,000 \times 600 = BDT\ 6,000,000$ (Six Million Bangladeshi Taka), if one police station arrests one person in a day. One needs to understand if the number of detainees is increased and it is multiplied by 365 days of the year – a s police behave in the same manner for decades - what will the actual figure of money only for arresting, detaining, torturing and fabricating business of the police? The amount will be BDT 219 crore!

The police officers, who are posted at the Magistrate Courts, also extort money for producing accused before the Courts. The [Court] Police, as they are known, extort money for keeping silent or objecting to a bail hearing in the courts.

The AHRC has also interviewed about 50 hawkers centered to the Dhaka New Market and adjacent areas (at Gausia Mrket, Noor Mansion, Elephant Road, Dhanmondi Hawkers Market, and Mirpur Road - in front of Dhaka College). These hawkers sell various types of products such as sandals, undergarments, towels, toys, fruits, juice, refreshments, cloths, imitation ornaments, sun glass, purse, wallets, house-hold utensils and various stuffs. There are also mechanics that repair watches, spectacles, and travel bags.

According to these hawkers, there are at least 4,500 enlisted hawkers in that area of less than one square kilometer. All these hawkers pay bribe to the police on a daily basis. A watch repairman pays BDT 20 per day for occupying one meter space for keeping his toolbox on the footpath. The hawkers, who occupy larger space and sell costly products, pay more. For example, a hawker who sells sandals and shoes pays BDT 300 per day. Persons, having been assigned for smaller jurisdictions of the whole neighbourhood, who are locally known to be 'cashiers' of the police, collect the money from the hawkers. The hawkers claim that they pay in an average BDT 50 to the police, apart from what they have to pay to the ruling political party's thugs, who control the possession of the footpaths, maintaining close nexus with the police. The hawkers calculate that when each of the 4,500 hawkers of the New Market and adjacent areas pay BDT 50 per day, the total amount extorted in a day only from this one corner of the capital city is approximately BDT 225,000.00. Imagine what this little corner of the city is worth to the corrupt police in one year? There are several other hubs in the city of Dhaka itself, like Gulistan, Baitul Mukarram, Paltan, Motijheel, Farmgate, Mohakhali, Sayeedabad, Jatrabari. There are thousands of hawkers doing their business and policing is not different in those jurisdictions. The police habitually extort money in the same

way from all other cities and towns of the country. One can imagine how much money is extorted in a day from the street-hawkers?

There are shopkeepers, who occupy public places like footpaths in front of their shops, who also have to pay bribes to the police on a regular basis without any option of complaining about their plight. The police extort from 'businessmen' in kind too. For example, when one police officer is transferred to a new place, he instructs his subordinate officers to decorate his office and house (either officially provided residence or publicly rented or owned flat). The police officers want the local businessmen to decorate the office with furniture, curtain, computer and all necessary stuffs according to the wish of the officers.

The police also extort money from shrines of any renowned saints – regardless of what religious belief it possesses – regularly, as one of their sources of income. There are uncountable numbers of such shrines situated across the country from where the police get their own share on a monthly basis.

The bribery and extortion-based economy of the police go uncounted and neglected by the economists and researchers of Bangladesh. If any credible, and in depth, research is conducted, it would reveal a horrible picture about the reality of the Bangladesh Police. It should also be remembered that there are other agencies like the Rapid Action Battalion (RAB), which also extort money in larger sums from the industrialists and big businessmen, in comparison to the petty games the police play.

Unfortunately the government is least bothered about this plight of the people. Often the officers' family do not care that most of their conveniences in life has a story of sorrow, misery and blood of the common citizens. Often the acquisition of a police officer is the 'blood', 'sweat', 'sigh', 'tears' and 'curse' of the ordinary citizens!

The country must end this entrenched institutional wilt and treat it as the matter of highest priority. Unless Bangladesh reforms its policing system, makes it a professional body, equipped and trained to serve the people as required in any modern democracy, there will be no hope for the people, failing which justice, equality, and fair trial would be impossible in the country.

Enforced Disappearance

The people of Bangladesh are scared. Incidents of abduction by plain-clothed people, who often claim to be law-enforcing agents of the country, are ongoing, without any indication of being on the wane. The people of Bangladesh are scared because their brothers and sons are disappearing.

The stories of disappearances are being exposed by the media and human rights groups amidst constant denials by law-enforcement agencies and their political masters. The people, particularly dissidents, find themselves trapped like mice. Their love for the people and the land is only met by the insecurity and hunger of those in power. Many families of the victims of disappearance are forced to maintain silence due

to tremendous threat orchestrated by the agencies like the Rapid Action Battalion, police, and intelligence agencies.

It is surprising to see that not a single case of disappearance has been met with credible investigation by any agency of the State, while tax-payers' money is being drained for maintaining the so called 'elite force' – the Rapid Action Battalion - and its self-styled 'efficiency in investigating crimes.' The police refuse to register complaints whenever allegations arise against law-enforcement agencies. In addition, further harassment, intimidation, and death-threats become part of the lives of the families that wish to complaint about any incident of rights violation by such state agencies.

A significant development in the way in which the authorities carry out grave human rights violations can be seen in the fact that while extrajudicial killings are declining in number, the number of enforced disappearance has increased in the period in question here. The media now reports that dead bodies are being dropped into the river Meghna in the middle of night, suggesting that these are victims of enforced disappearance by the authorities. International attention concerning extrajudicial killings in Bangladesh is thought to have led not to the greater protection of the right to life, but rather to the greater dissimulation by the authorities of their violations of this right.¹⁷

The Rapid Action Battalion (RAB) caused a man to disappear; after the abduction of Mr. Imam Hassan (Badal), the RAB ex-filtrated him from among a group of criminals. The reason for this was the failure of the family to pay bribes. Officers of the RAB-2 demanded BDT 100,000 in cash on condition of releasing Mr. Mohammad Imam Hassan to his father, Mr. Ruhul Amin. The family paid BDT 40,000 to RAB's Sub-Inspector Raju, who insisted the rest of the amount be paid for returning Imam home. The victim's father was threatened that failure would result in the death of his son. The family had been denied access to the country's mechanism for registering a complaint. Now, seven and half months later, Imam has still not materialized. No official institution in Bangladesh has helped the victim's family to locate and bring back their family member. Of the RAB officers involved, not one has been held accountable by the judicial or the administrative authorities in this serious matter.¹⁸

The AHRC filed a petition to the UN Working Group on Enforced or Involuntary Disappearances (WGEID) on behalf of Badal's father, Mr. Ruhul Amin, on 13 November seeking the WGEID's intervention in the case of disappearance of Mr. Mohammad Imam Hassan (Badal). Badal remains disappeared since the past eight months. His parents had met him at the headquarters of the Rapid Action Battalion (RAB)-2 on March 16, 2012.

The WGEID is mandated to assist the relatives of disappeared persons, to ascertain the fate and whereabouts of the disappeared person. For this purpose the WGEID receives and examines reports of disappearances submitted by the relatives of disappeared persons or human rights organisations acting on

¹⁷ <http://www.alrc.net/PDF/ALRC-UPR-16-001-2013-Bangladesh.pdf>

¹⁸ www.humanrights.asia/news/urgent-appeals/AHRC-UAC-190-2012

their behalf. Prior to filing the petition with the WFEID, the AHRC communicated the case to the authorities in Bangladesh, including the Prime Minister, seeking an intervention in the case.

In an interview with the AHRC, Amin said that the country's 'elite force' has deliberately caused the disappearance of his son for mere material and corrupt concerns. He said, "*[b]oth the kidnappers and the RAB demanded ransom for releasing my son! With my earning from selling bananas on the street, I cannot pay the ransom these people demand. Yet, I managed to pay Taka Forty-Thousand to the RAB, which is way beyond what I could afford. My family is suffering from unimaginable trouble and pain.*" He asked, "*[w]hat is the difference between the RAB and the terrorists?*" He also said that Sub Inspector Mr. Raju of RAB-2 threatened him that if Amim were to disclose the disappearance of his son and the bribes the RAB demanded to anyone, his family would face "*dire consequences*" including the disappearance of Imam forever.

The Government of Bangladesh, and all those who are concerned about the people of Bangladesh and their fate, should reflect upon Amin's comparison of the RAB with the terrorists, which, under the present circumstances in Bangladesh, is true. Both these groups commit crimes with impunity. The dysfunctional justice institutions in the country, including the National Human Rights Commission of Bangladesh have done nothing to improve this despicable state of affairs.

There is another worrying scenario. The country's Attorney General's Office argues in favour of the law-enforcers carrying the statements of denial during the hearings in the highest judiciary, thus undermining the constitutional responsibility of state attorneys to assist the judiciary in administering justice. The Attorney General has done so on several occasions, particularly during the hearing of the disappearance case of Mohammad Salim Mian, a fruit-seller who was abducted by officers of RAB in February 2010,¹⁹ a case the AHRC has followed since the crime was committed.

The courts of Bangladesh, constitutionally obliged to safeguard the rights of the people, have been mostly discharging their duties by archiving the state-agents' statements that contain denial of their involvement in abducting and disappearing people, rather than holding the perpetrators accountable, or compelling executive authorities to act immediately in identifying offenders, so that the judiciary can ensure real justice in the long run.

The diplomats and ministers of Bangladesh have habitually made rhetorical speeches in the Human Rights Council of the United Nations for more than six years, when the nation has not yet even intended to accede to the International Convention for the Protection of All Persons from Enforced Disappearance²⁰, which would allow it to comply with international human rights instruments and the fundamental rights enshrined in the Constitution of the country.

¹⁹ <http://www.humanrights.asia/news/urgent-appeals/AHRC-UAG-043-2010>

<http://www.humanrights.asia/news/urgent-appeals/AHRC-UAU-020-2010>

²⁰ <http://www2.obchr.org/english/law/disappearance-convention.htm>

The nation hardly allows the key UN mandate holders on civil and political rights to visit Bangladesh, which is an obligation for any state-party to the international human rights instruments. Unavoidable questions arise: what reflects Bangladesh's commitment to the UN human rights mechanism, and what is the meaning of occupying a seat in the Human Rights Council for so many years?

Bangladesh's state authorities are shameless hypocrites!

Likewise, key professionals that are integrally attached to the criminal justice institutions have not come up with any trustworthy commitment to address the entrenched problems of the criminal justice and law-enforcement systems. The institutions of the state survive in a mood that holds that nothing has happened to their countrymen and they have nothing to do. It is not understood whether these professionals or institutions have ever realised how their reluctance, tacit and active endorsement, and non-professional and non-judicial attitudes are contributing to deepen the roots of public distrust in these basic institutions of the country.

The country is run by a government having a brute majority in the parliament, which means that the people rely on political party representatives to deal with their benefits and woes as citizens of a democratic nation. In reality, the response made by the government led by the Awami League-Jatiya Party dominated alliance is far from the aspiration of the people, at least in the cases of gross violation of fundamental human rights of the people.

Whenever allegations of abductions and disappearances of persons are publicized, ministers and parliamentarians of the ruling regime sing the same song of denial, in chorus with the police and the RAB, as if the government's stand is permanently against any victims. No credible investigations takes place, which indicates that the state-agents are, either directly responsible for committing the crimes, or sincere in their efforts to protect the offenders. By endorsing the lawlessness of the police and Rapid Action Battalion, which is in fact dominated by the armed forces of Bangladesh, the ruling politicians have ultimately established a truth: that they do not belong to the people. This truth, which runs through the veins of the structure of government, a hidden rot, allows the state spaces to disappear its own citizens. It is this truth that allows the most fundamental contradiction behind the quality of life and the kinds of death being faced by the people of Bangladesh; it allows the people's right to life, liberty, and safety to be infringed upon by those constitutionally obliged to protect the same.

Disappearance of opposition leader M Ilias Ali and his car driver:

One of the most widely discussed case of disappearance took place in April 2012. Mr. M Ilias Ali, a former Member of Parliament and Organising Secretary of the main opposition political party – Bangladesh Nationalist Party (BNP), and the driver of his car named Mr. Ansar – have been found missing since both of them left the former's residence by private car at around 9:30 pm on April 17, 2012. The Gulshan police of Dhaka city reportedly claimed that the police found Ilias' car in a park with his mobile phone in it with

all the doors of the car opened in an abandoned condition. Since then the whereabouts of Ilias has not been known.

The chairperson of the BNP and the Leader of the Opposition in the Parliament Mrs. Khaleda Zia has directly blamed the government by saying "a government agency and Rapid Action Battalion have picked up Ilias from his car". Mrs. Khaleda Zia, former Prime Minister of Bangladesh, publicly said that "some people witnessed law enforcement agency personnel picking up Ilias while they left no information of whereabouts for Ilias' family members". The opposition leader had announced several political programmes including nationwide general strike on Sunday in protest of this latest disappearance and other issues.

Ms. Sahara Khatun, Minister for Home Affairs in Bangladesh during those days, accompanied by high-ranking police officers, visited the house of Ilias on 18 April to tell the family that the law-enforcing agents have not abducted Ilias. It should be noted that the Home Minister and her colleagues have been repeatedly denying the involvement of the State agents even though the incidences of enforced disappearance have been happening endlessly. Almost in all cases, the eyewitnesses of the abductions followed by disappearances, have pointed their fingers against the State agencies, especially the RAB, Detective Branch (DB) of Police.

A High Court Division Bench of the Supreme Court of Bangladesh has ordered the Gulshan police to find Ilias and keep updating the Bench every 48 hours. This order was passed after the disappeared political leader's wife Mrs. Tahsina Rushdi Luna had filed a writ with the Court. It should be recalled that, at least, two families – that of Mr. Salim Mian, a fruit seller in Gazipur district, and Mr. Chowdhury Alam, a Dhaka City Corporation Commissioner – filed similar complaints with the High Court after both persons were disappeared, about two years ago in separate incidents. Both families and eyewitnesses alleged that the RAB kidnapped the victims and since then their whereabouts remains untraced even after the intervention by the High Court Division.

There is no reason to believe that the latest incident of disappearance of Ilias Ali and Ansar is an isolated one. Enforced disappearances have taken place during all the successive regimes since the inception of the country despite the variation in frequency. Most of the allegations of abductions and disappearances have been brought against the agencies of the State while the nation had most of its current law-enforcement agencies throughout these periods except the RAB, which was created in 2004 and since its creation has often been referred to as a "death squad" maintained by the State itself. The undeniable truth is that none of the cases of enforced disappearances or State-sponsored extrajudicial killings have ever been credibly investigated, let alone led to any prosecution and trial of the perpetrators. Given this reality, it is evident that impunity is deeply entrenched within the system and the judicial institutions have been incapable of administering justice. Since the inception of the country people's right to life and right to liberty have only been denied. Bangladeshi people suffer an epidemic of tortures and disappearances.

Law-enforcement agencies and security forces enjoy blatant impunity for creating extreme form of fear in the society through coercive actions. State agencies torture detainees instructed by the government, bribed

by the enemies of the victims, or inspired by colonial habits rooted in the institutions. The judicial institutions are poorly structured in terms of their intellectual and moral capacities. These are manifested in the recruitment process of the judges and the judgments they deliver and their attitudes toward the justice-seekers. The nexus between the government and the bureaucracy has made a vicious power structure in their favour. While party in power woos the bureaucracy by delegating endless powers, the bureaucracy stands in the way of institutional reforms necessary for transparency and proper democracy having a functional rule of law system.

The most precarious point is that both the government and the opposition emerge with an outcry only when the victim has a political identity or certain social status. Countless cases of tortures and custodial deaths inflicted on the poor people remain unnoticed, although these are the people who provide government the power, money and legitimacy.

The institutional system, particularly the policing, judiciary, politics and bureaucracy deliberately keep themselves alienated from the original aspiration of the people, who have been struggling for democracy in its true institutionalized functional form having a justice-based fair system. None of the political parties have ever come to the people with any convincing manifesto that could be capable of establishing fundamental human rights and justice to the people, let alone acting for the implementation of such a reformative plan. It is undeniable that the current impunity-based institutional system has no capacity to serve the people, who suffer endlessly, in Bangladesh. The question remains before the people of Bangladesh: can they stop enforced disappearance keeping the culture of impunity to the agencies that are fed by their tax-money?

Secret killings take place routinely:

The incident of abductions of persons followed by secret killings in Bangladesh has been a matter of serious concern for everyone. People with different backgrounds, including lawyers, university students, small businessmen and pro-opposition political activists, are being abducted by plain-clothed armed men from the streets, market places and even from their respective offices or homes. In almost all cases the abductors claim to be the agents of the country's law-enforcement agencies and security forces although their identification is always impossible in the given context. After a period of time ranging from a few days to weeks dead bodies are found at different locations posing further burdens on the relatives to identify whether any of the bodies belong to their missing loved ones. Several others still remain disappeared in the midst of either denial or silence and inaction of the relevant authorities of the country.

Reports published by Bangladesh's media quoting the eye-witnesses that dead bodies are being thrown off bridges into the rivers in the country. Fishermen, who catch fish on boats overnight in rivers, have witnessed many incidents of dead bodies being tossed. However, the authorities have usually neglected and failed to identify the perpetrators; while, there is no question of prosecuting anyone for such crimes.

In reality, the authorities of Bangladesh, including the top ranking officials of the law-enforcing agencies and security forces and the persons having powerful political portfolios, constantly blame either the 'criminal gangs' or the 'opposition political parties' for the ongoing abductions and secret killings in the country. The authorities appear to believe that simply by denying, and, or, remaining silent about the abduction and killing, they are fulfilling their duties. This is a frustratingly wrong position and, indeed, highly regrettable.

As a matter of fact, no one can deny that the members of the law-enforcing agencies regularly arrest people, without asserting reasonable grounds for the arrest, or producing a warrant of arrest before making the arrest. They do not show any valid legal document at the time of arrest and thus, in many cases, their actions represent abduction. As long as the State agents continue to arrest people without a proper warrant of arrest, and without giving a proper explanation to the arrestees or their relatives at the time of arrest, followed by immediate access to the lawyers of their choice, it opens the way for 'criminal gangs' or non-state actors to use the same technique.

The government has a fundamental obligation to address the problem instead of blaming others or maintaining silence that ultimately indicates the impaired capacity of the government itself. The government of Bangladesh, if it is not a mere worthless political entity, must respond to the questions of the people regarding the ongoing incidents of abductions followed by secret killings immediately, and nobody wants repetitions of rhetorical statements as an answer.

As an urgent priority, the government should take strongest possible measures for stopping the law-enforcing agencies arresting persons without a warrant of arrest to an extent that the people in general fully believe that the Police or the Rapid Action Battalion never arrest or abduct in plain cloths without reasonable grounds. Once such belief is established in the minds of the public, by pushing the police and other State agencies to abide by the law of the land strictly, none will dare to copy similar methods in future. With equal importance to the above, all the incidents of abduction and secret killing deserve immediate investigation, preferably by competent judicial officials as the police and RAB have already lost credibility for their constant actions beyond the purview of the law, which will help the nation to learn the truth regarding the crimes. The investigation reports should not be shelved, as usually happens in Bangladesh, for the very sake of transparency and accountability of the authorities to their taxpayers. And, of course, the perpetrators must be prosecuted through a fair trial system. The civil society of Bangladesh have undeniable responsibility to increase pressures on the governmental authorities for addressing the problems related to the incidents of abduction and secret killings as an urgent priority. All that is needed in Bangladesh is to compel the governmental authorities to act within the framework of the basic notion of establishing justice to the people in general.

Freedom of Expression

The right to exercise the freedom of expression and opinion is a big challenge in Bangladesh. Dissident media have suffered harassment, intimidation, and threats from the authorities. Several incidents became the talk of the country during the year.

For example, five persons including four senior journalists of the Daily Amar Desh, a national newspaper, have found themselves under imminent threat of detention and subsequent torture by state agents. The country's police fabricated a criminal case (No. 2) against four senior journalists, namely Assistant Editor Mr. Sanjib Chowdhury, Crime Reporter Mr. Alauddin Arif, Chief Editor Mr. Seyed Abdal Ahmed, City Editor Zahid Chowdhury and a staff of the daily named Mr. Saiful Islam on June 2, 2010. These persons protested against the authorities when the Acting Editor of the Daily, Amar Desh, Mr. Mahmudur Rahman was arbitrarily detained and tortured by the state personnel two and half years ago. The Daily Amar Desh is among the minority media of Bangladesh that exposes the failures, and criticizes the misdeeds, of the incumbent regime.

Government intention is revealed in a petition made by police inspector Mr. Apurbo Hasan, the Officer-in-Charge (OC) of the Tejgaon police station of the Dhaka Metropolitan Police (DMP). The Tejgaon OC submitted the petition to the Chief Metropolitan Magistrate's Court of Dhaka on October 11, 2012. He requested the Court to cancel the bail of these five persons. In the same petition the OC claims that, at the time of surrendering before the Court, these five persons mentioned only their official address. Now, the police need to know the full and correct name and address, to ascertain which, the alleged accused persons should be taken in police remand for the sake of proper investigation of the case. The case was heard by the Court on October 22, 2012, and a new date was fixed for further hearing when interventions were made by several national and international rights groups and civil society organizations.

It was clear to everyone concerned that these journalists, who are well known for their professional background and work, had appeared before the Courts in person on subsequent dates of hearing since the case was fabricated against them. After almost two and half years, the police are not legally authorised to submit any petition for taking any suspect in remand at all.

It should be noted that according to Regulation 324 of Police Regulation of Bengal (PRB)-1943, *"... An under trial prisoner cannot remain in police custody after 15 days have elapsed from the date of his first production before the Magistrate"*.

The provision asserts that as 15 days had already passed since these five persons first appeared before the Court, the police are not eligible to seek remand anymore!

Freedom of expression is guaranteed in Bangladesh's Constitution and in the international human rights instruments adopted by the United Nations. All the authoritative organs of the United Nations have repeatedly affirmed the role of the press. Newspapers are merely carrying out the duties of observers of the human rights covenants to which states have become party. The protection of the rights of all persons requires respect of the rights guaranteed under these conventions. Under article 2 of the International Covenant on Civil and Political Rights (ICCPR), states are required to take legislative, judicial and administrative measures to ensure that people enjoy the rights guaranteed by the UN conventions.

In another reflection of the constant assault on freedom of expression, certain journalists faced physically attacks on many occasions throughout the year in Bangladesh. On May 28, 2012, at the office of BD News24.Com, an online bilingual national news portal of the country, a group of people attacked journalists and staff of the media. This time the journalists and their associate staff were stabbed by a gang. The three victims, including Sub-editor Newaz Mohammed Rifaat, Correspondent Salahuddin Wahed Pritom, and office staff Ruhul Amin were wounded on their thighs and heads.²¹

On May 26th, three journalists including two photojournalists of Prothom Alo, one of the largest circulated vernacular daily newspapers of Bangladesh, were tortured by the police on a Dhaka street, in custody of officers of the Sher-E-Bangla Nagar police station. The victims are Zahidul Karim, Sajid Hossain and Khaled Sarker, who have fractured legs and hands along with numerous injuries sustained all over their bodies.²² The authorities suspended nine police personnel including an Assistant Commissioner of the Dhaka Metropolitan Police, a Sub Inspector, two Assistant Sub Inspectors and six Constables. Needless to say, 'suspending' temporarily is not considered a punishment in the Bangladesh Police, institutionally known to the people as 'an industry of torture'; suspension was rather was an attempt to divert the concentration of the public from the main focus at a particular period of time.

Physical attacks on journalists, either by the state-agents or non-state-agents, are not isolated incidents in Bangladesh. Almost regularly there are allegations of attacks on journalists across the country. For example, Panna Bala, a correspondent of Daily Prothom Alo, was beaten and abused by the ruling party's leaders at Faridpur on May 4th for publishing certain reports on political affairs; A B M Fazlur Rahman, a correspondent of Daily Shamokal and NTV, was stabbed at Pabna on May 19th; Mizanur Rahman and Jitendra Nath, correspondents of Daily Prothom Alo and Daily Shamokal were attacked by the ruling party activists at Baufall in Patuakhali on May 16th for exposing malpractices in a by-election of a local municipality. These are just a few examples out of many such incidents in just one month.

These consecutive attacks on journalists reflect the situation of an extreme vulnerability for journalism as a profession in Bangladesh. These attacks are not isolated. Such attacks are orchestrated as a result of ensured impunity to the perpetrators. There are hardly instances of a proper investigation let alone a credible prosecution against the perpetrators for attacking or murdering journalists in the country, in recent years

²¹ <http://bdnews24.com/photo.php?cid=2&cna=Photo%20Gallery>

²² <http://www.prothom-alo.com/media-detail/type/photo/album/1619>

or decades. At the same time, the top-ranking officials of the government, unfortunately, make irresponsible speeches in public that may inspire the potential perpetrators in the country.

Bangladesh Prime Minister Sheikh Hasina came down heavily on the country's journalists for protesting against the murder of a journalist-couple and exposing the uselessness of her government by saying that "the government cannot guard anyone's bedroom". She was cited in the media on February 23 while referring to the murder of Ms. Meherun Runi and her husband Mr. Sagar Sarwar, who were chief reporter and news editor, respectively, in two private television channels based in Dhaka. They were murdered in their bedroom, in a rented flat in the capital city on February 11, 2012. It is evident that the government is unable to protect anyone anywhere – regardless of whether it is a bedroom or a public place – in Bangladesh. The situation requires discourse and alarm among the citizens.

The continuous physical attacks on journalists amounts to a serious blow against the freedom of expression in Bangladesh. The journalists' federations have been protesting against the incidents of attack on their colleagues and demanding punishment for the perpetrators.

The government of Bangladesh on March 12, 2012, blanked out three satellite television channels – Ekushey Television, Bangla Vision and Islamic TV – almost an hour before the leader of the opposition Begum Khaleda Zia started her speech at a four-party grand rally today, March 12, 2012. Viewers could not watch these TV channels from around 3 pm on (Bangladesh Time). It was learned that the officials of the channels confirmed that government agencies asked Cable Operators' Association of Bangladesh (COAB) to suspend the telecast, as the channels were planning to go LIVE with the mass rally. Although several COAB members acknowledged receiving instruction from the government, a government-appointed administrator for the COAB denied any government role in blanking out the three channels.

The officials of the Bangladesh Telecommunications Regulatory Commission (BTRC), the government's monitoring and licensing authority on telecast, called the high-ranking officials of the TV channels and asked not to broadcast the opposition rally live.

At around 8:25 HK Time, the ETV claimed in its special bulletin, which was on air through an international live stream website, "viewers could not watch the TV channel from 2:30 pm on 12 March 2012. At 3:30 pm the transmission of the channel was suspended from its own satellite base".

Mr. Shaikh Siraj, director and head of news of Channel I, told the media that his channel received calls from the BTRC to know whether the TV channel had any intension to broadcast the opposition rally live. He was quoted as saying "They [BTRC] give us licence. So, when they ask in such a way, it can be assumed as warning".

Women's Rights Are at Stake

Discussions on women's rights in Bangladesh contain speeches by high ranking officials of the government with rhetorical pledges and statistics of success of the government or the incumbent regimes along with criticisms to their political counterparts.

On the ground, the women, who are half of the national population, face unimaginable discrimination at home, and in different other stages across the society throughout their entire life. Discrimination against a female child, which begins within a family, spreads all around in the socio-economic and political life in the long run. Often such discriminatory mind-sets lead to endless violence against women in various heinous forms like molestation, rape, acid-throwing and even murder.

Dowry, as deemed to be an integral part of women's life before and after their marriage, now appears to be a social cancer in Bangladesh, although there is a special law to prevent dowry for three decades. Majority of the violence against women could have been avoided if the society had ever changed its mind-set of compelling the bride's family to pay dowry.

Misinterpretation of Islamic norms, which has already been declared unconstitutional and unlawful by the highest court of the country, continue unabated while it is needless to mention that the women become the prioritised victims of inhuman treatment including lashing, caning, stoning and isolation in the given community.

Extreme degeneration of human values in the Bangladeshi society has been contributing to violent forms of attacks like stalking and acid-throwing against girls and women in the country. Almost regularly, girls and women become victims of stalking and sexual violence that end in either the suicide or homicide of the victims. Apart from that, the surviving women have to face social stigmatization for the violence they suffer although they sustain the pain helplessly. A woman hardly feels safe to walk on the street without a male company in most of the places of the country, which implies the condition of the women in general.

In a democracy it is the state's undeniable responsibility to protect any segment of the population from discrimination and violence by all means. Enjoying rights with equal dignity as human beings is a fundamental right of women, for which the state has constitutional obligations. The nation can never deny that thousands of women had sacrificed their lives and prestige during the war of independence, which not only liberated the people from Pakistani discriminatory rule but also gave birth to the nation itself. The historical contribution of women once again reminds us that they deserve rights with equal dignity.

But, ironically, the criminal justice system, including the complaint mechanism, which is mostly controlled by the police, is not capable of creating an atmosphere for women who could feel that there is any reliable mechanism to protect their rights, let alone ensuring justice to the victims. Instead, it appears that the

governmental authorities, particularly the police, mostly deny access to the complaint mechanism whenever women are victimized. There have been numerous allegations against the police investigators that the police insist that female victims marry their attackers or rapists. It further explains why and how women are deliberately cornered. Moreover, the law-enforcing agents constantly fail to prevent the extra-judicial trials of women that happen regularly in the form of arbitration in the country.

Violence against the women recurrently takes place despite the fact that there are laws like the "Dowry Prohibition Act-1980", "Acid Crime Prevention Act-2002", and "Prevention of Women and Child Repression Act-2000" along with other relevant jurisprudence being developed in the country. None of the laws or jurisprudence or rhetorical speeches protects the dignity and rights of the women. The nation should ask itself why the system fails to accomplish its fundamental obligations.

If the women constantly face discrimination at home and away and justice is denied to the victims, the whole nation will not only suffer from the same pain as that of the women but will also face the shame for its failure to ensure the basic dignity and rights of the women. Democracy can never be established in a country by discriminating against its women citizens. Likewise, proper development of a nation will remain an unachievable goal unless the existing mind-set towards women is not changed.

Regionally and nationally, women do not get redress for violence against them. In a case documented by the AHRC, two young women have been raped and one girl narrowly has avoided an attempted rape due to her neighbours' assistance in three separate jurisdictions of the Chittagong Hill Tracts in Bangladesh. The police have allegedly been biased against the non-ethnic settlers instead of working professionally to uphold the law and investigate the cases credibly. In one of the rape cases, the police did not register a formal complaint, as the alleged perpetrator is an influential political leader of the area. The victim's right to have a credible medical examination has also been denied by the police.

The human rights groups that actively work and document the cases of crimes of sexual violence in Chittagong Hill Tracts, in particular, observe that most of the rape cases do not lead to prosecution of the alleged perpetrators as a result of the biased role of the police to the non-local settler community. Ultimately, the police ensure impunity to the alleged perpetrators through corruption, and deny justice to the victims of the local ethnic communities.

In another case, an 11-year-old girl was raped by a policeman in the Chittagong Hill Tracts. The minor girl had suffered serious physical, psychological, and social trauma due to the sexual assault for which the local police initially refused to register a complaint. Instead of registering the complaint the Atal Tila Police Camp In-charge offered BDT 1,000 (USD \$ 12) to the girl's mother for settling the matter. Due to tremendous public pressure, a complaint was recorded with the Dighinala police station. The police authorities have not taken any action against the alleged perpetrator, other than withdrawing the cop from his place of duty, which is an 'eye-wash', to protect the policeman, rather than ensure justice.

Conclusion:

The people of Bangladesh have hardly any place to go to seek redress when their fundamental rights are violated by the state agents, routinely. The Executive Branch of the State maintains its position, endorsing the lawless actions of the state agents against the citizens of the country. The judiciary remains incapable of, and does not wish to act proactively in, discharging its constitutional obligation of administering justice to the people. The media and civil society, although divided in several factions for their individual interests and limitations, add their disjointed effort to raise voice on behalf of the victims of gross human rights abuses, which is yet inadequate. The nation lives in despair and fear of an uncertain future without minimum safety or guarantee of surviving with minimum liberty, dignity and the dream of prosperity. The government, the ruling, and opposition political parties, and all the institutions of the State, continue deceiving the citizens without any shame.