

UPR Info Pre session

Statement by Human Rights Forum (HRF) and Child Rights Governance Assembly (CRGA), Bangladesh

I deliver this statement on behalf of the Human Rights Forum (HRF)¹ and the Child Rights Governance Assembly (CRGA)² from Bangladesh. Both the HRF and CRGA have submitted a stakeholder's report for the second cycle of the universal periodic review of Bangladesh as the HRF also did for the first cycle in 2009. Both submissions have been prepared in consultation with coalition members, other NGOs and civil society and benefitted from presentation to the media and at public consultations at national and local levels. Drafts were shared also with the National Human Rights Commission and the Government of Bangladesh.

ISSUES OF CONCERN AND SUGGESTED RECOMMENDATIONS

Economic Social and Cultural Rights

During the 2009 UPR, several states like Vietnam, Saudi Arabia, Bahrain, Cuba, China made recommendations to Bangladesh on the rights to food, health and education. The recommendation on right to health was to take a comprehensive national strategy to improve the health situation and provide health care to all without any discrimination.

While we acknowledge that maternal and child mortality rates have been considerably reduced in Bangladesh and community health centers have been revived, general health services remain largely inaccessible. Health related laws, regulations and policy are not uniformly enforced. Misuse, mismanagement and corruption pervade the health system.

We urge you to recommend that the GoB **deepen and widen community based health services and other means of rural health service delivery**. Equally important, **higher levels of transparency and accountability must be ensured at all levels in the sector which remains one of the worst affected by corruption**.

With regard to the issue of the right to food, we applaud that Bangladesh is close to attaining food self-sufficiency largely due to farmers' contributions. Yet many poor households lack food security as they cannot afford a minimum daily basket of food. Food adulteration is an increasing concern.

We have noticed that the Government has in many cases failed to act against widespread land-grabbing by the powerful including the military and local elites and corporate interests, often with the collusion or connivance of political leaders, depriving the poor and minorities. The Vested Property (Return) Act 2011 marks an important milestone providing for minorities to reclaim lands which have been expropriated over four decades. However, allegations of corruption and other forms of harassment have already become a major concern. Agricultural land is being taken away from people for commercial purposes including tobacco, shrimp and housing schemes. Land registration remains complicated and badly affected by corruption.

We urge you to recommend that the GoB **digitize and simplify land records and the registration system ensuring community participation and accountability, and set up dedicated Special Tribunal for Vested Property Act (VPA) cases**.

¹ Coalition of 19 human rights, women's rights and development organisations

² Civil society advocacy network of 17 organizations including children and youth organizations

Civil and Political Rights (CPR): Extrajudicial killings, disappearances

In 2009 UPR, several states made recommendations to GoB on issues such as extrajudicial killings and torture by security forces (Netherlands), and addressing the culture of impunity of human rights violations by law enforcement agencies (Australia, Germany, Czech Republic)

Despite a reported decline in numbers, extra judicial killings have continued as a major concern together with reports of disappearances.³ ASK documentation⁴ shows, from January 2009 to September 2012, a total of 156 persons had ‘disappeared’, and 28 of their corpses were found later. Bodies of some of the victims bore visible marks of torture, caused after arbitrary arrest or detention by law enforcement agencies, as alleged by concerned families.

We urge you to recommend that the GoB **establish an independent commission to ensure transparent and accountable investigation and prosecution of alleged human rights violations by state agencies, and reparations for victims.**

CPR: Freedom of Expression

Although the media enjoys relatively more freedom, there have been cases of bans on publication of newspapers and TV stations,⁵ restrictions on TV talk show programmes, controls over the Internet, including the social media and disruptions to transmission of broadcast of rallies organized by the opposition.

We urge you to recommend that the GoB **ensure that journalists can discharge professional duties freely and without harassment and amend laws on contempt and criminal defamation to prevent harassment. The GoB should also refrain from introducing any new laws restricting the media particularly without duly consulting the stakeholders.**

CPR: Freedom of Assembly and Association

Arbitrary arrests and detention of opposition political activists, trade union activists and garment workers; restrictions on NGOs, foreign journalists and human rights activists in the Chittagong Hill Tracts, and stopping IPs from carrying out rallies on UN World Indigenous Peoples’ Day were major concerns.

The GOB cancelled many NGO registrations without a transparent process. The Government initially drafted a new law that could have drastically curtailed the independence of Bangladeshi NGOs and concerns remain until the final version of the Act is enacted.

We urge you to recommend that the GoB **refrain from enacting any law that affects the work of NGOs and that it first engages concerned stakeholders, particularly NGOs.**

Independence of National Institutions

Several states recommended that Bangladesh ensure the independence and effectiveness of the national institutions including the judiciary (Australia, Bhutan), the NHRC (United Kingdom, Netherlands, Australia, Egypt) and the ACC (Netherlands, Australia) during the 2009 UPR.

³ According to ASK documentation, 462 persons were allegedly killed by law enforcing agencies from January 2009 until September 2012

⁴ ASK’s documentation is compiled from review & 12 national newspapers and its own investigation.

⁵ In April 2010 Channel 1 was shut down by Bangladesh Telecommunications and Regulatory Commission (BTRC) for using rented broadcasting equipment (<http://www.thedailystar.net/newDesign/news-details.php?nid=136195>). Daily newspaper Amar Desh was closed down by the Government in June 2010 saying that it had “no authorised publisher” and its editor Mahmudur Rahman arrested (<http://www.thedailystar.net/newDesign/news-details.php?nid=141097>).

Although the lower judiciary was formally separated from the executive in 2009, this has not been fully implemented yet. There are no criteria for appointment of Supreme Court judges, despite High Court guidelines. The Fifteenth Amendment of the Constitution restored the provision of consultation with the Chief Justice but controversies have continued over appointment of the CJ, and promotions/ appointments to the Supreme Court and public prosecutors. Concerns related to reports of High Court judges refusing to hear matters on the grounds of being ‘embarrassed,’ especially regarding extra-judicial executions and refusal of bail to opposition political leaders, as well as mass withdrawal of cases against ruling party members, including ministers.

Rules for the National Human Rights Commission (NHRC) have not been enacted; it lacks an effective complaint mechanism and a legal panel and is understaffed. The Anti Corruption Commission (ACC) in practice lacks political, administrative and financial independence. It has no code of conduct for staff and no requirement to disclose assets. The Information Commission (IC) is yet to prove its effectiveness. In some cases the IC has reportedly failed to take effective action against designated officers for refusing to provide information. Many government and non-government institutions have failed to nominate designated officers.

We urge you to recommend that the GoB **establish an independent secretariat to support the Judicial Services Commission regarding appointments to the lower judiciary and enact and implement specific guidelines for appointing Supreme Court judges and that it strengthen watchdog institutions, such as the NHRC, ACC and IC, and ensure their independence; rigorously monitor enforcement of the RTI Act including nomination of designated offices and adopt an RTI implementation Plan of Action engaging stakeholders. No laws should be enacted that may adversely affect the independence and effectiveness of such institutions and it is ensured that appointments to all such national institutions are free from partisan political consideration maintaining highest level of procedural transparency.**

Human Rights Defenders

During the 2009 UPR, Australia and Netherlands recommended to take measures to protect human rights defenders, including journalists.

HRDs have faced intimidation from both state and non-state actors. Government ministers smeared critics of government policies as ‘foreign agents’ or threatened sedition charges against them. Law enforcing agencies and non-state actors clamped down on peaceful citizen protests, creating fear among HRDs. Local journalists and activists were threatened, harassed and tortured by influential local ruling party leaders.

We urge you to recommend that the GoB **adopt all measures necessary to prevent harassment of HRDs.**

Rights of Women

Several states made recommendations on women’s rights such as legal reform to eliminate discrimination against women and children (Thailand, Singapore); proper implementation of existing laws (Australia, Germany, Netherlands); adopting a Uniform Family Code (Norway, Netherlands) or addressing the problem of violence against women and children (Malaysia, Liechtenstein, Republic of Korea).

Several new laws have been adopted since 2009 providing civil protections for domestic violence (2010), criminalising and increasing sentences for human trafficking (2012), enabling (optional) registration of marriage under Hindu laws (2012), and enabling Bangladeshi women to transmit citizenship rights to foreign spouses and children (2009). The National Women’s Development Policy 2011, expressly refers to CEDAW, and reiterate promises of gender equality in various sectors.

However, gender-discriminatory personal laws and policies denying equal rights to marriage, divorce, custody and inheritance remain ; inadequate enforcement of law, social stereotypes and stigma, lack of witness and victim protection contribute to continuing violence against women including domestic violence, rape, acid attacks, ‘fatwa’, stalking and sexual harassment.

We urge you to recommend that the GoB **i) adopt a plan of action to implement the National Women’s Policy, engaging stakeholders; ii) review and amend gender discriminatory personal laws and laws on sexual violence to ensure gender equality.**

Rights of Children

In 2009 UPR recommendations on rights of the children were to prohibit all forms of violence against children, including corporal punishment (Brazil); review domestic legislation and practice to bring them in compliance with international obligations (Czech Republic, Brazil); take efforts to implement existing laws concerning protection of the rights of the child (Italy, Indonesia) and take measures to eliminate the worst forms of child labour (Netherlands, Australia).

Several new laws and policies have been adopted such as the National Child Labour Elimination Policy 2010, National Children Policy 2011, and Pornography Control Act 2012. These have placed emphasis on the best interests of the child in determining how to provide care for children.

A few other developments include the recognition of the mother’s identity through a gazette notification in 2010, directives of the High Court to prevent forced veiling in educational institutions, ban sexual harassment, and strengthen use of birth certificates and/or national ID cards during marriage registration to prevent early marriages. However concern remains on the poor implementation of these directives.

Children remain widely employed in hazardous occupations (in undocumented numbers in domestic work) and exploited by low wages, long hours, physical abuse and deprivation from education; they also continue to be subjected to corporal punishment at educational institutions and other settings despite HC guidelines prohibiting this. Further, amendment of the Children Act 1974 has been delayed over the issue of determining the age of a child.

We urge you to recommend that the GoB **amend the Children Act 1974 reflecting a rights-based approach; appoint a Children’s Ombudsperson; take a specific time-bound action plan to end child labour and ensure children’s free access to health and education.**

Right of Vulnerable Groups

During the 2009 UPR, the United Kingdom recommended that the GoB address discrimination against vulnerable groups and Mexico recommended ensuring the effective protection of the human rights of refugees.

Non-recognition of indigenous people’s identities and human rights violations against them; excluding PWDs from national planning and programs; sporadic attacks on religious minorities; lack of legal protection for the dalits and sexual minorities are major areas of concern. In 2012 the Government refused refuge to Rohingyas from Myanmar and denied access to humanitarian aid following communal attacks, despite repeated appeals from human rights organizations.

We urge you to recommend that the GoB **give recognition to the identity and integrity of IPs and acknowledge the existence of sexual and gender minorities, incorporate the issue in relevant policies and de-criminalize consensual adult same-sex activities by abolishing section 377 of the Penal Code.**

Implementation of the CHT Accord

During the 2009 UPR, Norway and Australia recommended that the GoB develop a time frame for the full implementation of the Chittagong Hill Tracts Accord.

Since 2009, the Government reconstituted the National Committee on Implementation of Chittagong Hill Tracts Peace Accord, the Taskforce on Rehabilitation of Chittagong Hill Tracts (CHT) refugees, and the CHT Land Dispute Resolution Commission and made some appointments to some posts but these committees have made minimal progress on critical clauses. There have been no elections to the Hill District Councils and the CHT Regional Council since the signing of the CHT Accord. Several departments and subjects including on law and order, police (local), land and land management, environment and forest have not yet been transferred to the Hill District Councils. Amendments demanded to the CHT Land Dispute Resolution Commission Act of 2001 have not yet been made. There have also been no attempts to rehabilitate Internally Displaced IPs. Attacks on IPs in the CHT continue. To cap it all, the Government has adopted a policy to deny existence of indigenous communities in Bangladesh, which constitutes a gross violation of their basic rights.

We urge you to pose the question **Does the Government of Bangladesh have a time bound action plan to implement the CHT Accord fully? The GoB should also be asked to abandon the policy of denying the existence of indigenous people and provide them recognition.**

Conformity with International HR standards

Several recommendations were made to ratify or accede to treaties like OP-ICCPR 1 and 2 (Chile), OP-CAT (France, Netherlands, Chile, Czech Republic, Liechtenstein); ICRMW (Chile, Azerbaijan, Mexico), CED (Chile, Mexico), 1951 Refugee Convention (Brazil, Chile, Czech Republic, Mexico), ILO No.169 Convention on Indigenous and Tribal Peoples (Mexico).

Slovenia urged GoB to reconsider its position on reservations. France and Norway specifically recommended withdrawal of reservations to CEDAW. The Czech Republic and Mexico recommended issuing a standing invitation to all special procedures.

Since 2009, GoB has ratified only the ICC Statute (2010) and the CMW (2011). However, it has not become party to the Refugee Convention, the OP on Status of Refugees, CED, the OP-CAT, or the ILO Convention No 169 on Indigenous and Tribal Peoples. Despite repeated international commitments, the Government has not withdrawn CEDAW reservations.

Bangladesh has not yet submitted initial reports relating to CAT, ICCPR, ICESCR, and the CRPD, despite delays of over 10 years (ICCPR /ICESCR). Since 2009, two Special Rapporteurs (SRs) have visited Bangladesh, with several visit requests receiving no response,⁶ and others pending for years.⁷ Bangladesh ranks among countries with the maximum pending requests to special procedures.

We urge you to recommend that the GoB **ratify or accede to remaining HR treaties, including OP-ICCPR, OP-ICESCR, withdraw reservations to CAT, CEDAW, CERD, CRC, ICCPR and ICESCR** and related OPs, and **submit all overdue reports due to treaty bodies and issue standing invitations to the special procedures.**

For Queries please contact Sultana Kamal (HRFB) at ask@citechco.net

⁶ The UN Independent Expert (IE) on Human Rights & Extreme Poverty and the IE on access to safe drinking water and sanitation made a joint mission in December 2009. The visit of the Special Rapporteur (SR) on adequate housing and the SR on Freedom of Religion were agreed in principle but no date was confirmed.

⁷ See for example pending requests by the SR on the right to freedom of opinion and expression (since 2003), from the Independent Expert on minority issues (since 2006), the SR on extrajudicial, summary or arbitrary executions (request made in 2006, reminder in 2008 and 2009), the SR on independence of judges and lawyers (request made in 2007), the SR on contemporary forms of slavery, the SR on racism (request made in 2008) and the SR on contemporary forms of slavery (request made in Aug 2008 and follow up request in Nov 2008).