


NEARING A DECADE

**QUEST FOR AN INDEPENDENT  
AND EFFECTIVE NATIONAL  
HUMAN RIGHTS COMMISSION CONTINUES**



Ain o Salish Kendra (ASK)  
Human Rights Forum Bangladesh (HRFB)





NEARING A DECADE  
**QUEST FOR AN INDEPENDENT  
AND EFFECTIVE NATIONAL  
HUMAN RIGHTS COMMISSION CONTINUES**

Ain o Salish Kendra (ASK)  
Human Rights Forum Bangladesh (HRFB)

# NEARING A DECADE

## QUEST FOR AN INDEPENDENT AND EFFECTIVE NATIONAL HUMAN RIGHTS COMMISSION CONTINUES

Bangladesh Chapter of 2019 ANNI Report on the Performance and Establishment  
of National Human Rights Institutions in Asia

---

This report has been jointly prepared by Ain o Salish Kendra (ASK) and Human Rights Forum Bangladesh (HRFB).

© **Ain o Salish Kendra (ASK)** and **Human Rights Forum Bangladesh (HRFB)**

All rights are reserved. No part of this publication may be reproduced or transmitted in any form or by any means without prior permission in writing from the publisher. Any person who does any unauthorised act in relation to this publication may be liable to criminal prosecution and civil claims for damages.

### Credits

*The generous support by the National Human Rights Commission (NHRC) in providing relevant information is gratefully acknowledged.*

### Cover Design

Arka

### Printing

Arka

### Price

BDT 50

### Published in

December 2019

### Published by

**Ain o Salish Kendra (ASK)**

2/16, Block – B, Lalmatia, Dhaka – 1207,  
Bangladesh

Phone: +88-02-810 0192, 810 0195, 810 0197

Fax: +88-02-810 0187

E-mail: [ask@citechco.net](mailto:ask@citechco.net)

Web: [www.askbd.org](http://www.askbd.org)

# 1. Introduction

This report was jointly prepared by Ain o Salish Kendra (ASK) and the Human Rights Forum Bangladesh (HRFB).<sup>1</sup> Findings of the report rely on the authors' own experiences of interacting with the National Human Rights Commission of Bangladesh (Commission),<sup>2</sup> as well as civil society organisations (CSOs) and local and national level human rights defenders (HRDs). Information was also collected from relevant human rights reports and publications, and the Commission's website.<sup>3</sup>

This report is a critical assessment of the Commission's work in 2018, as well as the first five months of 2019. In particular, it assesses the role of the Commission in the context of Bangladesh's democratic backsliding and the contraction of civic space.

In 2018, the Commission made progress on a number of fronts. Among others, it opened and activated a 'hotline' number to receive complaints and provide information to the general public;<sup>4</sup> received approval to appoint more staffs to conduct investigation; recruited new staffs from more diverse gender, ethnic, and religious backgrounds, and opened two new offices, one in Cox's Bazaar in 2018, and one in Gopalganj in June, 2019, which will without any doubts assist the Commission in quickening its pace.

---

1 A coalition of 20 human rights and development organisations based in Bangladesh.

2 Interviews were conducted with the Commission's Chairperson as well as their staffs.

3 Available at: <http://www.nhrc.org.bd/>.

4 The hotline number is: 16108.

It also actively participated in Bangladesh’s Universal Periodic Review (UPR) session in May 2018 and later shared with the Government an analysis of the recommendations it had noted or was considering with a view to get the government to accept key UPR recommendations, such as the ratification of the Optional Protocol to the Convention against Torture (OP-CAT).<sup>5</sup>

The Commission further assisted in drafting several National Action Plans (NAPs) including the Government’s National Action Plan on persons with disabilities, adopted in December 2018, in light of the Rights and Protection of Persons with Disabilities Act 2013. However, the Commission does not have a robust mechanism to monitor the status of implementation of the laws and Action Plans, on which it provided assistance.

The Commission is yet to take a stronger stand for the protection of civil and political rights, and to actively address human rights violations committed by the members of state security agencies. Time and again, the Commission has not adequately used its broad mandate to act on cases of Enforced Disappearances (EDs), Extrajudicial Killings (EJKs), torture, restrictions on freedom of expression, peaceful assembly and association, and impunity.

---

5 NHRC, ‘Analysis of 3rd UPR Cycle Recommendation,’ available at: [https://nhrc.portal.gov.bd/sites/default/files/files/nhrc.portal.gov.bd/notices/e611ea00\\_e831\\_4008\\_8622\\_bc1e19ca624b/UPR%20-%20Analysis%20of%203rd%20Cycle%20Recommendations.pdf](https://nhrc.portal.gov.bd/sites/default/files/files/nhrc.portal.gov.bd/notices/e611ea00_e831_4008_8622_bc1e19ca624b/UPR%20-%20Analysis%20of%203rd%20Cycle%20Recommendations.pdf)

## 2. Overview

Civil society in Bangladesh highly expected that after almost a decade of operations, the Commission would have become a strong institution that protects human rights. Unfortunately, this expectation remains unfulfilled.

The National Human Rights Commission Act, 2009 (NHRC Act) gives the Commission a broad mandate to protect, promote and ensure human rights.<sup>6</sup> To fulfil this aim, the Commission can, for instance, investigate complaints; visit jails, hospitals and places of police custody; conduct research on human rights issues; raise awareness about human rights; and provide trainings.<sup>7</sup>

However, the Global Alliance of National Human Rights Institutions (GANHRI) Sub Committee on Accreditation (SCA), in its 2011 and 2015 review, identified a number of shortcomings in the NHRC Act, and therefore only accorded a 'B' status to the Commission.<sup>8</sup> They are:

- 
- 6 National Human Rights Commission Act, Act No. 53, 14 July 2009 (NHRC Act), available at: <http://nhrc.portal.gov.bd/sites/default/files/files/nhrc.portal.gov.bd/npfblock//NHRC%20Act%20English.pdf>
  - 7 NHRC Act, 2009 Section 12.
  - 8 International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights, 'Report and Recommendations of the Session of the Sub-Committee on Accreditation (SCA)', Geneva, 23 – 27 May 2011, p. 7, available at: [https://nhri.ohchr.org/EN/AboutUs/GANHRIAccreditation/Documents/SCA%20REPORT%20MAY%202011%20-%20FINAL%20\(with%20annexes\).pdf](https://nhri.ohchr.org/EN/AboutUs/GANHRIAccreditation/Documents/SCA%20REPORT%20MAY%202011%20-%20FINAL%20(with%20annexes).pdf). International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights, 'Report and Recommendations of the Session of the Sub-Committee on Accreditation (SCA)', Geneva, 16 – 20 March 2015, pp. 12-15, available at: <https://nhri.ohchr.org/EN/AboutUs/GANHRIAccreditation/Documents/SCA%20MARCH%202015%20FINAL%20REPORT%20-%20ENGLISH.pdf>

- An inadequate definition of human rights;
- A lack of transparency in the selection process of members;
- A lack of complete freedom in financial matters; and
- A limited mandate in matters of investigating allegations of rights violation committed by members of the security forces.

In March 2018, during Bangladesh’s review by the UN Committee on Economic, Social and Cultural Rights, the Committee expressed concern about the Commission’s lack of independence and in particular: the Commission’s B status; its limited mandate to work on economic, social and cultural rights; its lack of adequate freedom, especially in addressing financial matters; as well as concerns regarding human resource shortage.<sup>9</sup> The Committee went on to recommend reviewing the NHRC Act in order to expand the Commission’s jurisdiction.

These shortcomings are yet to be addressed. According to the Commission, it prepared a review of the Act in 2013,<sup>10</sup> and subsequently sent a letter to the Ministry of Law, Justice and Parliamentary Affairs on 11 February 2015, specifically asking for the amendment of Section 7 of the NHRC Act, which relates to the selection committee of its members.<sup>11</sup> However, the Commission did not conduct rigorous advocacy with the Government to amend the whole law in the following years. Alternatively, there was also no visible evidence that the Commission took any initiative to actively participate or assist the civil societies on this matter.

The way the Commission’s budget is allocated also continues to restrict its autonomy, as budget related decisions are under the hands of the government, not within the purview of Parliament.<sup>12</sup> It is, however,

---

9 Committee on Economic, Social and Cultural Rights (CESCR), Concluding observations, E/C.12/BGD/CO/1, 18 April 2018, Section C, available at: [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=E/C.12/BGD/CO/1&Lang=En](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=E/C.12/BGD/CO/1&Lang=En)

10 ANNI Report, 2015, available at: <http://www.askbd.org/ask/2015/08/31/bangladesh-failing-fulfil-commitments/>.

11 Information provided by the Commission.

12 ANNI Report, 2018, 130-149, available at: [https://www.forumasia.org/uploads/wp/2018/12/2018\\_ANNI-Report\\_FINAL.pdf](https://www.forumasia.org/uploads/wp/2018/12/2018_ANNI-Report_FINAL.pdf).



noteworthy that the Commission's budget has significantly increased in the last three years. While back in 2015-2016, the budget allocated to the Commission was around 40 million taka (43,096,000), in 2018-19 the budget was above 60 million taka (60,760,000); amounting to about a 41% increase.<sup>13</sup>

---

13 Information provided by the Commission.

## 3. Commission's Performance in Promoting and Protecting Human Rights

### Complaints Handling

While it is possible to file a complaint with the Commission online and through the newly created hotline number, it remains difficult to know the status of the complaint once filed. The only option for a complainant to find information about the status of his/her complaint is to contact the responsible person within the Commission.

In many instances, following a complaint the Commission takes very limited actions. For instance, it issues public statements or sends notices and reminders to the Home Ministry and other relevant ministries to address the human rights violation in question. However, it fails to carry out any effective follow-up with the relevant authorities on the information received by the Commission and use all its powers under the NHRC Act to ensure accountability (See Section below on Democratic Space for more information).

In 2018, ASK sent a total of 51 letters to the Commission, requesting that it looked closely at specific human rights violations, such as abduction by the members of the Law Enforcement Agencies (LEAs), EDs, EJKs through crossfire under the anti-drug drive, journalist harassment, death in jail and police custody, and allegations of torture. ASK received a total of 154 letters from the Commission, responding to 37 of the 51 letters, providing update on those issues. Based on the Commission's overall response, it appears that, at most, it sent notices and letters to the

relevant authorities, asking for the inquiry/investigation reports on such incidences. When the authorities failed to send them the report, the Commission proceeded to sending another letter/notice reminding them to send the report with an extended deadline. Very rarely did the Commission receive reports from the relevant authorities or decided to investigate the matter suo moto.

However, in 2019, in one positive outcome, an innocent man was released from jail after three years in detention, following a complaint to the Commission. Jaha Alam is a 32-year-old man who was wrongfully arrested in January 2016 following charges filed by the Anti-Corruption Commission (ACC) for misappropriating significant amounts of money from the Sonali Bank. According to the Commission, Jaha Alam's brother filed a complaint on 28 January 2018.<sup>14</sup> The Commission Chairperson<sup>15</sup> immediately visited Jaha Alam in Kashimpur jail and investigated the case, and found that the allegation of wrongful imprisonment was true, and subsequently, sent its findings to the ACC on 24 May 2018 and also met with the ACC's Chairman.<sup>16</sup> The Commission also provided free legal aid to Jaha Alam. In February 2019, following high media attention and the Commission's intervention, the ACC acknowledged its mistake and the High Court Division finally ordered Jaha Alam's release.<sup>17</sup> He was acquitted from all the allegations against him. The type of activeness that the Commission has shown towards the allegations against the Anti-Corruption Commission was absent with regards to such allegations against law enforcers or other state agencies.

Another incident that received the Commission's special attention is the case of Khadija Akhter, a 12-year-old domestic help, who was abused by her employers and rescued on 6 December 2013 by the police. Following

---

14 Daily Sun, 'NHRC stands up for Jaha Alam,' 7 May 2019, available at: <https://www.daily-sun.com/printversion/details/390406/2019/05/07/NHRC-stands-up-for-Jaha-Alam->.

15 Please note that at the time of writing the Chairperson was Kazi Reazul Haque who changed on 1 July 2019. Therefore when the author refers to the Chairperson, he refers to the Chairperson in place before 1 July 2019.

16 Information provided by the Commission.

17 Star Online Report, 'Nat'l rights boss thanks media for Jaha Alam's release' The Daily Star, 6 February 2019, available at: <https://www.thedailystar.net/country/national-human-rights-commission-chairman-thanks-media-for-jaha-alam-release-1698259>.

the news, the Children Charity Bangladesh Foundation approached the Commission seeking appropriate action against police for not filing a criminal case against her employer. The Commission initially asked the Police the reasons why they did not file a case against the employer. In the Police's report, it was mentioned that no action was taken primarily because Khadija was admitted in the hospital for 'skin problems' only and that Khadija's father did not bring any charge against the employer.<sup>18</sup>

After the Foundation pointed out to the Commission that the Police report did not contain any medical reports, the Commission approached Dhaka Medical College Hospital for Khadija's medical reports. It showed that Khadija had multiple injuries and a swelling in her right leg; she also had dermatitis and was under-nourished. She also had a healed cut mark on her tongue. It was mentioned in the report that her medical treatment lasted for more than two weeks. The Commission, therefore, sent a notice to the Home Ministry on 5 August 2014 requesting an investigation into the police's conduct and for due action to be taken.<sup>19</sup> Although the notice was sent to the Ministry of Home Affairs for a total of 18 times, the Commission has not received any responses.<sup>20</sup>

The Commission could have, however, taken additional steps to ensure justice for Khadija.<sup>21</sup> Yet, it only expressed concerns on human rights issues and sent letters and notices to relevant authority requesting for reports. Despite its wide mandate, it has yet to undertake interventions in order to ensure compensation, rehabilitation, and sufficient measures to prevent the repetition of such incidents, or file writ-petitions on behalf of victims to the High Court.

---

18 Bishakha Devnath, 'Immense power, little application', The Daily Star, 29 June 2019, available at: <https://www.thedailystar.net/frontpage/nhrc-report-immense-power-little-application-1763932>.

19 Ibid.

20 Ibid.

21 It could have, for instance, approached the High Court Division under Section 19(1)(b) of the NHRC Act on the lack of response from the Home Ministry; provided legal support to her; or sought compensation for her.

Finally, it is important to note that on 16 June, the Commission finalised its draft rules on mediation, which will govern the appointment of a mediator or councillor.<sup>22</sup>

## Human Rights Violations by Members of the LEAs

According to statistics compiled by ASK, a total of 632 persons were killed by LEAs either in custody, shoot-outs, encounters, gunfight, or crossfire between January 2018 and May 2019.<sup>23</sup> Another 43 persons were allegedly victims of EDs.<sup>24</sup> Despite the high number of allegations of EJKs and EDs, the Commission continues to claim that the NHRC Act<sup>25</sup> only grants it the power to ask for reports from the authorities but not the power to independently investigate cases.<sup>26</sup> However, civil society and lawyers all disagree with this interpretation and rather advise the Commission to exercise the full range of its powers and functions.<sup>27</sup> They believe that the precedent established by the Jaha Alam case should be followed in all instances.

---

22 Bishakha Devnath, 'NHRC sitting on draft rules for a decade' The Daily Star, 29 June 2019, available at: <https://www.thedailystar.net/frontpage/news/nhrc-sitting-draft-rules-decade-1763917>.

23 ASK, 'Death by Law Enforcement Agencies: January-December 2018,' available at: <http://www.askbd.org/ask/2019/01/14/death-law-enforcement-agencies-january-december-2018/> and 'Death by Law Enforcement Agencies: January-May 2019,' available at: <http://www.askbd.org/ask/2019/06/17/death-by-law-enforcement-agencies-january-may-2019/>.

24 In the year 2018 alone, 34 were allegedly abducted, 15 have been shown arrested while two were released after abduction. ASK, 'Enforced Disappearance: January-December 2018,' available at: <http://www.askbd.org/ask/2019/01/14/enforced-disappearance-january-december-2018/>. From January to May 2019, among the nine individuals that were allegedly abducted, one has been shown arrested while two were released after abduction. 'Enforced Disappearance: January-May 2019,' available at: <http://www.askbd.org/ask/2019/06/17/enforced-disappearance-january-may-2019/>.

25 NHRC Act, 2009 Section 18.

26 Staff Correspondent, 'Extrajudicial Killings: 437 victims in 10 months,' The Daily Star, 21 November 2018, available at: <https://www.thedailystar.net/country/437-extra-judicial-killings-in-bangladesh-in-2018-ask-1663150>.

27 ASK, 'National Human Rights Commission, Bangladesh: Existing Challenges and Expectations of Civil Society,' December 2018, p. 19, available at: <https://www.askbd.org/ask/2019/02/13/nhrc-existing-challenges-expectation-civil-society/>.

In May 2014, the Commission placed two very important recommendations to the Government to combat EJKs and EDs: (1) to halt operations of LEAs in civilian clothes; and (2) to have at least two witnesses during police interventions and arrests.<sup>28</sup> In 2017, the Commission also expressed its concerns over the lack of response from relevant authorities to its letter of inquiry to the Home Ministry about allegations of human rights abuses by the police.<sup>29</sup> However, no effective implementation of the recommendations is yet visible.

According to the Commission, a total of 665 complaints were lodged in 2016, of which only 186 were disposed (27.97%).<sup>30</sup> In 2017, a total of 644 complaints were lodged, of which 356 were disposed (55.28%).<sup>31</sup> In 2018, a total of 728 complaints were lodged, of which 589 were disposed (80.91%).<sup>32</sup> In comparison to 2016, this shows a 52.94% increase in the amount of complaints disposed.

It appears that in 2016, the Commission did not play an effective role in dissolving the complaints against LEA. The one complaint of death in custody is still pending before the Commission. Only two out of five complaints relating to torture was dissolved and the two complaints relating to EJK are still pending. In the Commission's Annual Report of 2017, it can be seen that the ten complaints filed of death in custody is

---

28 Ahmad Sayeed, 'Failing to fulfill commitments,' The Daily Star, 5 March 2016, available at: <https://www.thedailystar.net/op-ed/politics/failing-fulfill-commitments-786586>.

29 The Commission has sent a total of 185 letters to the Home Ministry between 2012 and 2017. 154 concerned allegations against security forces. Of these, 32 cases involved custodial deaths and torture, 25 involved disappearances, 112 involved extra-judicial killings, and some involved various allegations of harassment. See, The New Nation, 'Home Ministry Silent on Specific Allegations,' 25 December 2017, available at: <http://thedailynewnation.com/news/158995/home-ministry-silent-on-specific-allegations.html>.

30 Besides, 27 additional complaints were lodged suo moto by the Commission itself. 12 of such were on torture of which only three were disposed and nine remained pending. NHRC,B, Annual Report, 2016, p. 29, available at: [http://nhrc.portal.gov.bd/sites/default/files/files/nhrc.portal.gov.bd/page/cb8ede\\_c9\\_5aee\\_4b04\\_bf2a\\_229d9cd226a0/Annual%20Report%202016.pdf](http://nhrc.portal.gov.bd/sites/default/files/files/nhrc.portal.gov.bd/page/cb8ede_c9_5aee_4b04_bf2a_229d9cd226a0/Annual%20Report%202016.pdf).

31 NHRC,B, Annual Report, 2017, p. 22-23, available at: [http://nhrc.portal.gov.bd/sites/default/files/files/nhrc.portal.gov.bd/page/cb8ede\\_c9\\_5aee\\_4b04\\_bf2a\\_229d9cd226a0/Annual%20Report%20English%202017-compressed.pdf](http://nhrc.portal.gov.bd/sites/default/files/files/nhrc.portal.gov.bd/page/cb8ede_c9_5aee_4b04_bf2a_229d9cd226a0/Annual%20Report%20English%202017-compressed.pdf).

32 NHRC,B Annual Report, 2018, pp. 21-22, available at: [http://nhrc.portal.gov.bd/sites/default/files/files/nhrc.portal.gov.bd/page/cb8ede\\_c9\\_5aee\\_4b04\\_bf2a\\_229d9cd226a0/Annual%20Report-2018%20English.pdf](http://nhrc.portal.gov.bd/sites/default/files/files/nhrc.portal.gov.bd/page/cb8ede_c9_5aee_4b04_bf2a_229d9cd226a0/Annual%20Report-2018%20English.pdf).

still pending. Besides, only one of the eight complaints brought on the issue of custodial torture has been dissolved and two of the fourteen complaints on custodial torture have been dissolved. Moreover, the 23 out of 32 allegations brought against the LEAs were dissolved. However, it provides no information regarding the type of violations on which allegations were brought against LEAs.

The table below shows an excerpt of a table in the Commission’s Annual Report 2018 only focusing on human rights violations committed by LEAs:<sup>33</sup>

**Table 1 Complaints received by the Commission in 2018 relating to violations by LEAs**

Type of Complaint	Disposed	Under Consideration	Total
Death in Custody	0	7	7
Torture in Custody	1	4	5
Extrajudicial Killings	4	9	13
Allegations against LEAs	34	12	46

It appears that although the Commission did succeed in responding to more cases in 2018 than 2017 and 2016, its response remained very limited when it came to complaints against LEA. As of July 2019, all the seven complaints of death in custody are still pending. Only one out of five complaints relating to torture was solved and only four out of 13 complaints relating to EJK were disposed. The table mentions that 34 out of 46 allegations against the LEA were solved. However, the 2018 Annual Report also provides no clear information regarding the type of violations on which allegations were brought against LEAs. Thus, the 52.94% increase in the number of complaints dealt with by the Commission, is not reflected among the complaints made against the LEAs.

Furthermore, although the rate of responses did increase, the effectiveness of such response is questionable. In most cases the Commission classifies a case as disposed when the Government replies

33 NHRC,B, Annual Report, 2018, pp. 21-22.

that no evidence had been found of any involvement of LEAs into human rights violations or that the investigation is still pending. In an interview with the Commission's Chairperson, he shared that only in a handful of cases, did the authorities state that steps had been taken against those responsible. When asked whether the Commission had raised this concern with the relevant authority, he replied that they did in different meetings.

The government's 'Zero Tolerance' policy on drugs, offers a sad illustration of the Commission's unwillingness and lack of effective follow-up to investigate and seek accountability in cases involving the state security forces. According to statistics compiled by ASK, a total of 369 persons were killed during the anti-narcotics drive from 15 May 2018 to 31 May 2019.<sup>34</sup> Though LEAs have time and again insisted that these deaths were the result of 'crossfire', news reports and families of the victims have always claimed differently.<sup>35</sup>

Following the death of nine drug dealers on 22 May 2018, the Commission's Chairperson emphasised that while the drug dealers must be brought under legal proceedings, and given exemplary punishment, the drives must be conducted in line with human rights principles and existing laws of the land.<sup>36</sup> On 28 May 2018, the Commission also submitted a demi-official (DO) letter to the Minister of Home Affairs, requesting that the human rights of the suspect/accused were ensured during such drives, and that the LEAs must avoid the use of excessive force.<sup>37</sup>

---

34 Documentation Unit, ASK (Collected from national dailies and its own sources).

35 Staff Correspondent, 'Extrajudicial Killings: 437 victims in 10 months,' The Daily Star, 21 November 2018, available at: <http://www.askbd.org/ask/2018/05/30/119-people-succumbed-death-crossfire-15-days-anti-drug-drive-ask-expresses-grave-concern-condemnation/>.

36 The Daily Star, 'ENSURE ACCOUNTABILITY: What they think of ongoing drives,' 28 May 2018, available at: <https://www.thedailystar.net/frontpage/what-they-think-1582501>.

37 The letter from the Commission to the Ministry is available in Bangla at: [http://nhrc.portal.gov.bd/sites/default/files/files/nhrc.portal.gov.bd/page/4f3b9623\\_eb4d\\_4d8d\\_842c\\_a33c549669aa/DO%20MOHA%2028-May-2018%2016-25-44.pdf](http://nhrc.portal.gov.bd/sites/default/files/files/nhrc.portal.gov.bd/page/4f3b9623_eb4d_4d8d_842c_a33c549669aa/DO%20MOHA%2028-May-2018%2016-25-44.pdf). See also Asia-Pacific Forum, 'Uphold human rights in anti-drug push, NHRC urges,' 4 June 2018, available at: <https://www.asiapacificforum.net/news/uphold-human-rights-anti-drug-push-nhrc-urges/> and; Prothom Alo, 29 May 2018, available at: <https://www.prothomalo.com/bangladesh/article/1498686/>.



On 28 May 2018, the Commission also sent guidelines to the Home Minister for the LEAs to follow during the anti-drug drives.<sup>38</sup> The guidelines for instance recommend that arrested persons should not be taken along during drug raids; that an executive magistrate should be asked to accompany the police during the raids; and that if an unwanted death takes place, investigation is carried out and the responsible person be held accountable. However, the Commission did not follow up on whether the Government actually directed LEAs to follow these guidelines.

Another example is the killing of Counsellor Ekramul Haque (46) in ‘crossfire’ with the Rapid Action Battalion (RAB) in Teknaf on 26 May 2018. On 29 May in a press conference, Ekramul’s family released four audio clips that contained several voices, gunshots, and screams. At the press conference, Ekramul’s wife alleged that her husband’s death was instead pre-planned. Speaking about this incident, the Commission’s Chairperson told the media that all extra-judicial killings by LEAs, in the name of ‘crossfire’ during the anti-narcotics drive or any other operation in the country, must end immediately.<sup>39</sup> He added that there should be a fair investigation into Ekramul’s murder. On the afternoon of 24 June, the Chairperson met Ekramul’s mother and told her that the Commission was trying to investigate the killing and ensure justice. More than a year later, the Commission has, however, not issued any follow-up information or activities. To this day, the killers of Ekramul have not been brought to account.

The case of the arrest of Shahidul Alam, a renowned photographer and social activist, by plainclothes officers in the early hours of 6 August 2018 offers another example. Shahidul Alam was later charged under the controversial Section 57 of the Information and Communication Technology Act, 2013 (ICT Act), which prohibits the publication of fake, obscene or defaming information in an electronic form.<sup>40</sup> In court,

---

38 The Commission’s letter is available in Bangla at:  
<http://nhrc.org.bd/site/notices/b6647353-72ef-40de-9e28-5d2780387bbb/>.

39 Times of Bangla, 3 June 2018, available at:  
<https://www.timesofbangla.com/satkahon/16528>.

40 ICT Act, 2013, Section 57, available at:  
<http://www.icnl.org/research/library/files/Bangladesh/comm2006.pdf>.

Shahidul Alam alleged that he had been tortured in custody by the Detective Branch Police (DB).<sup>41</sup> His partner informed the Commission by letter that Shahidul had been mentally and physically tortured while in custody, to the extent that he was bleeding. According to the Commission, it sent a written recommendation to the Home Ministry asking it to direct the authorities to follow the Constitution, existing laws, and the Guidelines (on arrest and remand) given by the High Court.<sup>42</sup> However, the Commission did not issue any public comments.

A more recent example is the disappearance of Michael Chakma, top leader of the United People's Democratic Front (UPDF) based in Chittagong Hill Tracts who is also the central General Secretary of the United Workers' Democratic Front (UWDF). Michael Chakma has been missing since 9 April 2019. He was last heard of when he was on his way to Dhaka from Kanchpur in Narayanganj.<sup>43</sup> ASK requested the Commission to send a letter to the Home Ministry, asking it to take necessary steps to 'rescue' the missing leader. On 5 May 2019, the Commission sent a letter to the Public Security Division of the Ministry asking it to provide a report by 20 May on the actions it has taken to rescue him.<sup>44</sup>

## Victim's Compensation

The Commission can recommend to the Government the allocation of compensation to victims of human rights violations.<sup>45</sup> It is commendable that the Commission has committed to help Jaha Alam in getting

---

41 Staff Correspondent, 'Tortured in custody,' The Daily Star, 7 August 2018, available at: <https://www.thedailystar.net/city/whereabouts-shahidul-alam-still-unknown-family-1616650>.

42 Samakal, 8 August 2018, available at: <http://samakal.com/todays-print-edition/tp-khobor/article/18081705/>.

43 Tribune Desk, 'UPDF organizer Michael Chakma 'missing' for 6 days,' Dhaka Tribune, 15 April 2019, available at: <https://www.dhakatribune.com/bangladesh/nation/2019/04/15/updf-organizer-michael-chakma-missing-for-6-days>.

44 Staff Correspondent, 'NHRC asks home ministry to find out Michael Chakma,' New Age Bangladesh, 7 May 2019, available at: <http://www.newagebd.net/article/71714/nhrc-asks-home-ministry-to-find-out-michael-chakma>.

45 NHRC Act, 2009, Section 19 (1).

compensation from the State.<sup>46</sup> However, this is something the Commission should have also done in other incidents, such as in the case of Khadija Akhter or that of Limon Hossain, a youth shot in the leg by RAB in 2011. In that case, the Commission did not provide him with any legal support in his case against RAB, neither did he receive any assistance from them in seeking compensation.<sup>47</sup>

## Observation of the Judiciary

In March 2019, the High Court Division of the Supreme Court noted that the Commission had failed to use its mandate in the prominent case of torture of 12 years old Khadija Akhter. According to the NHRC Act, the Commission may submit a petition before the High Court Division of the Supreme Court on behalf of an aggrieved person.<sup>48</sup> However, in the case of Khadija Akhter the Commission only repeatedly sent letters to the Home Ministry but failed to take any further action such as approaching the court for requesting compensation.<sup>49</sup>

## Publication of Findings and Reports

Finally, the Commission has continued to fail to publicly share important information and analysis on the human rights situation of the country. 30 March is the due date for the Commission to submit its Annual Report to the President.<sup>50</sup> However, the Commission is consistently late in submitting it.<sup>51</sup>

---

46 Star Online Report, 'Nat'l rights boss thanks media for Jaha Alam's release,' The Daily Star, 6 February 2019, available at: <https://www.thedailystar.net/country/national-human-rights-commission-chairman-thanks-media-for-jaha-alam-release-1698259>; and The Daily Sun, 'NHRC stands up for Jaha Alam,' 7 May 2019, available at: <https://www.daily-sun.com/printversion/details/390406/2019/05/07/NHRC-stands-up-for-Jaha-Alam>.

47 Bishakha Devnath, 'Immense power, little application,' The Daily Star, 29 June 2019, available at: <https://www.thedailystar.net/frontpage/nhrc-report-immense-power-little-application-1763932>.

48 NHRC Act, 2009, Section 19(b).

49 Star Online Report, 'NHRC not discharging legal responsibilities over torture on Khadija: HC,' 6 March 2019, available at: <https://www.thedailystar.net/city/news/nhrc-not-discharging-legal-responsibility-over-torture-househelp-khadija-hc-1711372>.

50 NHRC Act, 2009, Section 22(2).

51 Daily Sun, 'NHRC submits annual report to president,' 17 February 2019, available at: <https://www.daily-sun.com/post/372515/2019/02/20/NHRC-submits-annual-report-to-president>.

The Commission submitted its' Annual Report 2017 in February 2019,<sup>52</sup> almost a year later. Moreover, the 2017 report does not include any analysis on the issues that are still pending with different government institutions.<sup>53</sup> While the Annual Report mentions the Commission's activities it also does not contain any analysis and recommendations on the country's human rights situation, nor any justification on the reasons why it could not address certain issues.<sup>54</sup>

---

52 Ibid.

53 NHRC,B, Annual Report 2017.

54 ASK, 'National Human Rights Commission, Bangladesh: Existing Challenges and Expectations of Civil Society,' December 2018, available at: <https://www.askbd.org/ask/2019/02/13/nhrc-existing-challenges-expectation-civil-society/>.

## 4. Democratic Space in Bangladesh

### 4.1 Current Scenario

The year 2018 was a particularly eventful year for Bangladesh. In December, the 11th National Parliamentary Election of Bangladesh was held. Since the announcement of the election, opposition parties have been blocked from carrying out political activities, by for instance being prevented from participating in election campaigning, or through alleged fabricated mass arrests.<sup>55</sup> According to the main opposition party's lawyers hundreds of thousands of opposition party members were named in police reports and subsequently arrested.<sup>56</sup> Lawyers argued that these mass arrests were politically motivated with a view to prevent opposition members from participating in the

---

55 Arafatul Islam, 'Bangladesh election: what you need to know,' Deutsche Welle, 21 December 2018, available at: <https://www.dw.com/en/bangladesh-election-what-you-need-to-know/a-46830140>.

56 Tribune Desk, 'Oppositions decry large scale arrests ahead of polls,' Dhaka Tribune, 20 December 2018, available at: <https://www.dhakatribune.com/bangladesh/election/2018/12/20/oppositions-decry-large-scale-arrests-ahead-of-polls>.

election campaigns.<sup>57</sup> Additionally, allegations of vote rigging<sup>58</sup> and irregularities<sup>59</sup> marred the Election results.<sup>60</sup>

The overall civic space in Bangladesh has continued to shrink to the extent that not only journalists, but civil society actors as well, refrain from strongly voicing out criticism in fear of being attacked by both state and non-state actors. This fear is rooted in the enactment and misuse of repressive laws, and brutal attacks on bloggers, publishers and free thinkers by militant groups. For instance, a total of 244 journalists were harassed from January 2018 to April 2019.<sup>61</sup> According to the World Press Freedom Index 2019, Bangladesh has fallen four ranks from its stance in the previous year.<sup>62</sup> The reasons cited include the attack on journalists during the 11th National Parliamentary Election, blocking of websites during the election, the arrest of Shahidul Alam as has been mentioned above, and the enactment of the Digital Security Act 2018 (DSA).

For instance, in June 2018, writer-publisher, Shahjahan Bachchu, was shot to death. According to his daughter he had been receiving threats before his killing. It is suspected that religious extremists killed him

- 
- 57 Pulack Ghatak, 'Bangladesh: Thousands of Opposition Members Arrested, Activists Say,' Benar News, 9 October 2018, available at: <https://www.benarnews.org/english/news/bengali/opposition-arrests-10092018173451.html>.
  - 58 Bilkis Irani, 'Bobby Hajjaj: Vote rigging at EVM polling centres,' Dhaka Tribune, 30 December 2018, available at: <https://www.dhakatribune.com/bangladesh/election/2018/12/30/bobby-hajjaj-vote-rigging-at-evm-polling-centres>.
  - 59 Opposition parties said that many of their polling agents were absent or not allowed in the polling centres, or kicked out. Allegations of stuffing ballot boxes with paper the night before the Election Day, was also raised. Bilkis Irani, 'IAB: Vote rigging, irregularities in the election,' Dhaka Tribune, 30 December 2018, available at: <https://www.dhakatribune.com/bangladesh/election/2018/12/30/iab-vote-rigging-irregularities-in-the-election>.
  - 60 See [https://www.ti-bangladesh.org/beta3/images/2019/report/EPT/EPT\\_Full\\_Report\\_2018.pdf](https://www.ti-bangladesh.org/beta3/images/2019/report/EPT/EPT_Full_Report_2018.pdf); [https://www.ti-bangladesh.org/beta3/images/2019/report/EPT/EPT\\_EX\\_EN\\_2019.pdf](https://www.ti-bangladesh.org/beta3/images/2019/report/EPT/EPT_EX_EN_2019.pdf)
  - 61 ASK, 'Journalist Harassment: January-December 2018,' available at: <http://www.askbd.org/ask/2019/01/14/journalist-harassment-january-december-2018/>; ASK, 'Journalist Harassment: January-April 2019,' available at: <http://www.askbd.org/ask/2019/05/15/journalist-harassment-january-april-2019/>.
  - 62 Reporters without Borders, 'Tougher politics, more press freedom violations,' available at: <https://rsf.org/en/bangladesh>.

because of his writings.<sup>63</sup> In another case, in July 2018, a former leader of Bangladesh Chhatra League (BCL),<sup>64</sup> Awami League, filed a case against Assistant Professor Maidul Islam, under Section 57 of the ICT Act for posting derogatory remarks about the Prime Minister on Facebook. He was sent to Chittagong Central Jail on 24 September 2018 but was later released on bail on 30 October 2018.<sup>65</sup>

The year 2018 was also spiked with multiple events of people taking to the streets to demand their rights. Sadly, law-enforcing agencies have often responded by resorting to excessive force. For instance, in April 2018, university students and job seekers began a movement to reform the quota system for government jobs. During their peaceful protests, they were attacked and beaten up by LEAs and BCL activists.<sup>66</sup> On 11 April, the Prime Minister announced the end of the governmental jobs quotas, leading the protesters to temporarily suspend their movement.

However, since no official gazette was published following the Prime Minister's speech, students took to the streets again in June 2018 and were once again attacked by BCL activists in different parts of the country.<sup>67</sup> The police and BCL cadres also harassed academics and

---

63 Star Correspondent, 'Assailants shoot publisher dead in Munshiganj,' The Daily Star, 12 June 2018, available at: <https://www.thedailystar.net/frontpage/ex-cpb-leader-shot-dead-munshiganj-1589782>.

64 The student wing of the ruling party.

65 Initially, The High Court Division granted Professor Maidul Islam bail for eight weeks. However, when he went back to court to ask for a bail extension, the lower court denied it. He was therefore incarcerated. In addition, the Professor had received threats from BCL who requested he be removed from his job, following's the Professor Facebook comment in support of the quota reform protesters. See ASK, 'Maidul Islam, Assistant Professor, University of Chittagong, sent to Prison: Ain o Salish Kendra (ASK) Expresses Grave Concern and Protests,' 27 September 2018, available at: <http://www.askbd.org/ask/2018/10/01/maidul-islam-professor-university-chittagong-sent-prison-ain-o-salish-kendra-ask-expresses-grave-concern-protests>; Anwar Hussain, 'CU teacher Maidul Islam freed on bail,' Dhaka Tribune, 30 October 2018, available at: <https://www.dhakatribune.com/bangladesh/court/2018/10/30/cu-teacher-maidul-islam-freed-on-bail>.

66 BCL cadres beat up students who supported the Quota Reform Movement late at night in their dormitories. There were also allegations that the University of Dhaka (DU) administration forced 20 students to leave Sufia Kamal Hall in the middle of the night.

67 Rafikul Islam, 'Chhatra League activists attack quota reformists' rally,' Dhaka Tribune, 15 July 2018, available at: <https://www.dhakatribune.com/bangladesh/dhaka/2018/07/15/chhatra-league-activists-attack-quota-reformists-rally>.

parents who joined the peaceful protests.<sup>68</sup> Several quota reform leaders were arrested and charged with vandalism and other criminal offences in June 2018.<sup>69</sup> Later, in August, a number of them were released on bail from the Dhaka Central Jail in Keraniganj.<sup>70</sup>

Another protest movement started after a bus in Kurmitola area, whilst racing with another bus, crashed into a group of students on 29 July 2018. Two students were killed on the spot, and nine were injured. In response to this incident, the students' friends took to the streets to spread awareness about road safety and to demand that the driver responsible for the accident be arrested.<sup>71</sup> The students garnered a lot of support for their movement throughout the country.

However, on 2 August 2018, the situation turned sour after the Police used tear-gas against them.<sup>72</sup> On 4 August 2018, a group of young men

- 
- 68 Mahadi Al Hasnat, 'DU teacher assaulted by police at guardian and civil society's demo,' Dhaka Tribune, 3 July 2018, available at: <https://www.dhakatribune.com/bangladesh/dhaka/2018/07/03/du-teacher-assaulted-by-police-at-guardian-and-civil-society-s-demo>. Many protesters, who were injured, alleged that they were forced to leave the hospitals they went to for treatment. Star Online Report, 'Hurt quota movement leader forced to leave hospital, family alleges,' The Daily Star, 2 July 2018, available at: <https://www.thedailystar.net/city/hurt-quota-reform-movement-leader-forced-leave-hospital-family-alleges-1598662>. At the same time, female students who had taken part in the protests were harassed with obscene comments and remarks on social media. One female protester claimed that the BCL members handed her over to the police. She was kept at the police station the whole night and harassed in different ways. Staff Correspondent, 'Every moment felt like hell,' The Daily Star, 6 July 2018, available at: <https://www.thedailystar.net/frontpage/it-was-second-hell-1600765>.
- 69 Fahim Reza Shovon and Ashif Islam Shaon, 'Police arrest another quota reform movement leader,' Dhaka Tribune, 12 July 2018, available at: <https://www.dhakatribune.com/bangladesh/dhaka/2018/07/12/quota-reform-leader-detained-by-police>; and Muntakim Saad, 'Quota reform leaders reeling under lawsuits,' The Daily Star, 4 June 2019, available at: <https://www.thedailystar.net/country/bangladesh-quota-reform-movement-leaders-under-pressure-of-cases-1753396>.
- 70 Senior Correspondent, 'Quota reform protests: Rashed, Rafuk, Suhel and seven other protesters released on bail,' Dhaka Tribune, 21 August 2018, available at: <https://bdnews24.com/bangladesh/2018/08/21/quota-reform-protests-rashed-faruk-suhel-and-seven-other-protesters-released-on-bail>.
- 71 Mahadi Al Hasnat, 'Road Safety in Bangladesh: Causes and Remedies,' Dhaka Tribune, 19 October 2018, available at: <https://www.dhakatribune.com/special-supplement/2018/10/19/road-safety-in-bangladesh-causes-and-remedies>.
- 72 Liza Roy, 'Bangladesh: road safety protests expose rotten establishment,' In Defence of Marxism, 10 August 2018, available at: <https://www.marxist.com/bangladesh-road-safety-protests-expose-rotten-establishment.htm>.



wearing helmets attacked students on the road. According to reports published in the media, around 150 students were brutally injured during the attack.<sup>73</sup> Many female students and female journalists were harassed, journalists were forced to delete their footage and photographs, or their cameras and recorders were broken.<sup>74</sup> According to the students, the police, instead of protecting them, took the side of the attackers.<sup>75</sup>

## 4.2 Role of the Commission in Addressing the Democratic Backsliding and Contraction of Civic Space

In Bangladesh, the Government focuses more on economic development rather than on addressing issues involving state security forces such as cases of EDs, EJKs, torture, and restrictions on the right to freedom of expression, peaceful assembly and association. In most cases, the Government claims that the allegations are baseless and deliberate in order to spread rumours and instigate violence, or damage the Government's image. If the Commission were effectively addressing such cases, it would help the Government understand that these cases are a concern not only for human rights activists but for the Commission as well. Unfortunately, the Commission is yet to effectively make use of this opportunity.

The Commission is empowered to investigate allegations of torture, either following a complaint or in suo moto, and to visit prisons.<sup>76</sup>

---

73 Staff Correspondent, 'BCL in its element,' The Daily Star, 5 August 2018, available at: <https://www.thedailystar.net/city/bcl-ruling-party-men-attack-student-protest-road-safety-jigatola-dhanmondi-dhaka-1615828>.

74 Staff Correspondent, 'Journalists attacked while covering protests in Bangladesh,' New Age Bangladesh, 6 August 2018, available at: <http://www.newagebd.net/article/47707/journalists-attacked-while-covering-protests-in-bangladesh>.

75 Staff Correspondent, 'Pounced again,' The Daily Star, 6 August 2018, available at: <https://www.thedailystar.net/city/students-take-streets-science-lab-intersection-dhaka-safe-roads-demand-contral-traffic-for-8th-day-1616215>.

76 Office of the High Commissioner for Human Rights (OHCHR), 'Committee Against Torture Examines the Situation in Bangladesh,' 30 July 2019, available at: <https://www.ohchr.org/SP/NewsEvents/Pages/DisplayNews.aspx?NewsID=24866&LangID=E>

## Right to Freedom of Expression

In March 2019, rights activist Sultana Kamal, historian Muntassir Mamoon and war crimes researcher Shahriar Kabir were threatened with their lives in the Magazine ‘Lone Wolf’ published by a militant group.<sup>77</sup> Following the publication, the Commission issued a statement condemning the death threats, and labelling them as an “act of cowardice.”<sup>78</sup> The Commission’s Chairperson said that threatening human rights activists is equivalent to threatening development and human rights itself. He urged the authorities to take the matter seriously, and asked the Government to ensure adequate security for them and to bring the authors of the threats to justice as soon as possible.

According to information provided by the Commission during interviews, the Commission also recently signed a Memorandum of Understanding with Article19,<sup>79</sup> in order to respond to increasing concerns regarding freedom of expression. On 5 May 2018, it formed a separate Committee on the right to freedom of expression.<sup>80</sup> However, the role and activity of the new Committee still remains unclear as neither the news of its formation, nor its activity or contact personnel has been published on the Commission’s website.

In October 2018, the Commission also participated in the 13<sup>th</sup> International Conference of GANHRI in Morocco and joined the Marrakech Declaration on “Expanding the civic space and promoting and

- 
- 77 An auto-proclaimed Islamist militant group. Staff Correspondent, ‘Noted citizens concerned over death threats to 3 dignitaries,’ The Daily Star, 7 May 2019, available at: <https://www.thedailystar.net/city/news/noted-citizens-concerned-over-death-threats-3-dignitaries-1740004> ; and Muruzzaman Labu, ‘Militants target Bangladesh, India for Lone Wolf attacks,’ Bangla Tribune, 30 April 2019, available at: <http://en.banglatribune.com/others/news/43581/%E2%80%98Militants-target-Bangladesh-India-for-Lone-Wolf>.
- 78 Staff Correspondent, ‘NHRC condemns death threats to 3 noted citizens,’ The Daily Star, 13 May 2019, available at: <https://www.thedailystar.net/city/news/nhrc-condemns-death-threats-3-noted-citizens-1742842>.
- 79 An organisation that works for the rights to Freedom of Expression. See Article 19’s website at: <https://www.article19.org/>.
- 80 Kazi Reazul Hoque, ‘National Human Rights Commission: Promoting Human Rights in the Country,’ Daily Sun, 19 March 2019, available at: <https://www.daily-sun.com/printversion/details/378646/2019/03/19/National-Human-Rights-Commission:-Promoting-Human-Rights-in-the-Country>.

protecting human rights defenders, with a specific focus on women: The role of national human rights institutions.”<sup>81</sup> The Commission was invited to be a part of the drafting team convened by GANHRI for the preparation of the Declaration on the rights of HRDs. However, the authors of this report are not aware of the Commission either sharing the declaration at the national level or taking any visible initiatives in line with the declaration. According to the Commission, it has drafted a guideline for HRDs with the help of the Human Rights Programme of UNDP.

In September 2018, the Parliament passed the DSA, which journalists and human rights organisations strongly opposed because of the excessively repressive provisions the Act contains that could be used to further curtail freedom of expression and detain government critics.<sup>82</sup> Prior to the enactment of the Act, the Commission had called upon the Government to have a dialogue with the media.<sup>83</sup> It also highlighted civil society’s concern regarding Section 32 of DSA.<sup>84</sup> However, even though it is part of the Commission’s mandate to review draft laws, policies, and guidelines, and to analyse their conformity with international standards, it never submitted any detailed recommendations on the draft DSA to the Government.<sup>85</sup>

---

81 GANHRI, 13th International Conference. The Conference’s website is available at: <https://nhri.ohchr.org/EN/ICC/InternationalConference/13IC/Pages/default.aspx>.

82 Sun Online desk, ‘HRW criticises Digital Security Act,’ Daily Sun, 26 September 2018, available at: <https://www.daily-sun.com/post/338727/2018/09/26/HRW-criticises-Digital-Security-Act>; Staff Correspondent, ‘Free speech will cease to exist,’ The Daily Star, 30 September 2018, available at: <https://www.thedailystar.net/city/news/digital-security-act-abolish-freedom-expression-shahdeen-malik-1640332>; and Rock Ronald Rozario and Stephan Uttom, ‘Bangladesh’s digital security act: old wine in new bottle?’ UNA news, 2 October 2018, available at: <https://www.ucanews.com/news/bangladeshs-digital-security-act-old-wine-in-new-bottle/83471>. See also: Article19, ‘Bangladesh: Draft Digital Security Act,’ April 2019, available at: <https://www.article19.org/data/files/medialibrary/38368/Analysis-Bangladesh-Cybercrime-Act.pdf>.

83 Staff Correspondent, ‘Some sections of Digital Security Act might be scrapped Daily Sun,’ 4 May 2018, available at: <https://www.daily-sun.com/post/306428/2018/05/04/Some-sections-of-Digital-Security-Act-might-be-scrapped>.

84 Digital Security Act 2018, Section 32: Breaching Government Secret Offence, available at: <https://www.cirt.gov.bd/wp-content/uploads/2018/12/Digital-Security-Act-2018-English-version.pdf>.

85 NHRC Act, 2009, Section 12(g).

The Commission has yet to play any significant role in amending the many laws that violate human rights law and standards. Over the years, a number of laws have been passed and drafts created,<sup>86</sup> which stand in contradiction with Bangladesh's Constitution and human rights obligations. However, the Commission never provided recommendations to the Government.

## Right to Freedom of Peaceful Assembly

During the quota reform protest movement the Commission initially issued a statement condemning the police attacks and calling upon the Government to resolve the issue through dialogue.<sup>87</sup> However, the Commission did not raise any concerns relating to the excessive use of force by LEAs to disperse the protests. The Commission also did not say anything about the arrest of the protests leaders. Furthermore, the Commission also failed to make any recommendations to the relevant authorities to comply with international human rights standards relating to the right to peaceful assembly.

In response to the road safety movement the Commission, on 3 August 2018, stated through a press release that the students' demands should be fulfilled as soon as possible.<sup>88</sup> The Commission Chairperson said: "Anarchy in the transportation sector must be addressed. Road accidents are seriously hampering the rights of the citizens. This needs to be stopped. The Commission calls upon the Government to put an end to anarchy in the sector, including an end to corruption, misuse of power, excess of cars without fitness certificates or route permits, drivers'

---

86 For example: Anti Terrorism (Amendment) Act, 2013; Information and Communication Technology (Amendment) Act 2013; Foreign Donations (Voluntary Activities) Regulation Law 2016; National Broadcasting law 2016 (draft); Press Council Act; Bangladesh Liberation War History Distortion Crime Act (draft); Civil Service Act 2018.

87 Star Online Report, 'Quota reform: NHRC condemns attack on students,' The Daily Star, 9 April 2018, available at: <https://www.thedailystar.net/country/bangladesh-public-service-quota-reformation-national-human-rights-commission-condemns-attack-on-students-1560361>.

88 National Human Rights Commission of Bangladesh, Press Release, 'Road Accident,' 3 August 2018, available at: [http://nhrc.portal.gov.bd/sites/default/files/files/nhrc.portal.gov.bd/press\\_release/79eb587c\\_f8a6\\_4451\\_8ebe\\_318174c73897/PR\\_Road%20Accident.pdf](http://nhrc.portal.gov.bd/sites/default/files/files/nhrc.portal.gov.bd/press_release/79eb587c_f8a6_4451_8ebe_318174c73897/PR_Road%20Accident.pdf).

incompetence, inefficiency and carelessness.”<sup>89</sup> The Commission also condemned attacks on journalists who were performing their professional duties during the protests.

However, the Commission did not go any further than the statement. It did not investigate the attacks on journalists or students. It did not even talk to the victims, or do a follow-up on what actions had been taken against those who had carried out those attacks. Many individuals and students were detained,<sup>90</sup> but the Commission did not play an effective role in addressing these matters.

### **Role of the Commission during the 11<sup>th</sup> Parliamentary Election**

The Commission formed a ‘Control Room’ to receive complaints of human rights violations during the election.<sup>91</sup> However, despite serious allegation of irregularities, the Commission Chairperson opined in a press conference a day after the election that “All (parties) took part in the election. Voters had been able to vote for the candidates of their choice. So, the election was free, fair and neutral.”<sup>92</sup> He claimed that there was no allegation of any casualty and violation of human rights during the election although media reports that 14 people were killed in election related violence.

The Commission received a total of 52 allegations of threat and obstruction of voters, of which it informed the Election Commission.<sup>93</sup>

---

89 NTV Online, 4 August 2018, available at: <https://www.ntvbd.com/bangladesh/208801/>.

90 Star Report, ‘Spreading Rumour’: Four held, 16 others sued,’ The Daily Star, 7 August 2018, available at: <https://www.thedailystar.net/city/student-protest-3-more-arrested-spreading-rumors-social-media-1616656/>; and Staff Correspondent, ‘Spreading Rumours’: 3 more students held under sec 57,’ The Daily Star, 16 August 2018, available at: <https://www.thedailystar.net/news/city/protest-for-road-safety-cid-arrests-2-students-spreading-rumours-1621078>.

91 Staff Correspondent, ‘Ensure voting rights of minority community,’ Daily Sun, 27 December 2018, available at: <https://www.daily-sun.com/printversion/details/359865/2018/12/27/Ensure-voting-rights-of-minority-community>.

92 UNB News, ‘Election was inclusive, fair and neutral, says NHRC chairman,’ United News of Bangladesh, 1 January 2019, available at: <https://unb.com.bd/category/bangladesh/election-was-inclusive-fair-and-neutral-says-nhrc-chairman/9664>.

93 Ibid.

The Chairperson’s statement saying that there were no incidents of human rights violations during the election seems to indicate that he considers the 52 allegations as not amounting to violations of the right to vote.

On the night of the election, a woman was gang-raped in Subarnachar at Noakhali allegedly by supporters of the ruling party because she had not voted for their suggested candidate.<sup>94</sup> The victim and her husband repeatedly told the media and other representatives of CSOs that she was attacked as she voted for the party of her choice.

The Commission formed an inquiry committee, which conducted an investigation into the allegation. However, the committee found no linkage between voting and the rape. It stated “there is no proof that the accused are Awami League supporters or that she was raped and assaulted by the Awami League supporters.”<sup>95</sup> The report was severely criticised and rejected by several human rights organisations and the Commission was accused of failing to play its due role.<sup>96</sup> The Commission later tried to clarify its position by claiming that the opinion is not of the Commission but rather that of the inquiry committee; however, such an explanation does not address concerns raised by CSOs.<sup>97</sup>

---

94 Star Correspondent, ‘Mother of four ‘gang-raped by AL men,’ The Daily Star, 1 January 2019, available at: <https://www.thedailystar.net/backpage/news/mother-four-gang-raped-al-men-1681405>.

95 Star Report, ‘Subarnachar rape ‘not linked to polls,’ The Daily Star, 14 January 2019, available at: <https://www.thedailystar.net/country/noakhali-woman-gang-rape-not-linked-voting-national-human-rights-commission-1687024>.

96 Star Report, ‘Subarnachar Rape: Human rights bodies reject NHRC report,’ The Daily Star, 17 January 2019, available at: <https://www.thedailystar.net/backpage/noakhali-subarnachar-gang-rape-human-rights-bodies-reject-nhrc-report-1688614>.

97 Tamanna Hoq Riti, ‘Some questions on the role of NHRC,’ The Daily Star, 28 January 2019, available at: <https://www.thedailystar.net/opinion/human-rights/news/some-questions-the-role-nhrc-1693654>.

## 5. Conclusion and Recommendations

### 5.1 Conclusion

The Commission still does not fully act according to its statutory mandate. The Commission's actions are mostly limited to issuing press statements or providing comments to journalists, raising concerns by sending letters/notices to relevant authority and organising large-scale events that have little to nothing related to ensuring justice for the victims of human rights violations.

The Commission always claims that despite limited human, financial and technical resources, they are trying to do their best as per their mandate. However, CSOs and media question whether the Commission is either not absolutely aware or does not understand its power and jurisdiction, or it is unwilling to cause discomfort to the Government. The Commission has not adequately raised its concerns over the shrinking democratic and civic space in the country and made no specific recommendations for the Government to take affirmative steps to create an enabling environment for the people.

Considering the number of human rights violations occurring in Bangladesh and the Commission's resource constraints, human rights activists do not expect that the Commission will be able to work on each and every human rights issue. However, they do expect that it will play a strong role in addressing major human rights issues and in ensuring government's accountability. Most importantly, the Commission should act in a way so that people will have faith in it.

Nearing a decade, it is high time for the Commission to work strongly to overcome the challenges it has been facing as well as to engage in discussions with the Government to create pressure and strategically and relentlessly take immediate and effective steps to ensure the establishment of an environment where the Commission can play its due role of promoting and protecting the human rights of the citizens of Bangladesh.

## 5.2 Recommendations

### *To the Government of Bangladesh:*

1. Take immediate steps to amend the NHRC Act, 2009 to bring it in line with international human rights standards and the Paris Principles, especially in ensuring representation of civil society members in the selection process of the Commission's members and clearly establishing the Commission's mandate to investigate allegations of rights violation against members of law enforcement and security agencies;
2. Ensure the Commission's financial independence, and allocate it with an adequate budget through a separate line item in the national budget;
3. Institutionalise the selection process for the Commission in accordance with the Paris Principles:
  - a. A policy should be adopted to lay out clearly how candidates may express their interest in becoming a member, how members should be selected based on their competencies, and how the Selection Committee can work independently;
  - b. A provision may also be incorporated regarding public advertisement, and hold open public hearings on the selection process with the potential nominees.
4. Respond to the Commission's recommendations, statements, and criticisms and take immediate steps to inform ministries, departments, and state organs about the Commission's mandate; and



5. Approve the draft rules on mediation sent by the Commission.

***To the Commission:***

1. Advocate with the Government to amend the NHRC Act, 2009;
2. Establish an HRD desk and work to promote and protect their rights;
3. Dedicate more activities towards the protection of human rights than the promotion of human rights;
4. Interpret the NHRC Act, 2009, Section 18 broadly and in line with the spirit of the Act to conduct fact-finding about LEAs actions;
5. Bring the Commission's recommendations to the notice of the Government, and continue to make representations towards the Government until the implementation of those recommendations;
6. Adopt a robust monitoring mechanism on the status of implementation of the Action Plans where the Commission provided its assistance;
7. Undertake a national inquiry or public hearing on persistent human rights violations such as EJKs, EDs, custodial torture and death, and violations of the right to freedom of expression;
8. Ensure its own financial independence, transparency, and accountability through the following steps:
  - a. Seek to get direct financial allocation in the National Budget, making it free/independent from Governmental influence;
  - b. Ensure full financial transparency through regular publication of the records of its yearly budget allocation and expenditures;
  - c. Conduct yearly inspection of its expenditure and publicly publish it;
  - d. Prioritise the opening of offices in divisional cities, and also devise plans and strategies in order to reach out to all divisions;
9. Develop sufficient and specialised investigation/fact-finding team within the commission to investigate allegations of human rights violations;

10. Establish separate cell to hear and receive complaints from socially excluded group i.e. gender diverse community, indigenous people, religious minorities and persons with disabilities, and to take necessary steps promptly to protect them;
11. Undertake or intervene in constitutional litigation before the High Court Division on rights issues;
12. Make recommendations to the Government regarding the compliance of draft bills and existing laws with international human rights law and standards;
13. Monitor how the state complies with its international human rights obligations and send recommendations to the Government about adopting a comprehensive National Action Plan to fulfil these obligations;
14. Conduct research, study, survey, and evaluation of human rights issues and send corresponding recommendations to the Government;
15. Submit annual reports within the stipulated time and incorporate the unresolved issues in the report; i.e. along with the recommendations that the Commission provides to the concerned government authority, and progress made towards their implementation;
16. Provide human rights training to the LEAs and other state institutions;
17. Increase the number of preventive visits to the prison; and
18. Share and discuss its Annual Report in the Parliament.

***To the International Community:***

1. The Asia Pacific Forum of National Human Rights Institutions (APF) and the GANHRI should regularly observe the role and functions of the Commission and place recommendations on the performance of the Commission, recommending it to act in compliance with the Paris Principles.

## **Human Rights Forum Bangladesh (HRFB)**

Ain o Salish Kendra (ASK), Acid Survivors Foundation (ASF), Association for Land Reform and Development (ALRD), Bandhu Social Welfare Society (Bandhu), Bangladesh Adivasi Forum, Bangladesh Dalit and Excluded Rights Movements (BDERM), Bangladesh Institute of Labor Studies (BILS), Bangladesh Legal Aid & Services Trust (BLAST), Bangladesh Mahila Parishad (BMP), FAIR, Kapaeeng Foundation, Karmojibi Nari (KN), Manusher Jonno Foundation (MJF), Nagorik Uddyog, Naripokkho, National Alliance of Disabled Peoples' Organizations (NADPO), Nijera Kori, Steps Towards Development (Steps), Transparency International Bangladesh (TIB) and Women with Disabilities Development Foundation (WDDF).

The Asian NGO Network on National Human Rights Institutions (ANNI) was established in December 2006. It is a network of Asian non-governmental organisations and human rights defenders working on issues related to National Human Rights Institutions (NHRIs). ANNI has members that are national organisations from all over Asia. ANNI currently has 33 member organisations from 21 countries or territories. The work of ANNI members focuses on strengthening the work and functioning of Asian NHRIs to better promote and protect human rights as well as to advocate for the improved compliance of Asian NHRIs with international standards, including the Paris Principles and General Observations of the Sub-Committee on Accreditation (SCA) of the Global Alliance of NHRIs (GANHRI). Ain o Salish Kendra (ASK) and Human Rights Forum Bangladesh (HRFB) as a member of ANNI, prepare the country report on the performance of the National Human Rights Commission (NHRC) Bangladesh. The current report, prepared by ASK and HRFB, provides a brief assessment on human rights situation in Bangladesh. It assesses the role of NHRC in the context of Bangladesh's democratic backsliding and the contraction of civic space. This report also identifies how the NHRC of Bangladesh addresses the violations of human rights and the weakness in its mandate as well as approaches which reduces its independence and the effectiveness of its strategies.

#### Contact Information

### **Ain o Salish Kendra (ASK)**

2/16, Block-B, Lalmatia, Dhaka-1207, Bangladesh

Phone: 880-2-8100192, 8100195, 8100197

Fax: 880-2-8100187

E-mail [ask@citechco.net](mailto:ask@citechco.net)

Web: <http://www.askbd.org>