



**SUBMISSION BY ODHIKAR AND FIDH TO THE HUMAN RIGHTS COUNCIL'S
UNIVERSAL PERIODIC REVIEW ON BANGLADESH
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Odhikar, a duly established human rights organisation in Bangladesh, and FIDH submit this information on Bangladesh¹ under the General Guidelines for submission of information for Universal Periodic Review.

1. INTRODUCTION

Odhikar had long been concerned about precarious human rights conditions in Bangladesh, but this report covers situations documented by the organisation for the last three years i.e. 01 July 2005 to 30 June 2008. Over this period, Odhikar recorded and noticed several serious violations of human rights, violations which are widespread and systematic with little or no effective remedial measures.

2. HUMAN RIGHTS SITUATION ON THE GROUND

I. Legality and constitutionality of the Government: The current Government, installed, backed and controlled by the military, is an unconstitutional, illegal and unelected entity, in office by usurping the Constitution. The Constitution provides a typical provision of a Caretaker Government, to hold general election for Parliament after completion of its term. It mandates that the election must be held within ninety days of dissolution of Parliament, a deadline that expired in January 2007. The current Government came to power on 11 January 2007 and is continuing in office, violating mandatory provision of the Constitution. This illegal and unconstitutional tenure of the Government constitutes a grave violation of collective rights of the peoples of Bangladesh, to be governed by a legitimately elected lawful government.

II. State of Emergency: The country remains under a draconian State of Emergency for the last 20 months. The Caretaker Government, after taking over power, imposed nationwide State of Emergency, using the pretext of street violence and stalemate between political parties. The situation came under control rather quickly, but the State of Emergency was not lifted. Under 'Emergency', a host of basic human rights remain suspended, including freedom of movement (Article 36), assembly (Article 37), association (Article 38), thought, conscience and speech (Article 39), profession and occupation (Article 40) and rights to property (Article 42). Moreover, the Emergency Powers Ordinance and Emergency Powers Rules gives the Government unfettered power of arrest and denies the Court authority of provisional release on bail. The 'Emergency' in place violates Article 4 of ICCPR in absence of exigencies.

III. Extrajudicial executions: In 2004, the then government of BNP, set up an elite force, the Rapid Action Battalion (RAB), largely composed of military and police, which effectively institutionalised extrajudicial executions. RAB perfected itself in carrying out executions under various guises and with total impunity. Other agencies also followed RAB, and in the last three years, a reported 767 individuals were killed while in the last 19 months alone, under this regime, 243 persons were reportedly executed, despite global condemnation. This is a key area of Odhikar's concern that Human Rights Council should address through the UPR.

¹ Additional information and supporting documents are available at:
www.odhikar.org

IV. Arbitrary arrests and detentions: En-masse and arbitrary arrests are pervasive in Bangladesh. The Government uses a number of laws like Section 54 of the Criminal Procedure Code, Section 86 of Dhaka Metropolitan Police Ordinance, Special Powers Act 1974 and now the Emergency Powers Ordinance 2007 for arbitrary arrest and detention without judicial process. Often to quell impending public protests or even in the name of ‘crack-down’ against alleged criminals, thousands of persons are arrested. In 2006 a reported total of 28,651 were arrested and between 28 May and 28 June 2008 a reported total of 50,215 persons were arrested.

V. Torture: Torture is routinely practiced in Bangladesh. Credible allegations of torture are too numerous to record. Suspects are often picked up by the law enforcement agencies, detained, and tortured while in custody, or taken to “remand” in order extract evidence or to make confessional statements or to testify against or implicate others. The Government has yet to criminalise torture and even disregarded a 2003 High Court Order to interrogate arrestees in glass-partitioned rooms and until those are set up, at the jail gate in presence lawyers or relatives.

VI. Custodial violence: Custodial deaths, sexual assault and rapes are common and numerous instances were recorded over last three years. Between 1 July 2005 and 30 June 2008 a total of 427 people were reportedly killed in custody. There were allegations of torture to death in custody or of arrestees being killed in the guise of ‘crossfire,’ encounter’, ‘gunfight’ or ‘shootout’.

VII. Prisons: Prisons have become a matter of serious concern. The number of persons held in prisons is many times over their holding capacity. The problem turns acute during frequently conducted mass-arrests, when all arrestees are simply dumped in prison disregarding rights of prisoners. According to reports the 68 jails of the country contain 87,579 inmates, more than three times the combined capacity of 27,368 of these jails. This resulted in denial of basic needs of food, health, hygiene, recreation and rehabilitation of prisoners.

VIII. Violence against women: Violence against women is endemic in Bangladesh. It takes numerous forms including rape, beatings, torture and murder, both in domestic and public situations. It has also to do with patriarchal, class based, repressive mind-sets and status of women within the family and society.

1. Acid Violence

A dangerous form of violence against women in Bangladesh is acid throwing. In most cases, acid is thrown following refusal of marriage or love proposals, land disputes, personal feuds, jealousy and dowry. From 1 July 2005 to 30 June 2008, a reported total of 494 persons became victims of acid violence; amongst them, 295 were women, 125 men and 74 children. A Government Minister/Adviser revealed on 5 June 2008 that almost 70% cases remain unsolved and perpetrators not identified and prosecuted because of ineffective investigation. Laws are not applied properly by the authorities either.

2. Rape

In most cases, the victims of rape or their family members remain silent due either to the social stigma or the fear of the rapist. Figures that are available are alarmingly high. Odhikar documented that from 1 July 2005 to 30 June 2008, 1,822 women and girls became victims of rape, averaging 50 women every month. Among them 1,037 were women and 785 were children (below the age of 18). A documented 262 women and children were killed after being raped and 19 committed suicide. The justice system fails most victims.

IX. Situation of human rights defenders: Human rights defenders face constant threat by the security forces. Members of such forces at times visit offices of human rights organizations under various pretexts. Such agencies also vet NGO applications for funds and screens activities. On other occasions, threats are more direct, including arrests, illegal detention and other forms of intimidation. Odhikar's Acting Director was one such victim, who was taken to the Naval Headquarters in Dhaka on 3 May 2007, in connection with an Odhikar fact finding mission on a custodial death. He was threatened with dire consequences including death. Another Odhikar defender was picked up by police in Kushtia on 4 December 2007, severely beaten by ranking police officials and released without any explanation.

X. Freedom of expression: Journalists are not safe in Bangladesh. In the last three years, a good number of them have been verbally and physically assaulted and threatened, cases filed, arrested and killed. Newspapers, television stations have been shut down, TV programs and books banned. According to Odhikar documentation in last 3 years 369 journalists were threatened, 134 assaulted, 321 injured, 2 were killed, 36 arrested, 3 were kidnapped, 37 were attacked and 220 case files were reported. The Official Secrecy Act remains in force, despite a draft law on Freedom of Information.

XI. Religious & ethnic minorities: Religious and ethnic minorities also had to pass difficult periods. The Ahmediyya community faced serious problems from religious obscurantist who demanded that they be declared non-Muslims and launched a campaign of threats, intimidation and dispossession. There were numerous documented incidents of land grabbing from the ownership of ethnic and religious minority groups. The Chittagong Hill Tracts Peace Accord of 1997 remains largely unimplemented. Minority communities continue to face intimidation and threats and their ancestral and collective lands are under danger.

XII. Security and intelligence agencies: Security and intelligence agencies are a major threat to enjoying human rights in Bangladesh. Victims and civilians have little redress mechanisms at their disposal against these forces because of their intimidating nature. There is no independent authority to complain against these agencies. Since the imposition of State of Emergency, intelligence agencies and others are playing a more interventionist role.

XIII. Anti Terrorism Ordinance: The Anti Terrorism Ordinance 2008 promulgated without any public discussion, heightened human rights concerns further. With sweeping definition it even covers acts intending to harm the unity, harmony, security and sovereignty of Bangladesh and provides capital punishment. A person can be charged on vaguely defined 'terrorist' activities based only on mere suspicion. Once arrested, the Court cannot grant bail. Bangladesh already has plenty of laws to cover such crimes and this law with sweeping power would be abused against political and other activists who may be perceived as 'antigovernment'.

XIV: Judiciary in crisis: Due to continued government intervention, the judiciary is in deep crisis despite some formal separation. The situation has turned so bad that a High Court Judge recommended that a petitioner seek Divine assistance as his hands were tied. Weakness of judiciary perpetuates miscarriage of justice and violation of human rights.

XV. Impunity: In Bangladesh major crimes have not been punished and the law in many ways remains ineffective. Impunity commenced around the time of independence, 37 years ago, when international crimes committed in Bangladesh such as, genocide, war crimes and others were never investigated or prosecuted. Since then, serious crimes that turned around the nation's course remained unsolved. The Government extends total immunity to security forces in matters

of extrajudicial killings, illegal detention and torture. Lack of democratic accountability have allowed government leaders and others, to flout laws and abuse authority and position.

3. STATE'S OBLIGATIONS & VOLUNTARY PLEDGES

I. National obligations: It is the duty of the Government to enact legislations proscribing torture in all its forms, remove all discriminatory provisions against women from property to political rights and ensure the application of laws in place. It has to repeal Vested Property Act, 1974 and fully implement CHT Accord, 1997.

II. Voluntary Pledges: Bangladesh voluntary made 17 different pledges at the time of election to the Human Rights Council in 2006. Odhikar observed that most pledges relevant to improving and strengthening the human rights situation in Bangladesh failed to materialise. The pledge to separate the judiciary is only partially fulfilled, and the Government's influence on judiciary remains in many aspects; the Human Rights Commission, pledged soon to be established, has not been constituted; providing of basic necessities of food, clothing, shelter, education and primary health remained illusive; the Government has failed to protect rights of women, children, and minorities; and most significantly, trampled upon the pledge on democracy, human rights and rule of law, by bringing the country under State of Emergency and prolonging the emergency rule, that continued to deny various fundamental rights. Bangladesh has thus far negated the pledges made.

III. International obligations: Bangladesh has to remove reservations made under various international instruments and ratify those not yet done. Reservations should be removed from ICCESR, ICCPR, CEDAW, OP to CEDAW, CRC, OP to CRC-AC, OP to CRC-SC and CAT. Bangladesh should ratify International Covenant on Rights of Migrant Workers, Convention on Protection of All Persons from Enforced Disappearance, Convention on Status of Refugees, UNESCO Convention against Discrimination in Education, OP to ICCPR on individual petition, 2nd OP to ICCPR on abolition of death penalty, OP to CAT and OP to Convention on the Rights of Persons with Disabilities.

4. COOPERATION WITH HRC, TREATY BODIES

I. Submission of periodic reports: The government of Bangladesh does not take seriously its obligation to send periodic reports to treaty bodies. No report has been submitted to CAT in its first to third rounds, ICCPR, ICESCR. The third report of ICERD is still pending.

II. Implementation of recommendations: Bangladesh has a very poor record of following through recommendations of UN Committees. In 2004 the CEDAW Committee recommendations including withdrawal of reservation, defining discrimination of women, uniform family law etc. remained unfulfilled. Similarly, recommendations CERD and CRC Committees were ignored.

III: Cooperation with the Commission's Special Procedures: Bangladesh is not forthright about Special Rapporteur's visits and seems reluctant to cooperate with this mechanism. Several standing invitations have yet to be agreed, namely, a 2000 request of the SR on Freedom of Religion, a 2003 one on Freedom of Opinion and Expression, a 2005 request on Adequate Housing, a 2006 one on Minority Issues, a 2006 one on Summary Executions and a 2007 request of SR on Independence of Judges and Lawyers.

5. RECOMMENDATIONS

Odhikar and FIDH call upon the Human Rights Council to urge Bangladesh to:

- a) Lift the State of Emergency, if not lifted by then, and not to indemnify unconstitutional and illegal measures taken during the period of Emergency;
- b) Immediately stop carrying out extrajudicial executions and to independently investigate all such killings and make the perpetrators accountable;
- c) Bring security forces under a legal regime and to establish an independent authority to receive and address complaints;
- d) Effectively cease persecution of religious and ethnic minorities;
- e) Take measures against arbitrary arrests, detention, and violence in custody and release those already detained;
- f) Address violence and discrimination against women;
- g) To cease torture and other ill treatment and bring perpetrators to justice in accordance with international standards for fair trial;
- h) To ensure that a Special Tribunals now in place, meets international standards of fair trial that is both open and public;
- i) Cease targeting human rights defenders;
- j) Desist from closing down TV channels and programs and stop attacks and threats to journalists and ensure freedom of expression;
- k) Immediately set up a truly independent National Human Rights Commission based on the Paris Principles;
- l) Repeal the Anti-Terror Ordinance 2008 that offers security forces unfettered authority to arrest on undefined grounds.
- m) Enact legislations on protecting victims and witnesses and with provisions of adequate compensation and reparations to victims of gender violence and human rights violations;
- n) To strengthen protection of human rights by ratifying international instruments not yet ratified, and by incorporating international law into domestic legislation;
- o) Implement recommendations of various CEDAW, CERD, CRC and other Committees in full and without further delay;
- p) Agree to standing invitations from the Special Rapporteur's and facilitate their visits.