



**International Covenant on
Civil and Political Rights**

Distr.: General
19 August 2020

English only

Human Rights Committee

Concluding observations on the initial report of Bangladesh

Addendum

**Information received from Bangladesh on follow-up to the
concluding observations***

[Date received: 3 August 2020]

* The present document is being issued without formal editing.



Follow up information sought by the Human Rights Committee on some of its concluding observation (Paragraph 14, 20, 22) given during the consideration of Bangladesh's initial report under ICCPR in 2017

1. The Human Rights Committee ('the Committee') considered the initial report of Bangladesh (CCPR/C/BGD/1) at its 3339th and 3340th meetings held on 6 and 7 March 2017. At its 3363rd meeting (22 March 2017), the Committee adopted its Concluding Observations (CCPR/C/BGD/CO/1). In paragraph 34 of its Concluding Observation, the Committee requested the Government of Bangladesh ('the GoB') to provide information on the implementation of the recommendations made in paragraphs 14 (early marriage and harmful traditional practices), 20 (extrajudicial killings and enforced disappearances) and 22 (torture and ill-treatment), which is provided below.

Measures relating to the prohibition of Dowry Practice

2. The GoB has enacted the Dowry Prohibition Act, 2018 and repealed the earlier Dowry Prohibition Act of 1980 to prevent dowry practices with more stringent measures. The new Act of 2018 provides that if anyone demands, receives or gives dowry will be punished with imprisonment up to five years but not less than one year, or with fine up to Taka¹ Fifty Thousand, or with both.

Measures relating to Prevention of Early Marriages

3. The Child Marriage Restraint Act, 2017 was adopted to bring in a time-befitting law by repealing the age-old Child Marriage Restraint Act, 1929. The new 2017 Act significantly increases the punishment for committing or abetting child marriage. Any adult person² committing child marriage will be punished with imprisonment up to two years, or with a fine up to Taka one hundred thousand, or with both; and in default of payment of the fine shall be punished with imprisonment up to three months.³ The Act also provides for similar punishment to the persons who will abet or will be negligent in preventing child marriages.⁴

4. The GoB has adopted the Child Marriage Restraint Rules, 2018 to facilitate the implementation of the aforesaid Act by prescribing the functions of the child marriage prevention committees at national, district, upazila⁵ and union⁶ levels. The Rules provides for the composition, power and functions of the aforesaid committees.

5. Section 19 of the Child Marriage Restraint Act, 2017 makes an exception to the general mandate of the law by allowing solemnization of underage marriage in the best interests of a minor under the directions of the Court and with the consent of the parents or the guardian of the minor concerned. However, this exception is permissible only under special circumstances prescribed under the Child Marriage Restraint Rules, 2018. Rule 17 of the Child Marriage Restraint Rules provides for an Assessment Committee which is tasked with overseeing marriages to be solemnized under section 19 of the aforesaid Act of 2017. Any intending parties including the parents or the guardian of the minor shall apply to the Assessment Committee along with the reasons for an underage marriage. The Assessment Committee will evaluate the application and submit a report to the Court. In evaluating the application, the Assessment Committee will consider the best interests of the minor and recommend underage marriage only as a last resort. The Assessment Committee will not recommend underage marriage in certain cases, for instance, forced marriage or marriage with the rapist, abduction or forced physical relations. Based on the recommendations from the Assessment Committee, the Court may allow such underage marriage considering the best interests of the minor. It is to be noted that section 19 of the Child Marriage Restraint Act, 2017 does not grant blanket permission for underage marriages. The incorporation of

¹ The denomination of official currency of Bangladesh.

² As per the Child Marriage Restraint Act, 2017 an adult person means a male who has attained 21 years of age, and a female who has attained 18 years of age.

³ The Child Marriage Restraint Act, 2017, Section 7.

⁴ *Ibid*, Section 8.

⁵ Upazila is sub-district.

⁶ Local government administrative unit at the lowest tier.

the aforesaid provision is warranted by the prevailing socio-economic reality and embedded social fabric of Bangladesh. This provision not only secures the interests of the children in exceptional cases but also aims to protect girls against sexual abuse and teenage pregnancies.

6. The GoB has launched a National Plan of Action in 2018 intending to eliminate child marriage through existing institutional initiatives, programmes etc. The goal of the National Plan of Action is to eradicate marriage of girls below 15 years and to reduce marriage of girls aged below 18 years by one third by 2021, and to eliminate child marriage by 2041. The objectives of the National Plan of Action include increasing awareness of harmful effects of child marriage through community mobilization, introducing legal remedies for girls whose rights are violated by child marriage, and scaling up existing and future social safety net programmes to eliminate child marriage.

Measures to protect the right to life of all persons

7. The Constitution of Bangladesh guarantees the right to life of all persons. The right to life includes the right to live consistently with human dignity and decency,⁷ the right to security and privacy,⁸ the right to protection of health and normal life expectancy,⁹ the right to access to unadulterated food¹⁰ and the right to protection and improvement of the environment.

8. During 2016–2019, the GoB enacted a number of sector specific laws including the Bangladesh Coast Guard Act, 2016; the Civil Aviation Act, 2017; the Narcotics Control Act, 2018; the Digital Security Act, 2018; the Road Transport Act, 2018; the Communicable Diseases (Prevention, Control and Eradication) Act, 2018 etc. that penalize acts or omissions that result in loss of or endanger human life. Some of these laws also contemplate protecting persons suffering from peril or hazard.

9. The Code of Criminal Procedure, 1898 authorizes a District Magistrate or an Executive Magistrate to issue necessary order to prevent any situation causing a breach of the peace, which might endanger the security of life or property.¹¹ Under the aforesaid Code, every police officer is authorized to intervene to prevent the commission of cognizable offence including those crimes which entail the risk of causing loss of or endangering human life.¹² A police officer can also arrest the person who is conspiring to commit such an offence.¹³

Use of force and accountability of the Law Enforcement Agencies

10. The use of force by Law Enforcement Agencies (LEAs) is governed by law, and excessive or unjust use of force is also punishable under law. Bangladesh Police can resort to the use of force as the last means only for the protection of public life and property. While investigating a case and extracting information/ statement from the accused, the police are not allowed to resort to any acts that may amount to torture. The adherence to the aforementioned norm is guaranteed in the legally-binding Code of Conduct and appropriate Rules of Engagement.

11. The Code of Criminal Procedure, 1898 provides that police will not offer or make, or cause to be offered or made, any inducement or threat while extracting statement. It is to be noted that every single incident where force or threat is used must be enquired into through legal procedures as prescribed in Police Regulations Bengal-1943 (PRB); the Code of Criminal Procedure, 1898; the Penal Code, 1860; and other Metropolitan Police Ordinances/laws. In case such incidents occur, inquiries and investigations are held to determine the justification of the use of force or threat.

⁷ Mahmudul Islam, *Constitutional Law of Bangladesh* (Mullick Brothers, Third Edition, 2012) at p. 253.

⁸ *Bangladesh National Women Lawyers Association v. Ministry of Home Affairs* [2008] BLD 580.

⁹ *Dr. Mohiuddin Farooque v. Bangladesh* [1996] 48DLR 438.

¹⁰ *Human Rights and Peace v. Bangladesh* [2010] BLD 125.

¹¹ The Code of Criminal Procedure 1898, Section 145.

¹² *Ibid*, Section 149.

¹³ *Ibid*, Section 151.

12. The use of firearms by Bangladesh police is permitted for the following purposes only: (i) in the exercise of the right to private defence of person or property;¹⁴ (ii) for the dispersal of unlawful assemblies;¹⁵ and (iii) to effect an arrest in certain circumstances.¹⁶ However, the police are not permitted to apply force more than necessary for the attainment of the aforesaid objectives.¹⁷

13. If any injury occurs during the application of force by the police, prompt and proper medical treatment of the injured person is always ensured with the highest care and attention.¹⁸ After each and every incident of use of force by police, even though occurred in the course of authorized duty, a full executive inquiry is conducted by magistrates to ascertain whether the firing was justified and whether the relevant regulations were obeyed.¹⁹ The executive inquiry shall be independent of any inquiries conducted by the police or by a magistrate under the Code of Criminal Procedure, 1898 and evidence recorded in such inquiries may be used in the future if necessary. On completion of the inquiry, the police officer or magistrate who has held it shall at once send a report to the GoB through the usual course and make over a copy to the Superintendent or the Deputy Inspector-General of the Range, as the case may be, for submission to the Inspector General.

14. Bangladesh Police has put in place a well-established administrative arrangement to take departmental action against police officers responsible for committing any kind of misconduct. Any aggrieved person may lodge a complaint about custodial or non-custodial torture if there is any commission of such an incident. The laws that regulate the administrative actions against police officers include the Police Officers (Special Provisions) Ordinance-1976, the Police Regulations Bengal-1943 and the Government Servants (Discipline and Appeal) Rules-1985. The aforesaid laws set out comprehensive procedures to take punitive action against police officers. The Police Officers (Special Provisions) Ordinance-1976 incorporated penalties including (i) dismissal from service; (ii) removal from service; (iii) discharge from service; (iv) compulsory retirement; (v) reduction to lower rank.

15. The Government Servants (Discipline and Appeal) Rules-1985 also provides for a comprehensive list of punitive actions that include censure, withholding of promotion for a specified period, stoppage for a specified period at an efficiency bar otherwise than for unfitness to cross such bar, recovery from pay or gratuity of the whole or any part of any pecuniary loss caused to government by negligence or breach of orders, and reduction to a lower stage in time-scale of pay, reduction to lower post or pay, compulsory retirement, removal/dismissal from service. The Police Regulations Bengal-1943 provides for dismissal, removal from service, reduction, deprivation of approved service increment, removal from any office of distinction, black mark, warning and censures as a form of punitive measures against wrongdoers.

16. Police Headquarters has a section titled – ‘Discipline and Professional Standard’ to receive complaints against police officers. Complaints may also be lodged to relevant high officials in field units.

Criminalizing Enforced Disappearance

17. The term ‘enforced disappearance’ has not been defined in the penal laws of Bangladesh. Usually, the cases of ‘possible abduction’ of certain individuals are often reported as ‘enforced disappearances’. The Penal Code, 1860 criminalizes in general the act of kidnapping of person.²⁰ In particular, the Penal Code penalizes the act of

¹⁴ The Penal Code 1860, Sections 96–106.

¹⁵ *Supra* note 11, Sections 127–128.

¹⁶ *Ibid*, Section 46.

¹⁷ The Police Regulations Bengal-1943, Rule 153.

¹⁸ *Ibid*, Rule 312.

¹⁹ *Ibid*, Rule 157.

²⁰ *Supra* note 14, Sections 359–365.

kidnapping/abducting a person in order to commit murder or dispose of the person as to be put in danger of being murdered.²¹

18. The Code of Criminal Procedure, 1898 makes the act of kidnapping/abduction as a cognizable offence. Any aggrieved person can lodge a complaint alleging abduction/kidnapping at a police station and this is equally applicable against the members of the law enforcement agencies. A competent Court shall then undertake an inquiry and try the case.²²

19. In the landmark Narayanganj seven-murder case, 27 Rapid Action Battalion (RAB) members, including 03 top officials, were prosecuted and many of the accused persons were convicted and punished with death sentences by the Court. The High Court Division (HCD) of the Supreme Court of Bangladesh upheld the death penalty of 15 convicts, including three top RAB officials. The HCD observed that ‘... a strong message needs to be sent to the perpetrators of grotesque crimes ... so that no such gravest crime of extreme brutality as committed by the convicted-accused persons of this case is committed by anybody else in future and that none is above law’.

Putting an End to Torture and Ill-treatment

20. The GoB maintains a ‘zero tolerance’ policy concerning criminal liabilities of the members of the LEAs. The Hon’ble President, Abdul Hamid, while addressing the Police Week 2019, urged the police to ensure services without causing any harassment to the people.²³ The Hon’ble Prime Minister, Sheikh Hasina, also while addressing in Police Week 2019 on 04 February 2019, advised the police to remain careful in discharging their duties so that innocent people are not harassed or ill-treated. The Hon’ble Prime Minister also urged the police to uphold the rule of law and human rights while performing their responsibilities.²⁴ The immediate past Inspector-General of Police (IGP), Mohammad Javed Patwary, always instructed the police not to harass innocent people in any circumstances. He warned that strict action would be taken if any such person suffers harassment.²⁵

Enforcing the Torture and Custodial Death Act

21. The GoB has enacted the Torture and Custodial Death (Prevention) Act, 2013 with a view to giving effect to the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984. The Act has incorporated extensive provisions for the prevention and punishment of any act of torture. The Act also gives effect to the mandate of the Constitution that guarantees protection of any persons against torture or cruel, inhuman or degrading punishment or treatment.²⁶ The aforesaid Act came into effect immediately.²⁷

22. Section 3 of the Torture and Custodial Death (Prevention) Act, 2013 provides that the provisions of this law shall prevail notwithstanding anything contrary in any other law for the time being in force. Thus, the aforesaid Act has an overriding effect over any other laws – which negates any indemnity clause in any other laws currently in force in the country.

Independent Complaint Mechanism

23. The National Human Rights Commission of Bangladesh (‘the NHRC’) has been established as an independent statutory body under the National Human Rights Commission Act, 2009. The NHRC is empowered to receive complaints and investigate any alleged violation of human rights, including torture and other ill-treatment committed by the

²¹ *Ibid*, 364.

²² *Supra* note 11, Section 181 (4).

²³ See <<https://www.thedailystar.net/country/serve-without-harassment-president-abdul-hamid-asks-police-1516843>>, last visited on 12 April 2020.

²⁴ See <<https://www.thedailystar.net/politics/bangladesh-police-week-2019-cops-strength-be-increased-further-pm-sheikh-hasina-1697251>>, last visited on 12 April 2020.

²⁵ See <<https://www.daily-bangladesh.com/english/Call-999-while-police-harass-IGP/35952>>, last visited on 12 April 2020.

²⁶ The Constitution of the People’s Republic of Bangladesh, Article 35(5).

²⁷ The Torture and Custodial Death (Prevention) Act, 2013, Section 1(2).

members of the LEAs. Based on the findings of its investigation, the NHRC can make recommendations to the GoB to take necessary measures for addressing any situation concerning violation of human rights. The NHRC may also request a report from the GoB regarding violations of human rights alleged to have been committed by the LEAs. In appropriate cases, the NHRC may recommend the GoB to initiate a proceeding for prosecution or take such other legal action as it deems proper. In addition, the NHRC has the discretion to move the High Court Division of the Supreme Court of Bangladesh on behalf of the aggrieved person.
