

# Report on the mission to the People's Republic of Bangladesh



from 2 to 14 April 2015

**Mission organised by the French Office for Protection of Refugees and  
Stateless Persons (OFPRA) with the participation  
of the National Court of Asylum (CNDA)**



## Drafting of the report

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The photographs included in this report were taken during the mission.

The report was completed in June 2015. Changes occurring after that date have not been taken into account.

## Notice

In order to protect our sources, the names of certain interlocutors (and/or organisations) so requesting have not been mentioned in this report.

This report does not claim to be an exhaustive study of all the phenomena connected with the problems of asylum, nor is it intended to provide conclusive evidence as to the foundations for specific asylum applications. The fact any particular event, person or organisation's not being mentioned in this report should in no way be interpreted as a sign that they do not exist.

This report does not reflect OFPRA's opinions, but only those of the interlocutors encountered during the mission.

## Interlocutors encountered during the mission

### Political Parties

- An advisor to Khaleda Zia, President of the Bangladesh Nationalist Party (BNP)
- Giasuddin Quader Chowdhury, BNP Secretary of Foreign Affairs and President of the Chittagong North District BNP
- Dildar Hossain Selim, former Deputy and joint convener of the Sylhet District's BNP committee
- Emran Chowdhury, former President of the Sylhet District's Bangladesh Jatiotabadi Chattra Dal (BJCD) and joint convener of the Sylhet District's BNP committee

### Legal Professions

- Khandaker Mahbub Hossain, President, Bangladesh Supreme Court Bar Association (BSCBA)
- Mahbubuddin Khokon, Secretary General, Bangladesh Supreme Court Bar Association (BSCBA)
- Adilur Rahman Khan, lawyer at the Supreme Court, Secretary of the Odhikar NGO
- Mizanur Rahman, lawyer and President of the National Human Rights Commission (NHRC)
- Md Shahinuzzaman, lawyer
- Emad Ullah Shahidul Islam, lawyer, former President of the Sylhet District Bar Association
- Dilip Kumar Das Chowdhury, lawyer, Principal of the Hindu Sanskrit College, Sylhet
- Md Osman Ali, President of a village court in Sylhet
- Member of a village court

### Non-Government Organisations and civil society

- Muhammad Yunus, founder of the Grameen Bank, Nobel Peace Prize, President of the Yunus Centre
- A. Mushtaque R Chowdhury, Vice-Chairman and Managing Director of BRAC
- Representatives of the Kapaeeng Foundation
- Kalpona Akhter, Director General, Bangladesh Centre for Worker Solidarity (BCWS)
- Shamsul Huda, Executive Director, Association for Land Reform and Development (ALRD)
- Jahan Moni Rowshan, Assistant Director, Association for Land Reform and Development (ALRD)
- Shale Ahmed, Executive Director, Bandhu Social Welfare Society (BSWS)
- Zahid Hussain, legal expert, Bandhu Social Welfare Society (BSWS)
- Shakawat Hossain, Boys of Bangladesh (BoB)
- Imrul Khan, Managing Director, Marie Stopes Bangladesh
- Suraiya Sultana, Executive Director, Reproductive Health Services Training
- Managerial staff at the Shimantik association
- Shyamoli Nasrin Chowdhury, Executive Director, Bangladesh Nari Progati Sangha (Bangladesh Women's Association for Progress)
- Imtiaz Ahmed, Professor of International Relations, University of Dhaka
- Asif Nazrul, Professor of Law, University of Dhaka
- Babul Akhter, President, Bangladesh Garments & Industrial Workers Federation (BGIWF)
- S., a young lesbian woman
- A *kazi* (civil judge) from Mohakali-Gulshan

### Diplomatic Representations and International Organisations

- Robert Watkins, Resident Representative, United Nations Development Programme (UNDP)
- Srinivas B. Reddy, Country Director, International Labour Organisation (ILO)
- Sarat Dash, Head of Mission, International Organisation for Migration (IOM)
- Bernard Regembal, Consul and Head of Chancellery, French Embassy in Dhaka
- Eight members of four diplomatic representations in Dhaka

### Media

- Mahfuz Anam, Editor in Chief and publisher of *The Daily Star* newspaper
- Two newspaper journalists
- An audiovisual media manager

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## **Introduction**

Since OFPRA and the CNDA's last joint mission in Bangladesh in November 2010, and the country's removal from the safe country of origin list (Council of State order of 4 March 2013), there have been more than 3,000 asylum applications a year on the part of Bangladeshi nationals.

In 2014, 3,582 Bangladeshi applications were submitted to OFPRA, comprising 2,425 initial asylum applications and 1,157 reconsiderations.

In order to update OFPRA's analysis of the situation in the country, OFPRA's Managing Director decided to send a fact-finding mission team to Bangladesh.

The team collected information on the main motives for persecution brought up by Bangladeshi asylum seekers.

Political activism, membership of the BNP in particular, is still one of the main motives cited, to which may be added the continuing problems of false accusations, conflicts over land and membership of an ethnic or religious minority. The mission team also examined the situation of sexual and gender minorities, members of textile workers' unions and defence associations, family planning employees, and microcredit organisations.

OFPRA and the CNDA's joint mission, cofinanced by the Asylum, Migration and Integration Fund (AMIF) and carried out in Bangladesh from 2 April to 14 April 2015, sought to study the aforementioned areas of concern in order to update and complement the previous mission report published in April 2011.

The mission team met with interlocutors to discuss these various subjects and made every effort to corroborate information obtained. Drawn up on the basis of interviews carried out on the spot, this report summarises the information and analyses obtained from interlocutors encountered during the mission. In order to make it easier to understand, information from public sources has also sometimes been added. This report does not claim to be exhaustive or to provide conclusive evidence as to the foundations for specific asylum applications.

It has been drawn up in compliance with the European Union's common guidelines on processing of information on countries of origin (April 2008).

## 1. POLITICAL SITUATION

### 1.1. Outbreaks of violence since 5 January 2014

#### 1.1.1. The contested elections of 5 January 2014

In late 2013, Prime Minister Sheikh Hasina, who has led the country since January 2009, refused formation of an interim government responsible for managing the country during the pre-election period.

Her decision led to a period of violent confrontation with the BNP-led opposition, the **18-party alliance**<sup>1</sup> [which includes the Bangladesh Kaliyan Party, Bangladesh Labour Party, Khelafat Majlis, Bangladesh Muslim League, Bangladesh People's Party, National Democratic Party, Bangladesh Islamic Party, Democratic League, JeI, Bangladesh People's League, Jatiya Ganatantrik Party, Liberal Democratic Party, and Bangladesh National Awami Party (Bhasani)<sup>2</sup>].

The opposition decided to boycott the elections, which were held on 5 January 2014. These latter, in which only members of the **14-party alliance** led by the Awami League took part [an alliance including parties to the left of the Bangladeshi political spectrum: the Workers Party of Bangladesh, JSD, Bangladesher Samyabadi Dal/Communist Party of Bangladesh, Ganatantrik Party, Communist Kendro, Gana Ajadi League, Ganatantrik Madjur Party, and others such as the Jatiya Party<sup>3</sup>] were marked by very low levels of participation (out of the 300 seats involved, 153 were won by the majority party without its having to face another candidate<sup>4</sup>). The resulting stalemate prevented all normal operation on the part of the country's institutions<sup>5</sup> and sparked off a cycle of violence<sup>6</sup>. Following a period of relative calm in 2014, the situation began to go rapidly downhill on 5 January 2015, the anniversary of the elections, leading the country into fresh outbreaks of violence and a state of virtual paralysis that lasted almost three months.

#### 1.1.2. The cycle of violence in the first quarter of 2015

On 5 January, faced with Sheikh Hasina's refusal to call new elections, the BNP and its allies in the opposition, including Jamaat-e-Islami (JeI), called for a general strike (*hartal*) and a blockade of transport throughout the country.

The call for a *hartal* brought the country to a standstill<sup>7</sup>: schools were closed as there was no public transport, examinations were delayed, food prices rose due to the difficulties encountered transporting agricultural produce to the capital's shops, and supply lorries had to be escorted between Chittagong and Dhaka<sup>8</sup>.

All diplomatic mission representatives encountered in Dhaka agree that the outbreaks of violence during the first quarter of 2015, which included extrajudicial executions, arson attacks on buses and deaths in "crossfire", were altogether without precedent by reason of their frequency and the number of victims.

The ASK organisation noted 556 incidents over the first quarter of 2015 as against a total of 664 for the whole of 2014, with 8,373 injured and 147 dead, clear evidence of a resurgence of violence.

In addition, **unlike the outbreaks of violence occurring in previous years, these more recent incidents affected individuals with no political affiliation**, "the man in the street"<sup>9</sup>.

<sup>1</sup> Founded on 18 April 2012, Members of the alliance come and go.

<sup>2</sup> LANDSFORD Tom, *Political Handbook of the World 2015*, CQ Press.

<sup>3</sup> No complete list of members of this alliance could be found. *New Age*, "Ruling partners to seek 40 councillor slots", 29/03/2015; LANDSFORD Tom, *Political handbook of the world 2014*, CQ Press, pp. 113-114.

<sup>4</sup> Asian Human Rights Commission (AHRIC), "Bangladesh: Authoritarian obstinacy wins, democracy loses", 08/01/2014.

<sup>5</sup> An advisor to Khaleda Zia; Giasuddin Quader Chowdhury, the BNP's Secretary for Foreign Affairs and President of the Chittagong North District BNP.

<sup>6</sup> OFPRA, *Bangladesh: Répression et violences politiques à l'occasion des élections législatives du 5 Janvier 2014*, 25/04/2014, 21 pp.

<sup>7</sup> *Id.*; member of a diplomatic representation in Dhaka.

<sup>8</sup> Two members of diplomatic representations in Dhaka.

<sup>9</sup> Member of a diplomatic representation in Dhaka

Political violence between January and March 2015			
Political party & Program	Incident	Injured	Dead
AL-BNP	12	77	3
AL-JeI-BICS	1		1
BNP-BICS	1		1
Countrywide hartal (1 day)	4	41	
Blockade (18 days)	67	204	24
Hartal and blockade (66 days)	384	1853	77
Internal clash			
AL-AL	57	454	9
BNP-BNP	3	26	
Law Enforcing Agency clash with political party			
BNP-Police	9	77	1
JeI-BICS-Police	2	23	
AL-Police	2	32	
BNP-JeI-Police	3	30	1
AL-BNP-Police	10	204	3
UP Election violence	1	30	2
<b>Total</b>	<b>556</b>	<b>3051</b>	<b>122</b>

(Source : Ain o salish Kendra (ASK) :

<http://www.askbd.org/ask/2015/03/31/political-violence-january-march-2015/>

The **blame for such violence** has usually been laid on the shoulders of the **BNP**, the **Awami League (AL)** and the JeI's student wing, the **Bangladesh Islami Chatra Shibir (BICS)**, **as having been carried out by their activists and paid local criminals. Those taking part in such outbreaks were therefore not necessarily politically committed.** The demonstrations that paralysed the country were held by organisations and political figures with financial resources at their disposal. According to our interlocutors, payment for committing acts of violence was between 300 TK and 500 TK (3.5 to 6 euros) while packed lunches were handed out as a reward for going to demonstrate in favour of the AL. Sums could be as much as 2,000 TK (about 24 euros) depending on the act required: throwing stones or Molotov cocktails<sup>10</sup>.

#### 1.1.3. Calm restored at the end of March

The opposition announced that it would take part in the municipal elections scheduled for 28 April 2015 in Dhaka and Chittagong. Khaleda Zia also agreed to appear before the Court, which she had previously refused to do, to request bail in the context of two legal proceedings opened against her for corruption (the Zia Orphanage Trust and Zia Charitable Fund cases), which, in application of the Code of Criminal Procedure, could lead to her arrest at any moment<sup>11</sup>.

Accompanied by the decision to end the blockade in Dhaka and Chittagong – and *de facto* across the country as a whole – these announcements, followed by the relaxation of a number of restrictions affecting the party (reopening of one of its head offices) led to a restoration of calm lauded by the international community.

<sup>10</sup> Adilur Rahman Khan, lawyer at the Supreme Court, Secretary of Odhikar; Four members of two diplomatic representations in Dhaka.

<sup>11</sup> On 6 May 2015, Khaleda Zia stood accused in 13 different legal proceedings; 4 were on charges of corruption dating back to 2008, while 9 others implicated her in arson attacks against buses in various of the country's towns since 5 January this year.

## 1.2. The BNP, a weakened party since 5 January 2014

### 1.2.1. The BNP's political programme and internal organisation

Despite its being Bangladesh's main opposition party, the BNP's **political programme is very similar to that of the party in power**, the AL, in particular as concerns economic and social models to be applied and policy on export of Bangladeshi labour.

Differences are felt more when it comes to the role of Islam, which is more dominant for the BNP<sup>12</sup>.

There is no clear division between the two parties' ideologies. The AL is supposed to be turned rather more towards India and Russia while the BNP is closer to China and the Middle East<sup>13</sup>.

One of Khaleda Zia's advisors encountered during the mission confirmed that there was no consensus with the AL over relations with India, largely due to disputes over their common borders, enclaves and sharing of water resources.

Several interlocutors<sup>14</sup> including a local BNP official in Sylhet, Dildar Hossain Selim, stated that **the party's activists, even those holding no position of responsibility, were all politicised and well aware of its internal organisation**.

He went on to say that activists could come to hold positions as coordinators, either through election or appointment following two or three years of activism. **In order to be given a position of responsibility, party members had to show genuine personal commitment to the BNP**. In addition to such activists, both major parties have devoted supporters (student leagues, industrial concerns and hard-line militants) that support their parties whatever happens. Such support is linked to financial gain (facilities for obtaining bank loans, commercial benefits, etc.) and promotions obtained due to political affiliation<sup>15</sup>.

A number of our interlocutors mentioned **the absence of dialogue between BNP leaders and loss of control over their activists** in organising demonstration<sup>16</sup>; such internal dissension was confirmed by the Party President's advisor. This state of affairs has much to do with Khaleda Zia's legal problems and internal differences on the party line over recent months.

**Consequently, it would seem that BNP members and activists could well be the victims of persecution and false accusations at the hands of members of their own party<sup>17</sup>.**

<sup>12</sup> Members of two diplomatic representations in Dhaka.

<sup>13</sup> *Id.*

<sup>14</sup> Members of two diplomatic representations in Dhaka; Adilur Rahman Khan, lawyer at the Supreme Court, Secretary of Odhikar.

<sup>15</sup> Imtiaz Ahmed, Professor of International Relations, University of Dhaka.

<sup>16</sup> Members of three diplomatic representations in Dhaka; Azif Nazrul, Professor of Law, University of Dhaka.

<sup>17</sup> Members of a diplomatic representation in Dhaka

### BNP Organisational Chart and information on the party in Sylhet<sup>18</sup>

Executive members:

- 1 president
- 5 vice-presidents
- 3 to 5 co-secretaries
- 1 treasurer
- 1 assistant treasurer
- 1 secretary to the organisation
- 2 or 3 co-secretaries to the organisation

18 BNP offices open before 5 January 2014.

#### Terms of membership before BNP offices were closed on 5 January 2014<sup>19</sup>

A new member must be familiar with the bases of the BNP's ideology.

Initial dues are 5 TK; they may later rise depending on a member's means.

- Three copies of a membership form must be completed:
- one copy is given to the new member along with a receipt;
  - one copy is kept at the district's party office;
  - the last is sent to the central office in Dhaka.

The form must include:

- the new member's name;
- the BNP office's address;
- the membership number;
- the signatures of the new member and party officials at the district office: President and Secretary.

### 1.2.2. Closure of political representations and persecution of activists

According to Giasuddin Quader Chowdhury and one of Khaleda Zia's advisors<sup>20</sup>, the BNP has a strong foothold in around 50 districts (*zila*) and is very powerful in those of Feni (Khaleda Zia's district of origin), Cox's Bazar, Chittagong, Comilla, Bogra, Sirajganj, Rajshahi, Pabna, Dinajpur and Sylhet. Most sub-district (*upazilla*) presidents across the country are BNP members, with 80% of them now in prison. As an example, Khaleda Zia's advisor cited the case of **the Mayor of Sylhet, Ariful Haque Chowdhury, relieved of his duties in January 2015 and refused bail on a charge of homicide**.

**All BNP offices in Bangladesh have been closed since 5 January 2014<sup>21</sup>**. The first quarter of 2015 also saw Khaleda Zia confined to BNP headquarters by the police for a period of two weeks before she decided to stay there of her own free will.

According to a member of a diplomatic representation, **"two thirds of the party have been incapacitated, its diplomatic wing and student organisation above all"**.

The BNP's most active members are now targeted by the authorities, in particular if they are **identified as spokespeople, public meeting organisers, party leaders at whatever level, or people able to organise demonstrations. Action comes in the form of enforced disappearances, extrajudicial executions and trumped-up charges<sup>22</sup>**. Most "good organisers" are now in prison for no good reason<sup>23</sup>. **Between 14,000<sup>24</sup> and 18,000<sup>25</sup> people have been arrested since 5 January 2014**.

<sup>18</sup> Dildar Hossain Selim, former Deputy and joint convener of the Sylhet District BNP committee; Emran Chowdhury, former President of the Sylhet BJCD and joint convener of the Sylhet District BNP committee.

<sup>19</sup> Dildar Hossain Selim, former Deputy and joint convener of the Sylhet District BNP committee.

<sup>20</sup> BNP Secretary of Foreign Affairs and President of the Chittagong North District BNP.

<sup>21</sup> An advisor to Khaleda Zia; Giasuddin Quader Chowdhury, BNP Secretary of Foreign Affairs and President of the Chittagong North District BNP; Dildar Hossain Selim, former Deputy and joint convener of the Sylhet District BNP committee; Emran Chowdhury, former President of the Sylhet BJCD and joint convener of the Sylhet District BNP committee.

<sup>22</sup> Members of diplomatic representations in Dhaka; Dildar Hossain Selim, former Deputy and joint convener of the Sylhet District BNP committee; Imtiaz Ahmed, Professor of International Relations, University of Dhaka; Adilur Rahman Khan, lawyer at the Supreme Court, Secretary of Odhikar.

<sup>23</sup> Dildar Hossain Selim, former Deputy and joint convener of the Sylhet District BNP committee.

<sup>24</sup> Adilur Rahman Khan, lawyer at the Supreme Court, Secretary of Odhikar

<sup>25</sup> Member of a diplomatic representation in Dhaka.

As an illustration, in 2014 the Ain o Salish Kendra (ASK) association noted **88 cases of abduction, including 18 people affiliated to the BNP**, the Bangladesh Jatiotabadi **Chattra Dal (BJCD)** or the Bangladesh Jatiotabadi **Jubo Dal (BJJD)**<sup>26</sup>, while Odhikar noted **six cases of disappearance of people affiliated to the BNP** during 2014<sup>27</sup>. The emblematic case of the disappearance of former BNP minister Salahuddin Ahmed, who was abducted on 10 March 2015 and resurfaced on 11 May 2015 in the Indian State of Meghalaya<sup>28</sup>, was frequently cited by interlocutors encountered during the mission.

### 1.2.3. Eviction of the University of Dhaka's BJCD

Leaders and activists of the BNP student branch were **evicted from the University of Dhaka after the first term of 2009; they were no longer authorised to organise marches, meetings or political propaganda activities**<sup>29</sup>.

The longstanding venue for academic political debate, rallying point and point of departure for protest marches, the **University of Dhaka's Madhur canteen**, has since been deserted by the main opposition party's activists. Their attempt to set foot back in the university ended in failure and outbreaks of violence between rival student factions<sup>30</sup>.

Although the **student leaders were expelled from the university campus**, members' situations varied depending on their degree of political commitment.

In reality, **there are relatively few political activists among students**.

Their numbers are swelled by around **20% of card-carrying members who take part in meetings and protest marches organised by the party's student league in order to get rooms in a residential hall** under its control.

The **list of residential halls** is available on the University of Dhaka's website: [http://www.du.ac.bd/halls\\_of\\_residence/residential\\_halls.php](http://www.du.ac.bd/halls_of_residence/residential_halls.php).

**Students whose political commitment is purely for convenience's sake then give up all political activity** and join the student faction of the party in power as soon as a political changeover has occurred, in order to keep their rooms.

The above estimates apply to public universities; **no political activities are allowed on private university campuses**<sup>31</sup>.

## 1.3. The JeI, a BNP ally

### 1.3.1. A party in hiding but still a mobilising force

**The joint fact-finding mission team was unable to meet any JeI members. However, information gathered in the course of the previous mission on terms of membership and party organisation is still valid**<sup>32</sup>.

Given the conviction of several of its leaders since 2013 by the International Crimes Tribunal (ICT) and the tension caused thereby, **the JeI seems to be a priority target for repression on the part of the authorities**.

The JeI lives under constant **threat of being banned altogether. Its registration as a party was cancelled in August 2013, preventing it from putting up candidates for election**<sup>33</sup>.

The violence attributed to the JeI and its student faction, the BICS, has given the government the opportunity to denounce the BNP's alliance with this party of "terrorists"<sup>34</sup>. With the exception of the ruling party, which seeks to gain politically by making it one of its repressive policy's priority targets, the JeI's alliance with the BNP seemed natural enough to most interlocutors encountered, who emphasised the **present vulnerability of most of the party's leaders**<sup>35</sup>.

Around **60% of the party's members** and its student wing, the BICS, are **in prison** while the **remaining 40% have gone underground**. For example, **in Sylhet, the party's main stronghold, the JeI office is no longer frequented** by its activists due to the troubled political situation. Its members meet from time to time, changing locations regularly<sup>36</sup>. They are also victims of enforced disappearances, and **the acts of persecution to which they are subjected are correlated to their role in the party and their visibility**<sup>37</sup>.

One of Khaleda Zia's advisors qualified the **BNP's alliance with the JeI alliance as being for purely electoral purposes**, arguing that it gave the Islamist party a democratic basis that was encouraged by Bangladesh's diplomatic community. The JeI would currently get 5% of votes cast, which would make up the difference between the BNP and the AL and give the JeI electoral legitimacy<sup>38</sup>.

Members of diplomatic representations in Dhaka confirmed this political alliance "of convenience" and the interest of having the JeI allied to a political party. As it stands, the situation seeks to take JeI out of hiding to provide its activities with visibility and avoid any threat of its radicalisation.

Despite its weak political pull, which has been in steady decline for the last 15 years, the JeI's proven ability to mobilise is both impressive and a cause for concern.

As was emphasised in the previous mission report of April 2011, what is most impressive about the party is its **capacity for organisation** (systematic affiliation of all its members)<sup>39</sup> and for **mobilisation**. For example, although they are less numerous than BNP activists in the city of Sylhet, which is one of their strongholds (around 20,000 activists whereas the BNP has five times as many), JeI members are better able to mobilise people during protest marches and *hartals* owing to their unity, something that BNP activists lack<sup>40</sup>. They also have a particularly **strong foothold in such southern districts as Cox's Bazar and Satkhira**<sup>41</sup>.

While JeI does its best to stay in the electoral game despite the trials and convictions to which its leaders have been subjected, its student branch, the BICS, **has a widespread reputation as a violent movement**. This was illustrated in spectacular fashion by the May 2013 demonstration that brought together over 100,000 people to protest against the death sentence pronounced on Abdul Quader Mollah, JeI's Assistant Secretary General, for crimes he was alleged to have committed during the 1971 War of Independence<sup>42</sup>.

Their show of strength and discipline left its mark on people's minds and became a major cause for concern among civil society, as did the excesses of the government's policy of repression<sup>43</sup>. Interlocutors encountered during the mission repeatedly emphasised that **Bangladesh's tradition of tolerant Sufi Islam** protects against the influence of Wahhabi movements and that the murders of bloggers in the spring of 2015 were the work of isolated fanatics with no direct links to JeI<sup>44</sup>.

<sup>26</sup> <http://www.askbd.org/ask/2015/01/15/forced-disappearances-2014/>

<sup>27</sup> List delivered during the mission by Adilur Rahman Khan, lawyer at the Supreme Court, Secretary of Odhikar.

<sup>28</sup> *The Daily Star*, "Bangladeshi political leader Salahuddin tells Meghalaya cops he was taken to Shillong by car, blindfolded", 15/05/2015.

<sup>29</sup> Imtiaz Ahmed, Professor of International Relations, University of Dhaka; Asif Nazrul, Professor of Law, University of Dhaka; Emran Chowdhury, former President of the Sylhet BJCD and joint convener of the Sylhet District BNP committee.

<sup>30</sup> Asif Nazrul, Professor of Law, University of Dhaka.

<sup>31</sup> Imtiaz Ahmed, Professor of International Relations, University of Dhaka; Asif Nazrul, Professor of Law, University of Dhaka.

<sup>32</sup> OFPRA, CNDA, April 2011, pp. 67-70, *op. cit.*

<sup>33</sup> Imtiaz Ahmed, Professor of International Relations, University of Dhaka; Member of a diplomatic representation in Dhaka.

<sup>34</sup> Imtiaz Ahmed, Professor of International Relations, University of Dhaka; Members of diplomatic representations in Dhaka.

<sup>35</sup> Members of diplomatic representations in Dhaka.

<sup>36</sup> Newspaper journalist.

<sup>37</sup> Member of a diplomatic representation in Dhaka.

<sup>38</sup> Advisor to Khaleda Zia; Imtiaz Ahmed, Professor of International Relations, University of Dhaka.

<sup>39</sup> OFPRA, CNDA, April 2011, pp. 67-72, *op. cit.*

<sup>40</sup> Newspaper journalist; Member of a diplomatic representation in Dhaka.

<sup>41</sup> Imtiaz Ahmed, Professor of International Relations, University of Dhaka; Asif Nazrul, Professor of Law, University of Dhaka.

<sup>42</sup> Member of a diplomatic representation in Dhaka.

<sup>43</sup> Members of diplomatic representations in Dhaka.

<sup>44</sup> Imtiaz Ahmed, Professor of International Relations, University of Dhaka; members of diplomatic representations in Dhaka.

### Two viewpoints on student political commitment

- Emran Chowdhury, former President of the Sylhet district's BJCD and joint convener of the Sylhet District's BNP committee

"I'm a political activist and have been since I was 16 years old and studying at MC College in Sylhet. I filled out a form, paid some fees and after a few years I became MC College's convener, then joint secretary, then president, then joint convener for the Sylhet District, and finally convener and again president. I went up one step at a time, during 10-12 years. [...] Before you're 16, you can only be a sympathiser by family tradition.

We used to go and see new students at the college and present our manifesto, our leader, our principles and our commitments to them, along with our work on behalf of students and their rights. Such information was disseminated during events held to mark the arrival of new students. We handed out leaflets, answered their questions and they could come and fill up the form. There were also political programmes. All political parties normally used to organise get-togethers with musical program to celebrate the Bangladeshi New Year (Boisak). But in recent years, no opposition party has been able to carry out such activities".

- Professors at the University of Dhaka

Some student political faction leaders only enrol as doctoral students in order to keep their status on university campuses, because of the benefits they enjoy there: finance, promotion, control of residential halls, control of illegal trade and control of calls for tenders in buildings on and around university campuses.

### 1.3.2. The BICS, a student movement with a reputation for violence

The BICS was called the "**spearhead of demonstrations**" by a diplomat posted in Dhaka, who also joined several other interlocutors in corroborating the student movement's violence<sup>45</sup>.

Although it would certainly appear that it was to blame for the abuses carried out during the *hartals* and demonstrations of 2014 and 2015, which included the use of Molotov cocktails (petrol bombs) and arson attacks on buses, BICS members were not the only ones to turn to violence.

One of our interlocutors<sup>46</sup> recalled the BICS's violence on Dhaka and Rajshahi university campuses, which resulted in the deaths of a number of their political opponents. The party's student movement was expelled from the University of Rajshahi following the death of a BCL activist during a confrontation between the two movements in February 2010, and since then it has tried to regain the upper hand through use of force<sup>47</sup>. The same interlocutor also stated that the movement resorted to excessive violence, as when its activists felt provoked or put out, they could well give a first warning to their enemies rather than take immediate action.

Nonetheless, **not all BICS members would appear to be systematically involved in acts of violence**<sup>48</sup>.

Like the JeI itself, its student branch is particularly well organised and **each card-carrying member has his own responsibilities**: party current affairs, political propaganda and recruitment of new members, and so on, while some are **responsible for "protection of brothers"** and violence. **These latter's identities are not necessarily revealed to all the movement's activists**; this state of affairs helps explain that **complaints lodged against BICS activists for violence may well have a basis of truth, but may equally well be totally fabricated**<sup>49</sup>.

Nonetheless, like all JeI members, those belonging to its student branch **are highly politicised and know very well why they made this particular party their ideological choice**<sup>50</sup>.

45 Members of diplomatic representations in Dhaka; Adilur Rahman, lawyer at the Supreme Court, Secretary of Odhikar; Mahfuz Anam, Chief Editor and publisher of *The Daily Star* newspaper; Asif Nazrul, Professor of Law, University of Dhaka.

46 Asif Nazrul, Professor of Law, University of Dhaka

47 *Dhaka Tribune*, "BCL-Shibir face-off looms ahead at Rajshahi University", 24/08/2013.

48 Member of a diplomatic representation in Dhaka.

49 Newspaper journalist.

50 Asif Nazrul, Professor of Law, University of Dhaka.

### 1.4. The JSD

The JSD-Rob has very limited influence these days due to their low numbers of activists and sympathisers<sup>51</sup>. Adilur Rahman Khan expressed doubts as to students becoming members of the party; in his opinion, they would sooner opt for the BCL, BJCD or the Nagorik Oikya platform.

The JSD-Rob party now belongs to the *Jatiya Oikyo Udyog* alliance formed on the initiative of Abdul Rob, Mahmudur Rahman Manna (President of the Nagorik Oikya civic platform) and Dr Kamal Hossain (President of the Gonoforum) among others. The alliance, which was created in 2012, has entered the arena as a third political force.

With regard to the JSD-Inu, the party is a member of the political alliance led by the AL. Its President, Hasanul Haq Inu, is now Minister of Communication<sup>52</sup>.

51 Adilur Rahman Khan, lawyer at the Supreme Court, Secretary of Odhikar.

52 *Id.*



## 2. VICTIMS OF FALSE ACCUSATIONS AND MEANS OF REDRESS

**Please note:** The information on legal matters made use of in this report comes from our interlocutors. As it sometimes varied, it has, when possible, been corroborated from legal sources<sup>53</sup>.

Previous OFPRA/CNDA joint missions have already paid particular attention to the Bangladeshi phenomenon of false accusations, also known as “trumped-up charges”, “fallacious cases” and “spurious cases”<sup>54</sup>. The term “**false accusation**” as it is used here means a false accusation made against an individual in order to involve him in (usually penal) legal proceedings.

Exchanges with our interlocutors have enabled us to confirm the information collected by previous missions with regard to the **diversity of motives** behind such false accusations<sup>55</sup>, with a majority of criminal cases linked to land disputes<sup>56</sup>, around 70% according to the lawyer Emad Ullah Shahidul Islam.

Nonetheless, **political motives** seem to be ever more present: the mission team ascertained that **over a thousand legal proceedings were opened over recent months against individuals connected with the BNP or other parties belonging to the opposition coalition**, most of whom are currently in prison<sup>57</sup>.

**A victim's ability to defend himself effectively in such cases depends on his power and visibility**<sup>58</sup>. Beyond the strict framework of the legal system and penal procedure<sup>59</sup>, aspects that have already been fully covered by the previous mission reports of 2006 and 2011<sup>60</sup>, the mission team decided to question each of its interlocutors on **their perception of the phenomenon and its real implications for victims in view of the roles played by the main actors in such proceedings**.

### 2.1. The security forces' means of exerting pressure

Referring almost as a matter of course to the **First Information Report (FIR, complaint)** during our discussions on the question of false accusations, our interlocutors showed us **how easy it was for someone to use the FIR to their own ends** even though it formally initiates legal proceedings<sup>61</sup>.

#### 2.1.1. Initiating legal proceedings

In principle, it is easy to register a FIR at a police station<sup>62</sup> unless the FIR implicates somebody connected with a ruling political party, in which case, the police almost systematically refuse to register it<sup>63</sup>. Conversely, **90% of complaints registered at the initiative of the police**, often with the complicity of influential figures, have **political motives**<sup>64</sup>.

53 ZAHIRUL HUQ, *Law and Practice of Criminal Procedure*, Bangladesh Law Book Company, 14<sup>th</sup> edition, 2014, 1,272 pp.; Bangladeshi Penal Code; Bangladeshi Code of Penal Procedure; Regulation 246, Police Regulation Bengal, 1943, (volume 1); The Evidence Act of 1872: [http://bdlaws.minlaw.gov.bd/sections\\_detail.php?id=24&sections\\_id=5059](http://bdlaws.minlaw.gov.bd/sections_detail.php?id=24&sections_id=5059)

54 Such false accusations are also referred to as “*affaires mensongères*” (fallacious cases) in OFPRA, CRR, *Mission de l’Opra et de la CRR au Bangladesh: 25 septembre au 6 octobre 2005*, January 2006, p. 31 and “*affaires controuvées*” (spurious cases) in OFPRA, CNDA, April 2011, pp. 48-51, *op. cit.*

55 It might be a matter of criminals using their influence to lodge complaints against their victims in order to prevent the latter from lodging complaints against them in their turn in OFPRA, CRR, January 2006, p. 31, *op. cit.*; in cases of politically motivated killings in particular, the authorities may seek out scapegoats who as often as not have no connection with the crimes in question in order to protect the real guilty parties in OFPRA, CRR, January 2006, p. 32, *op. cit.*; it might be a way for unscrupulous individuals to obtain extra income, according to Kalpona Akhter, Managing Director, BCWS and Babul Akhter, President, BGIWF.

56 OFPRA, CNDA, April 2011, p. 49, *op. cit.*

57 Emad Ullah Shahidul Islam, lawyer and former President of the Sylhet District Bar Association; Mahbubuddin Khokon, Secretary General, BSCBA; *The Daily Observer*, “1,729 cases filed in 77 days of BNP violence, 20,915 arrested”, 26/03/2015.

58 Emad Ullah Shahidul Islam, lawyer and former President of the Sylhet District Bar Association; Mahbubuddin Khokon, Secretary General, BSCBA; Emran Chowdhury, former President of the Sylhet BJCD and joint convener of the Sylhet District BNP committee; Adilur Rahman Khan, lawyer at the Supreme Court, Secretary of Odhikar; a newspaper journalist; the 2005 mission report noted that “*the poorest sectors of the population were the first victims of arbitrary police behaviour in Bangladesh*” in OFPRA, CRR, January 2006, pp. 31-32, *op. cit.*

59 The Bangladeshi Code of Penal Procedure may be consulted online: [http://bdlaws.minlaw.gov.bd/pdf\\_part.php?act\\_name=&vol=IV&id=75](http://bdlaws.minlaw.gov.bd/pdf_part.php?act_name=&vol=IV&id=75)

60 In our interlocutors' opinion, the organisation, competences and attributions of courts have remained basically unchanged since OFPRA and the CNDA's last joint mission in Bangladesh, OFPRA, CNDA, April 2011, pp. 36-41, *op. cit.*

61 Emad Ullah Shahidul Islam, lawyer and former President of the Sylhet District Bar Association; Mahbubuddin Khokon, Secretary General, BSCBA; Emran Chowdhury, former President of the Sylhet BJCD and joint convener of the Sylhet District BNP committee; Adilur Rahman Khan, lawyer at the Supreme Court, Secretary of Odhikar; a newspaper journalist.

62 Articles 154, 155, 157 and 190 of the Bangladeshi Code of Penal Procedure: a victim, a witness, a judge or the security forces may initiate such a complaint; OFPRA, CNDA, April 2011, p. 44, *op. cit.*

63 Khandaker Mahbub Hossain and Mahbubuddin Khokon, respectively President and Secretary General, BSCBA.

64 Mahbubuddin Khokon, Secretary General, BSCBA.

- **A potential source of income and a means of exerting pressure**

Account taken of the implications for the person targeted (see below), **the very fact of being named in the FIR is a means of exerting pressure in itself**, which certain law enforcement officials may be tempted to employ. A number of our interlocutors explained that it was by no means impossible for a corrupt police officer to name several thousand suspects in a single FIR, giving him an opportunity to comb the region in search of vulnerable individuals to extort money from if they wanted to avoid criminal prosecution. Sums of 2,000 dollars or even as high as 500,000 TK (about 6,000 euros) were mentioned<sup>65</sup>.

In political cases, corrupt police officers rarely act alone, and may in their turn be made use of by influential figures seeking to neutralise an opponent. In such cases, the main objective, apart from the latter's fallacious implication in a FIR, is his arrest and imprisonment in order to neutralise him (see below)<sup>66</sup>.

- **Wide freedom of investigation**

Whatever the origin of a false accusation lodged with the police (third party, police officer, magistrate, etc.), it is processed as a **FIR**<sup>67</sup>, a document **signed by the police authorities, which are therefore its initial holders**<sup>68</sup>. Once the FIR has been drawn up and registered, the original must be transmitted to a judge with all speed (see below). **The police only keep a copy of the document**, and there is nothing to stop them supplying a further copy of it to any third party who asks<sup>69</sup>, even though Adilur Rahman Khan sees this as being hard to imagine in practice<sup>70</sup>. However, **the fact of the document being transmitted to a judge in no way means that the latter will have any real control over the investigation** that the police are getting ready to make<sup>71</sup>. It was also mentioned that if the **registers held by the police do not give rise to any communication on their part**, journalists may, in certain cases, be authorised to consult them for the needs of their articles<sup>72</sup>.

At this stage, the Officer in Charge of the Police Office (OC) and the Investigation Officer (IO) have the widest powers, and are thenceforward **key actors in the procedure, visible at local level and therefore known to the targeted individual**. It is they, more often than not, who are quoted in newspapers, interview witnesses and make arrests<sup>73</sup>.

#### 2.1.2. Powers of arrest and detention as sources of abuse

Freedom of investigation is not the only source of abuse: there is also the wide discretion left to the police with regard to arrest and detention.

- **Possible abuses with regard to arrests**

Individuals initiating false accusations are fully aware of the inner workings of penal procedures, in particular **the offences that do not require the police to obtain an arrest warrant in order to bring a suspect in for questioning**<sup>74</sup>.

In practice, therefore, **false accusations are often based on offences against public decency, sexual aggression, possession of drugs, illegal possession of weapons or murder, all of which are “cognizable offences”**<sup>75</sup>.

65 An advisor to Khaleda Zia; Adilur Rahman Khan, lawyer at the Supreme Court, Secretary of Odhikar; a newspaper journalist.

66 Mahbubuddin Khokon, Secretary General, BSCBA; a newspaper journalist; Adilur Rahman Khan, lawyer at the Supreme Court, Secretary of Odhikar.

67 Article 154 of the Bangladeshi Code of Penal Procedure; OFPRA, CNDA, April 2011, p. 45, *op. cit.*

68 Adilur Rahman Khan, lawyer at the Supreme Court, Secretary of Odhikar.

69 The Bangladeshi Code of Penal Procedure does not formally prohibit this. For details of rules governing copies of FIRs, see Regulation 246, Police Regulation Bengal, 1943, (volume 1)

70 Lawyer to the Supreme Court and Secretary of the Odhikar NGO.

71 It is only in certain cases provided for in the Bangladeshi Code of Penal Procedure that the police need formal authorisation from a judge in order to carry out an investigation; a *fortiori* monitoring of the investigation is carried out by the judge with regard to the specifics of related police activity, which are noted in a General Diary and a Case Diary, according to Adilur Rahman Khan, lawyer at the Supreme Court, Secretary of Odhikar; OFPRA, CNDA, April 2011, p. 4, *op. cit.*

72 A newspaper journalist.

73 Khandaker Mahbub Hossain and Mahbubuddin Khokon, respectively President and Secretary General, BSCBA; <http://www.police.gov.bd/>

74 These are “cognizable offences”, a list of which is available in S 156 of the Bangladeshi Code of Penal Procedure; OFPRA, CNDA, April 2011, p. 45, *op. cit.*; Emad Ullah Shahidul Islam, lawyer and former President of the Sylhet District Bar Association; Mahbubuddin Khokon, Secretary General, BSCBA; Emran Chowdhury, former President of the Sylhet BJCD and joint convener of the Sylhet district BNP committee; Adilur Rahman Khan, lawyer at the Supreme Court, Secretary of Odhikar; a newspaper journalist.

75 Mahbubuddin Khokon, Secretary General, BSCBA; details of all “cognizable offences” may be found appended to the Bangladeshi Code of Penal

Procedure; HUQ ZAHIRUL, *Law and Practice of Criminal Procedure*, Bangladesh Law Book Company, 14<sup>th</sup> edition, 2014, p. 1148.

As an example, Khandaker Mahbub Hossain, President of the BSCBA, told the delegation that he had been arrested without a warrant following a press conference in which he had taken part. He was accused of having thrown a Molotov cocktail at a train and having been at the head of a political march<sup>76</sup>.

Furthermore, the police still have discretionary powers with regard to arrests by virtue of such exceptional procedures as the Special Power Act and Speedy Trial Act<sup>77</sup>.

Arrests may be altogether arbitrary, account taken of the somewhat unclear terms in which the legal criteria governing them are couched<sup>78</sup>.

If the nature of the offence requires an **arrest warrant** in order to bring the suspect in for questioning, **the police themselves hold on to the original warrant until the arrest is made**<sup>79</sup>. At most, the suspect may be shown the warrant, but, according to a lawyer consulted by the mission team<sup>80</sup>, this is not done as a matter of course.

Once the suspect has been apprehended, **the original document is sent to the judge who signed it and kept in the jurisdiction's administrative files. It would therefore be hard to imagine that a suspect might find himself in legal possession of the original of a warrant made out for his arrest**<sup>81</sup>.

#### • Risks of ill treatment while in custody

If an individual wants at all costs to avoid being named in a FIR, it is because of **the risks incurred in being arrested and consequently held in custody by the police**<sup>82</sup>. It is at this stage in the procedure that there is **most risk of ill treatment**<sup>83</sup>. The ASK NGO noted **27 deaths while in custody during the first quarter of 2015**<sup>84</sup>.

The fact that it is theoretically possible to lodge complaints against such abuses does not appear to be enough to eradicate them altogether<sup>85</sup>.

It should also be noted that Bangladeshi law enables a person to apply for **anticipatory bail** when he is informed that he risks arrest. This special procedure, which is subject to a whole range of formal conditions (including the applicant being obliged to be physically present before a judge), may enable an individual **to avoid being taken into custody**<sup>86</sup>.

Although, **in principle, a suspect cannot be held in custody for more than 24 hours**<sup>87</sup>, the police may request a judge to extend the custody period for investigatory purposes, but also in order to extract a confession or put further pressure on the victim in order to extort money from him in exchange for a **request for bail**<sup>88</sup>.

Therefore, **an adversary's ability to make trouble largely depends on his connections with the police and his ability to use them to his own ends**, at least, in theory, until the judge steps in<sup>89</sup>.

<sup>76</sup> *The Daily Star*, "Khandaker Mahbub gets bail, shown arrested in another case", 23/01/2014.

<sup>77</sup> An interlocutor who does not wish to be named; OFPRA, CNDA, April 2011, p. 46, *op. cit.*

<sup>78</sup> A publication received from the NHRC sums up Sections 54 and 167 of the Bangladeshi Code of Penal Procedure, which confer exorbitant powers on the police allowing them to arrest individuals without a warrant simply on the basis of "reasonable suspicion"; NHRC, *Analysis of Decisions of the Higher Judiciary on Arrest and Detention in Bangladesh*, January 2013, p. 20; OFPRA, CNDA, April 2011, p. 45, *op. cit.*; OFPRA, CRR, January 2006, p. 32, *op. cit.*

<sup>79</sup> Emad Ullah Shahidul Islam, lawyer and former President of the Sylhet District Bar Association.

<sup>80</sup> Adilur Rahman Khan, lawyer at the Supreme Court, Secretary of Odhikar.

<sup>81</sup> *Id.*

<sup>82</sup> *Id.*

<sup>83</sup> Khandaker Mahbub Hossain and Mahbubuddin Khokon, respectively President and Secretary General, BSCBA; Adilur Rahman Khan, lawyer at the Supreme Court, Secretary of Odhikar; a newspaper journalist.

<sup>84</sup> [http://www.askbd.org/ask/wp-content/uploads/2015/04/death\\_law\\_enforcement\\_agency\\_march\\_2015.pdf](http://www.askbd.org/ask/wp-content/uploads/2015/04/death_law_enforcement_agency_march_2015.pdf)

<sup>85</sup> According to the Bangladesh Police Ordinance of 2007, it is possible to lodge a complaint with the Police Complaints Commission.

<sup>86</sup> Articles 497 and 498 of the Bangladeshi Code of Penal Procedure; OFPRA, CNDA, April 2011, p. 42, *op. cit.*; *The Right of getting bail of an arrested person in Bangladesh - A Legal study of theories and Practice*, Beijing Law Review, vol. 5, No. 1, 03/2014, pp. 41 and 42.

<sup>87</sup> OFPRA, CNDA, April 2011, pp. 45-46, *op. cit.*; Khandaker Mahbub Hossain and Mahbubuddin Khokon, respectively President and Secretary General, BSCBA, called to mind two High Court judgements dating back to 2003, in which the court handed down procedural guarantees with regard to custody in complement to the Bangladeshi Code of Penal Procedure. According to them, these rulings are not applied; *New Age*, "No end to remand, torture in custody", 11/03/2015.

<sup>88</sup> Khandaker Mahbub Hossain and Mahbubuddin Khokon, respectively President and Secretary General, BSCBA, called to mind two High Court judgements dating back to 2003, in which the court handed down procedural guarantees with regard to custody in complement to the Bangladeshi Code of Penal Procedure. According to them, these rulings are not applied; *New Age*, "No end to remand, torture in custody", 11/03/2015, *art. cit.*

<sup>89</sup> Khandaker Mahbub Hossain and Mahbubuddin Khokon, respectively President and Secretary General, BSCBA.

## 2.2. Frequently late intervention on the part of judges

Trumped-up or well-founded charges? As the lawyer Emad Ullah Shahidul Islam pointed out, it was the judge's job rather than anyone else's to decide that issue.

So one should not jump to the overhasty conclusion that justice is never served in Bangladesh: in some cases, justice is done with full impartiality<sup>90</sup>.

However, in cases with a political side to them, the situation would seem to differ considerably<sup>91</sup>.

### 2.2.1. Continuing subordination to political power

The question of judges' independence is by no means unrelated to the false accusation phenomenon, especially when political motives are in the air<sup>92</sup>. **In practice, the government has too much control over the appointment, posting and promotion of judges**<sup>93</sup>, confirming the observations made during previous missions<sup>94</sup>.

As an example, the Bangladesh Supreme Court Bar Association (BSCBA), in collaboration with the Chief Justice, used to be consulted prior to appointment of judges, so enabling "politically neutral" judges to be identified. These days, however, the Prime Minister alone has power of appointment. He sends the list of judges to be appointed direct to the Chief Justice, who sends it back to the Prime Minister, who in turn has it approved by the President<sup>95</sup>. This practice led some of our interlocutors<sup>96</sup> to conclude that the High Court and Appellate Division are totally politicised<sup>97</sup>.

In addition, according to a lawyer consulted during the course of the mission<sup>98</sup>, any lawyer at the Supreme Court may be appointed judge after ten years' membership of the BSCBA, even though he may not necessarily have practised during the period. A degree of political cronyism therefore becomes all too possible.

Similarly, although in principle a judge is appointed for a three- to five-year period<sup>99</sup>, he can be transferred every three months if the ruling power considers him to be a "non-cooperative" element<sup>100</sup>.

This being so, in cases of politically motivated false accusations, a judge's intervention in the criminal proceedings may turn out to be useless or even harmful from the victim's point of view.

### 2.2.2. Late monitoring of the validity of accusations

As previously mentioned (see above), the Code of Penal Procedure lays down that, following police registration of a FIR, the original document must be sent to a competent magistrate within 24 hours<sup>101</sup>. **A case file is then formally opened at the court and a number assigned to it** (*General Registered case number*)<sup>102</sup>. The file is intended to hold procedural documents bearing on such matters as extension of remand or transfer of a suspect from custody to judicial custody. The magistrate also decides on the court competent to try the case in question (the Magistrate's Court or Court of Sessions in particular).

However, **the judge's real involvement in proceedings often comes too late**. In spite of everything, due to the importance of this particular actor in the judicial procedure, **it is hard to imagine that an arrested individual would not know the identity of the judge overseeing his case at this stage in the procedure**<sup>103</sup>.

<sup>90</sup> A high-ranking dignitary with close ties to the AL; an advisor to Khaleda Zia.

<sup>91</sup> Imtiaz Ahmed, Professor of International Relations, University of Dhaka; a high-ranking dignitary with close ties to the AL; an advisor to Khaleda Zia; Adilur Rahman Khan, lawyer at the Supreme Court, Secretary of Odhikar.

<sup>92</sup> A situation that the government also exploits by freezing cases against its supporters to the detriment of those involving opposition party members; Odhikar, *Annual Report 2012*, 12/01/2013, pp. 172-173

<sup>93</sup> Khandaker Mahbub Hossain and Mahbubuddin Khokon respectively President and Secretary General, BSCBA; Imtiaz Ahmed, Professor of International Relations, University of Dhaka; an advisor to Khaleda Zia; Asian Legal Resource Centre, pp. 2-3, *op. cit.*

<sup>94</sup> OFPRA, CRR, January 2006, pp. 84 and 137, *op. cit.*; OFPRA, CNDA, April 2011, pp. 40-41, *op. cit.*

<sup>95</sup> Adilur Rahman Khan, lawyer at the Supreme Court, Secretary of Odhikar.

<sup>96</sup> *Id.*; Khandaker Mahbub Hossain and Mahbubuddin Khokon respectively President and Secretary General, BSCBA.

<sup>97</sup> International Crisis Group, *Mapping Bangladesh's Political Crisis*, 09/02/2015, pp. 14-16.

<sup>98</sup> Adilur Rahman Khan, lawyer at the Supreme Court, Secretary of Odhikar.

<sup>99</sup> According to Emad Ullah Shahidul Islam, lawyer and former President of the Sylhet District Bar Association, an up-to-date list of the various magistrates in office in a district at any given time may be obtained via District Bar Associations. For further information, see the Bangladesh Judicial Service Commission website <http://www.jscbd.org.bd/>

<sup>100</sup> Adilur Rahman Khan, lawyer at the Supreme Court, Secretary of Odhikar.

<sup>101</sup> Article 157

<sup>102</sup> Khandaker Mahbub Hossain and Mahbubuddin Khokon, respectively President and Secretary General, BSCBA.

<sup>103</sup> A newspaper journalist; Khandaker Mahbub Hossain and Mahbubuddin Khokon respectively President and Secretary General, BSCBA.

- **Remand**

At the end of 24 hours in custody, the suspect must be taken before a judge (see above). In cases of false charges being made, and particularly if their aim is to neutralise somebody, conniving police authorities seek to be able to keep the suspect in detention. According to our interlocutors, in such situations, referral of the case means that the judge has to decide whether to remand the suspect on bail, remand him in police custody or remand him in prison custody<sup>104</sup>.

In principle, an individual placed in police custody may only apply for bail if the offence for which he has been arrested is a bailable offence<sup>105</sup>. **This is why the victim to be neutralised is often implicated in non-bailable offences**<sup>106</sup>.

**In practice**, and especially when false accusations are politically motivated, **it is extremely difficult to obtain bail**<sup>107</sup>, largely due to the political pressure that many judges are exposed to<sup>108</sup>.

According to one of Khaleda Zia's advisors, even in lower courts it is not unusual for the judicial authorities to receive appeals direct from highly-placed political figures. Bail applications in cases connected with the January 2015 *hartals* were not even glanced at by Dhaka's magistrates<sup>109</sup>.

Adilur Rahman Khan<sup>110</sup> stated that he was only able to get bail because he was a lawyer at the Supreme Court. According to him, most people involved in politically motivated cases stay in detention. The lawyer and former Deputy Mahbubuddin Khokon said that he had spent seven days in prison and been arrested twice in a row without being able to obtain bail because the case was politically motivated<sup>111</sup>.

- **Processing periods turned to advantage**

As **judges generally grant requests for extension of detention of suspects**<sup>112</sup>, a suspect may be deprived of his freedom for weeks or even months on end, sometimes without ever finally being put on trial. In such cases, the police must present the judge with a Final Report<sup>113</sup>.

In practice, independent of the admissibility of evidence against the suspect, it can take an extremely long time for an arrested individual to finally stand trial. As an example, in one provincial court where there were over 1,000 cases pending, it could take 5 or 6 years before formal opening of a trial<sup>114</sup>. In January 2012, over 1,374,000 criminal cases were pending in Bangladesh<sup>115</sup>.

104 Emad Ullah Shahidul Islam, lawyer and former President of the Sylhet District Bar Association; a newspaper journalist.

105 To find out the situation for each criminal offence, see the appendices to the Bangladeshi Code of Penal Procedure; SHAHIDUL ISLAM, GOLAM MOULA, 03/2014, pp. 34-48, *op. cit.*; OFPRA, CNDA, 04/2011, pp. 47-48, *op. cit.*

106 Emad Ullah Shahidul Islam, lawyer and former President of the Sylhet District Bar Association; an individual connected with the Awami League.

107 Dildar Hossain Selim, former Deputy and joint convener of the Sylhet District BNP committee; Emran Chowdhury, former President of the Sylhet BJCD and joint convener of the Sylhet District BNP committee; members of diplomatic representations in Dhaka.

108 An individual connected with the AL.

109 Odhikar, *Human Rights Monitoring Report, February 1-28, 2015*, 01/03/ 2015, p. 11

110 Lawyer at the Supreme Court, Secretary of Odhikar.

111 *The Daily Star*, "BNP MPs Khokon, Shammi denied bail", 19/01/2014

112 Khandaker Mahbub Hossain and Mahbubuddin Khokon, respectively President and Secretary General, BSCBA.

113 OFPRA, CNDA, April 2011, p. 46, *op. cit.*

114 A newspaper journalist.

115 Odhikar, *Odhikar, Annual Report 2012 - 12 January 2013*, p. 278

### The specificities of a trial in absentia

**In certain cases, relatively unusual in practice** according to a criminal lawyer<sup>116</sup>, a judge may convict an accused in his absence<sup>117</sup> – a procedure known as *in absentia*<sup>118</sup>. Conversely, if the fugitive **is the only person named in the charge sheet**, the procedure usually remains at a standstill until he is arrested<sup>119</sup>.

- **Conditions for a trial in absentia**

Before a suspect can be regarded as absconding, the authorities must comply with a number of procedural rules. If a judge considers that a person named in an arrest warrant has fled, he must ensure that a **"Proclamation" is posted** in various places, including the accused's last known place of residence<sup>120</sup>. If the police still do not manage to make an arrest, they can obtain an **Order of seizure of property** from the judge<sup>121</sup>. Other means of exerting pressure were also mentioned, including ill treatment of the accused's family and friends<sup>122</sup>.

In the event that all such measures prove ineffective, the magistrate has a subpoena published in at least two Bengali-language national daily newspapers<sup>123</sup>. In cases of *in absentia* procedures, details of all abovementioned procedural documents must be included in the Order Sheet contained in the administrative case file, along with details of all measures taken by the authorities to find the accused<sup>124</sup>.

- **Restricted rights**

**In principle, a fugitive has no right to legal representation in his absence**<sup>125</sup>. However, if **he risks the death sentence**, the State is **obliged** to appoint a public defender to represent him<sup>126</sup>. The absent accused has no right to representation by a lawyer of his choice<sup>127</sup>.

Another exception: if the accused becomes a fugitive **after** proceedings have been brought and was previously represented by a lawyer, he may in principle continue to be represented by that lawyer<sup>128</sup>. However, if a fugitive gives himself up to the authorities before the trial is due to start, he cannot be released on bail<sup>129</sup>.

**Access to legal documents is also restricted**. According to a criminal lawyer, in the special case of a trial in absentia, Certified Copies of procedural documents may only be obtained **once the fugitive is in the hands of the authorities**<sup>130</sup>.

Nonetheless, in the event of several individuals being charged in the same case, it may be possible for the fugitive to contact one of his co-defendants' lawyers and legally obtain a copy of a Certified Copy from him<sup>131</sup>. Of course, his success in so doing would suggest he had close ties with the co-defendant concerned<sup>132</sup>.

**In addition, in the event of a conviction being obtained in such a procedure, if the fugitive has still not given himself up, he may not appeal against his conviction**<sup>133</sup>.

The above observations should not lead to hasty conclusions being drawn as to the role corruption plays, in particular in political cases<sup>134</sup>.

116 Emad Ullah Shahidul Islam, lawyer and former President of the Sylhet District Bar Association.

117 *The Daily Star*, "Khilgaon OC jailed for torturing DU student", 17/05/2015.

118 Articles 87, 88 and 339B of the Bangladeshi Code of Penal Procedure.

119 Mahbubuddin Khokon, Secretary General, BSCBA.

120 Article 87 of the Bangladeshi Code of Penal Procedure.

121 Emad Ullah Shahidul Islam, lawyer and former President of the Sylhet District Bar Association; Article 88 of the Bangladeshi Code of Penal Procedure.

122 An advisor to Khaleda Zia; Emad Ullah Shahidul Islam, lawyer and former President of the Sylhet District Bar Association.

123 Mahfuz Anam, Chief Editor and publisher of *The Daily Star* newspaper; a newspaper journalist; Emad Ullah Shahidul Islam, lawyer and former President of the Sylhet District Bar Association.

124 Emad Ullah Shahidul Islam, lawyer and former President of the Sylhet District Bar Association.

125 Mahbubuddin Khokon, Secretary General, BSCBA.

126 Adilur Rahman Khan, avocat près de la Cour suprême, secrétaire d'Odhikar; Mahbubuddin Khokon, secrétaire général, BSCBA; HUQ ZAHIRUL, *Law and Practice of Criminal Procedure*, pp. 598-600, *op. cit.*

127 Emad Ullah Shahidul Islam, lawyer and former President of the Sylhet District Bar Association.

128 Adilur Rahman Khan, lawyer at the Supreme Court, Secretary of Odhikar.

129 Mahbubuddin Khokon, Secretary General, BSCBA.

130 Emad Ullah Shahidul Islam, lawyer and former President of the Sylhet District Bar Association.

131 *Id.*

132 Mahbubuddin Khokon, Secretary General, BSCBA.

133 Emad Ullah Shahidul Islam, lawyer and former President of the Sylhet District Bar Association; HUQ ZAHIRUL, p. 600, *op. cit.*

134 Mahbubuddin Khokon, Secretary General, BSCBA.

70% of those remanded in custody in Bangladeshi prisons are in pre-trial detention. It is only when the police decide to initiate legal proceedings against a suspect (in which case they must present the judge with a Charge Sheet) that the judge actually takes over the case and decides whether or not to refer the accused to a particular court for trial.

The following statement by a lawyer summarises the observations made during the mission:

“The outcome of a politically motivated case depends 50% on who is behind the accusations and which judge is presiding, 25% on the possible existence of instructions from the ruling power, and 25% on the rule of law”.

A falsely accused individual's ability to enlist the help of family and friends and obtain the services of a lawyer would therefore seem crucial to his cause.

### 2.3. Limited defence capacities

In the face of its findings with regard to the high numbers of false accusations made, especially for political motives, **the mission sought to better identify actors likely to come to victims' aid.** Although the services of a lawyer would appear essential, they are not within most people's reach<sup>135</sup>.

Whatever the case, activating one's network of personal relations (with the family circle first in line) along with human rights defence organisations should at the least prove helpful.

#### 2.3.1. Intercession by lawyers

When asked to comment on the lawyer's role in proceedings based on false accusations, our interlocutors emphasised the way in which lawyers in their turn could be subjected to political pressure.

- **Inevitable politicisation of the legal profession**

Lawyers on the country's Bar Association executive committees are elected by their peers and almost as a matter of course represent one or more opposition parties<sup>136</sup>. Such ad hoc rallying should ensure members of the profession a degree of protection, in particular in the context of politically motivated cases<sup>137</sup>.

- **No lawyer present during the custody period**

Such possible political pressure is compounded by the fact that lawyers are not present during a client's period of remand in police custody, even though the latter is particularly vulnerable at this stage of the procedure (see above)<sup>138</sup>.

By virtue of the Bangladeshi Constitution, **any person in custody has the right to consult and be represented by a lawyer of his choice**<sup>139</sup>; however, according to a criminal lawyer, in practice, the police try to prevent their doing so<sup>140</sup>.

Although there is ongoing national advocacy for a lawyer's presence during the custodial period, lawyers are usually unwilling to be seen going into police stations for fear of being suspected of collusion with the authorities<sup>141</sup>.

**As a result, the courtroom is the first place in which a lawyer usually meets the client** whose freedom he has to obtain as quickly as he is able<sup>142</sup>.

<sup>135</sup> An individual connected with AL.

<sup>136</sup> An advisor to Khaleda Zia; Dildar Hossain Selim, former Deputy and joint convener of the Sylhet district BNP committee; Emran Chowdhury, former President of the Sylhet BJCD and joint convener of the Sylhet District BNP committee; Mahbubuddin Khokon, Secretary General, BSCBA; Adilur Rahman Khan, lawyer at the Supreme Court, Secretary of Odhikar.

<sup>137</sup> Asian Legal Resource Centre, *Written statement submitted by the Asian Legal Resource Centre, a non-governmental organization in general consultative status; BANGLADESH: Judiciary undermines its own independence [26 May 2014] [A/HRC/26/NGO/45]*, 06/06/2014, p. 4.

<sup>138</sup> A newspaper journalist; Emad Ullah Shahidul Islam, lawyer and former President of the Sylhet District Bar Association; Khandaker Mahbub Hossain and Mahbubuddin Khokon, respectively President and Secretary General, BSCBA.

<sup>139</sup> Article 33 of the Constitution of the People's Republic of Bangladesh; British High Commission Consular Section and British High Commission, *Information for British Nationals imprisoned in Bangladesh, Sylhet, 02/12/2013*, p. 5.

<sup>140</sup> Mahbubuddin Khokon, Secretary General, BSCBA.

<sup>141</sup> Emad Ullah Shahidul Islam, lawyer and former President of the Sylhet District Bar Association; *New Age*, 11/03/2015, *art. cit.*

<sup>142</sup> Adilur Rahman Khan, lawyer at the Supreme Court, Secretary of Odhikar; Emad Ullah Shahidul Islam, lawyer and former President of the Sylhet District Bar Association; Mahbubuddin Khokon, Secretary General, BSCBA.

- **Heavy costs**

The delegation wished to obtain more information<sup>143</sup> on the ways a lawyer is selected by his client. In this regard, it was emphasised that **a lawyers' services, especially those of one specialising in criminal law, are extremely expensive**, which first of all deprives the most vulnerable defendants, who often have no resources to draw on, of the help they require<sup>144</sup>.

In practice, a privately hired lawyer requires an advance corresponding to an estimate of the total fees for his services<sup>145</sup>, a sum which may be as much as 200,000 TK (about 2,276 euros)<sup>146</sup>, even before he takes formal charge of the case<sup>147</sup>.

- **Selecting a lawyer**

There are currently some 50,000 practising lawyers in Bangladesh's 64 districts<sup>148</sup>, including 1,400 in Sylhet<sup>149</sup>.

**The choice of a lawyer is determined by his reputation, and often by his connections with the family circle**<sup>150</sup>. A lawyer may only practise if he is a member of a Bar Association, which can easily be checked by consulting the directory, often accessible via Internet. He will also be able to produce a Bangladesh Bar Council<sup>151</sup> Admit Card and/or Registration Card.

The Bangladesh Bar Council ([http://bangladeshbarcouncil.org/index.php?menu\\_id=53&exmenu=53](http://bangladeshbarcouncil.org/index.php?menu_id=53&exmenu=53)), at which every lawyer must take an examination in order to obtain a certificate of aptitude to practise the profession of Advocate, can confirm whether or not a lawyer is included in its registers.

Similarly, and as an example, it is possible to consult the Sylhet District Bar Association's directory, which is updated annually: [http://www.sylhetbar.com/members/full\\_list\\_members](http://www.sylhetbar.com/members/full_list_members). In addition, any practising lawyer, especially in major urban areas, will carry a professional identity card<sup>152</sup>. If not, he will have a visiting card as proof of his profession, in so far as he will usually have a reputation locally<sup>153</sup>.

- **Limited financial aid from the State**

As previously mentioned, lack of financial resources can be a very real problem for the poorest individuals in need of a lawyer. The 15,000 or so opposition party activists<sup>154</sup> currently biding their time in prison must count on their parties to provide finance<sup>155</sup>. But provision of such aid is far from being a matter of course, in particular in the cases of those that are no more than activists, although, in our interlocutors' opinion, **such individuals are by far the most likely to be tortured**<sup>156</sup>.

There are a few lawyers who, exceptionally, may decide to put their good name at an impoverished client's service<sup>157</sup>.

**Public defenders** are rarely made available to accused parties – as is confirmed by a British High Commission report<sup>158</sup> – but, in an interlocutor's opinion<sup>159</sup>, can easily be manipulated to serve political ends.

<sup>143</sup> For a general presentation of the profession, see OFPRA, CNDA, April 2011, p. 14, *op. cit.*

<sup>144</sup> Md Shahinuzzaman, lawyer; OFPRA, CRR, January 2006, p. 85, *op. cit.*

<sup>145</sup> Adilur Rahman Khan, avocat près la Cour suprême, secrétaire d'Odhikar; British High Commission Consular Section and British High Commission, 02/12/2013, p. 5, *op. cit.*

<sup>146</sup> Khandaker Mahbub Hossain and Mahbubuddin Khokon, respectively President and Secretary General, BSCBA.

<sup>147</sup> British High Commission Consular Section and British High Commission, 02/12/2013, p. 5, *op. cit.*

<sup>148</sup> Khandaker Mahbub Hossain and Mahbubuddin Khokon, respectively President and Secretary General, BSCBA.

<sup>149</sup> Emad Ullah Shahidul Islam, lawyer and former President of the Sylhet District Bar Association.

<sup>150</sup> Dilip Kumar Das Chowdhury, lawyer and Principal of the Hindu Sanskrit College, Sylhet; Emad Ullah Shahidul Islam, lawyer and former President of the Sylhet District Bar Association.

<sup>151</sup> Khandaker Mahbub Hossain and Mahbubuddin Khokon, respectively President and Secretary General, BSCBA; Emad Ullah Shahidul Islam, lawyer and former President of the Sylhet District Bar Association.

<sup>152</sup> Khandaker Mahbub Hossain and Mahbubuddin Khokon, respectively President and Secretary General, BSCBA.

<sup>153</sup> Emad Ullah Shahidul Islam, lawyer and former President of the Sylhet District Bar Association.

<sup>154</sup> Figure supplied by an advisor to Khaleda Zia.

<sup>155</sup> Dildar Hossain Selim, former Deputy and joint convener of the Sylhet District BNP committee; a newspaper journalist.

<sup>156</sup> An advisor to Khaleda Zia; Dildar Hossain Selim, former Deputy and joint convener of the Sylhet District BNP committee; Emran Chowdhury, former President of the Sylhet BJCD and joint convener of the Sylhet District BNP committee; Mahfuz Anam, Chief Editor and publisher of *The Daily Star* newspaper.

<sup>157</sup> Khandaker Mahbub Hossain and Mahbubuddin Khokon, respectively President and Secretary General, BSCBA.

<sup>158</sup> British High Commission Consular Section and British High Commission, 02/12/2013, p. 5, *op. cit.*

<sup>159</sup> Adilur Rahman Khan, avocat près la Cour suprême, secrétaire d'Odhikar.

**In the vast majority of cases, legal aid enables defendants without financial resources to obtain the services of a lawyer.** However, as was emphasised in the previous mission report<sup>160</sup>, there is little transparency with regard to allocation of such aid<sup>161</sup>, especially in cases with political connotations<sup>162</sup>.

**Consequently, defendants may turn for help to NGOs specialising in financing access to justice, such as BLAST and ASK<sup>163</sup>.**

- **Lawyers' access to procedural documents**

No matter how he is assigned to a client, a lawyer has to carry out various formalities before he is authorised to act on his client's behalf, the first being **signature of a mandate authorising him to act in respect of all legal proceedings on behalf of his client** – a document referred to as a **Vokalatnama** or **Blue sheet**<sup>164</sup> by members of the legal profession.

Once provided with the mandate, a lawyer can, among other things, consult his client's case file after obtaining the judge's consent so to do. As non-compliance with the formal requirements bearing on the originals of procedural documents may be brought up during a trial, lawyers always take great care over the quality of certified copies<sup>165</sup>.

### Certified copies

Unlike a simple copy or copy certified by a third party (often a *Notary Public*), **only a Certified Copy is accepted as a guaranteed authentic and complete copy of a legal document**<sup>166</sup>. Certified copies are usually typed, but may also be handwritten<sup>167</sup>. They meet strict formal criteria<sup>168</sup> and must be absolutely identical to the original, including any "typos" the latter might contain<sup>169</sup>.

- **Certified copies, forged documents and misappropriated authentic documents**

Like other official documents<sup>170</sup>, legal documents may be misused<sup>171</sup>. It may be a matter of **false documents forged** in Bangladesh or elsewhere<sup>172</sup>, meaning in practice that whoever makes use of them cannot be implicated in a case because there is none. **Authentic documents may also be misused**. Unlike their forged counterparts, such documents usually bear on an existing procedure but may be used by somebody taking over a third party's identity<sup>173</sup>.

As an example of this, one of our interlocutors told us of a case (a highly unusual one in his opinion) in which an individual was taken into custody by the Sylhet police on the basis of an arrest warrant. However, a check carried out by the judicial authorities revealed that the arrest warrant had actually been forged (for an unspecified motive) and that the case number on the document did not refer to any existing case. The victim was immediately set free<sup>174</sup>.

In the absence of centralised registers and digitalisation of procedures in Bangladesh, **checking at source**, i.e. consulting registers held by a jurisdiction, is the preferred way of establishing such documents' authenticity<sup>175</sup>. Nonetheless, our interlocutors emphasised that accumulation of several indications was of equal use in ensuring whether a certified copy was authentic or otherwise, including the document's compliance with the rules as to form provided for by law, the Code of Penal Procedure in particular, knowledge of the procedure's context and the main actors involved (FIR author, Officer in Charge, judge appointed to the case, co-defendants, etc.) that the holder can avail himself of, as well as the legal and practical possibility of communicating the document (see above)<sup>176</sup>.

- **Methods of obtainment**

In order to be able to defend his client, a lawyer may in principle and at any time during the judicial procedure, obtain certified copies of documents in his client's case file, such as FIR, Charge Sheet, list of witnesses, evidence list and so on. To do this, he has to go to the jurisdiction concerned's Copy Section, after obtaining the judge's approval and paying for the required fiscal stamp<sup>177</sup>. However, especially in political cases, **he may well meet with refusal**<sup>178</sup>.

- **Convictions**

Although the Bangladeshi Code of Penal Procedure is somewhat vague as to ways of communicating criminal procedure documents, **specific provisions govern notifications of conviction**. In principle, on the day of sentencing, the judge reads out the sentence in open court in the presence of the accused, and a certified copy may be obtained by the defence lawyer<sup>179</sup>.

<sup>160</sup> OFPRA, CNDA, April 2011, p. 48, *op. cit.*

<sup>161</sup> Khandaker Mahbub Hossain and Mahbubuddin Khokon, respectively President and Secretary General, BSCBA; Adilur Rahman Khan, lawyer at the Supreme Court, Secretary of Odhikar.

<sup>162</sup> Adilur Rahman Khan, lawyer at the Supreme Court and Secretary of Odhikar indicated that legal aid funds are allocated to each Bangladeshi Bar Association and that a district judge chairs the allocation committee. In as far as the Chief Justice presides over the legal aid system (see the Bangladesh Legal Aid Organization Act), political pressure cannot be ruled out.

<sup>163</sup> A newspaper journalist; Kalpona Akhter, Managing Director, BCWS; Babul Akhter, President, BGIWF.

<sup>164</sup> Khandaker Mahbub Hossain and Mahbubuddin Khokon, respectively President and Secretary General, BSCB; Adilur Rahman Khan, lawyer at the Supreme Court, Secretary of Odhikar.

<sup>165</sup> Emad Ullah Shahidul Islam, lawyer and former President of the Sylhet District Bar Association.

<sup>166</sup> *Id.*

<sup>167</sup> Mahbubuddin Khokon, Secretary General, BSCBA.

<sup>168</sup> *Id.*; OFPRA, CRR, January 2006, p. 152, *op. cit.*; Section 76 ff of the Evidence Act of 1872

<sup>169</sup> Emad Ullah Shahidul Islam, lawyer and former President of the Sylhet District Bar Association.

<sup>170</sup> Dilip Kumar Das Chowdhury, lawyer and Principal of the Hindu Sanskrit College, Sylhet, told us he had received a request for authentication of a document which contained neither his stamp nor his signature and whose content had been composed by a third party. Kalpona Akter (Managing Director of BCWS) mentioned how she had been harassed by members of a family for whom she had refused to deliver a false attestation with her NGO's letterhead.

<sup>171</sup> Members of a diplomatic representation in Dhaka; Emad Ullah Shahidul Islam, lawyer and former President of the Sylhet District Bar Association; Dilip Kumar Das Chowdhury, lawyer and Principal of the Hindu Sanskrit College, Sylhet; Adilur Rahman Khan, lawyer at the Supreme Court, Secretary of Odhikar; Khandaker Mahbub Hossain and Mahbubuddin Khokon, respectively President and Secretary General, BSCBA.

<sup>172</sup> OFPRA, CNDA, April 2011, p. 51, *op. cit.*; Le Figaro, "Paris: filière démantelée (faux documents)", 18/04/2013; Le Parisien, "Une filière de faux réfugiés politiques bangladais démantelée" 07/04/2012.

<sup>173</sup> Dilip Kumar Das Chowdhury, lawyer and Principal of the Hindu Sanskrit College, Sylhet; Emad Ullah Shahidul Islam, lawyer and former President of the Sylhet District Bar Association.

<sup>174</sup> Dilip Kumar Das Chowdhury, lawyer and Principal of the Hindu Sanskrit College, Sylhet.

<sup>175</sup> A newspaper journalist.

<sup>176</sup> Dilip Kumar Das Chowdhury, lawyer and Principal of the Hindu Sanskrit College, Sylhet; Emad Ullah Shahidul Islam, lawyer and former President of the Sylhet District Bar Association.

<sup>177</sup> Mahbubuddin Khokon, Secretary General, BSCBA; OFPRA, CRR, January 2006, p. 152, *op. cit.*

<sup>178</sup> Adilur Rahman Khan, lawyer at the Supreme Court, Secretary of Odhikar; according to an individual with close ties to the Awami League, these refusals could take such forms as claimed absence of the judge's authorisation and insufficient time given.

<sup>179</sup> Article 366 of the Bangladeshi Code of Penal Procedure.

### 2.3.2. Activating one's network

In addition to obtaining the services of a lawyer, the victim of a false accusation may be freed or at least escape ill treatment while in custody by getting his family and friends, the press, or human rights defence organisations to take action on his behalf<sup>180</sup>.

- **The role of the family circle and acquaintances**

Depending on a victim's specific case and profile, he may start by seeking help from his **family circle**<sup>181</sup>. It is often they who **pay the police in order to avoid any possible ill treatment** in the event of his being placed in custody<sup>182</sup>.

**Recourse to influential individuals**, political figures in particular (Chairmen or local representatives of political parties, etc.), may also prove essential.

As an example, a prominent Hindu from Sylhet explained that, when potential victims were brought to his knowledge, he could use his influence as a lawyer and college principal to contact the Deputy Commissioner or Police Commissioner. In some cases, he could also approach other civil servants to inform them of the case in question<sup>183</sup>.

- **Calling on the media**

Several hundred daily newspapers are published in Bangladesh and over a thousand weeklies<sup>184</sup>. Among the leading dailies, *Prothom Alo* (in Bengali and English) and *The Daily Star* (in English) were both cited by many of our interlocutors<sup>185</sup>.

The national press plays a major role in Bangladesh, where it has earned the respect of the population, who generally see it as sympathetic to their concerns and ready to denounce injustice. This is not so true of **local newspapers, which usually only seek to serve the political and economic interests of their owners and whose articles may be far from trustworthy**<sup>186</sup>.

A number of our interlocutors stated that, by keeping the press informed, **crime reporters** in particular when their articles are well researched and argued, they often manage to block criminal operations<sup>187</sup>.

However, one of Khaleda Zia's advisors *strongly qualified* this assertion, estimating that these days, when journalists try to cover a "political" case, whether in Dhaka or the provinces, they may be intimidated or even killed<sup>188</sup>, so limiting their ability to protect potential victims.

In principle, trials are held in open court, enabling reporters to cover them in detail. However, in sensitive cases, especially those with political aspects, journalists may be stopped from entering the courtroom<sup>189</sup>.

- **Recourse to human right defence organisations**

Finally, our interlocutors<sup>190</sup> asserted that it could often be a good idea for a victim of false accusations to make his case public by appealing to **a human rights organisation**, whether governmental (NHRC) or otherwise (ASK, Odhikar, BLAST, etc.).

The **National Human Rights Commission (NHRC)** is an independent institution set up in 2007 under the interim government and whose articles of association underwent modification in 2010. It focuses on promotion and protection of human rights at national level, with a mandate enabling it to investigate any human rights violation it is informed of and issue proposals to the authorities. It is made up of six members, three of them women, and includes two representatives of ethnic minorities<sup>191</sup>. Their help may be requested by any individual, association or organisation via an online form: <http://complaint.nhrc.org.bd/><sup>192</sup>.

From an institutional point of view, the **NHRC** can involve itself in defence of victims' rights, on condition however **that legal proceedings have not yet been formally instigated, so robbing them of jurisdiction**<sup>193</sup>. In such cases, the most the NHRC can do is inform its interlocutors of its knowledge of the case and that it is monitoring it, acting to exert moral pressure. However, given the Commission's limited material capacities, it has only been able to take effective action in a few cases<sup>194</sup>.

Such human rights NGOs as Odikhar, ASK and BLAST are essential actors in civil society. However, as regards politically motivated cases, our interlocutors had little positive to say: **fewer than 1% of victims of false accusations obtain help from such organisations**<sup>195</sup>.

180 Dilip Kumar Das Chowdhury, lawyer and Principal of the Hindu Sanskrit College, Sylhet; Emad Ullah Shahidul Islam, lawyer and former President of the Sylhet District Bar; a newspaper journalist.

181 Khandaker Mahbub Hossain and Mahbubuddin Khokon, respectively President and Secretary General, BSCBA

182 Adilur Rahman Khan, lawyer at the Supreme Court, Secretary of Odhikar.

183 Dilip Kumar Das Chowdhury, lawyer and Principal of the Hindu Sanskrit College, Sylhet.

184 Mahfuz Anam, Chief Editor and publisher of *The Daily Star*.

185 Adilur Rahman Khan, lawyer at the Supreme Court, Secretary of Odhikar; representatives of the Kapaeeng Foundation; Kalpona Akhter, Managing Director, BCWS; Babul Akhter, President, BGIWF.

186 Mahfuz Anam, Chief Editor and publisher of *The Daily Star*; local journalist, audiovisual media manager.

187 Khandaker Mahbub Hossain and Mahbubuddin Khokon, respectively President and Secretary General, BSCBA; a newspaper journalist.

188 Mahfuz Anam, Chief Editor of *The Daily Star* newspaper related the recent case of a journalist who had been tortured and falsely charged with several offences because he had covered incidents of corruption and abuse of power involving local officials; *Committee to protect Journalists* "CPJ concerned by arrest of Bangladeshi journalist and his treatment in custody", 01/04/2015.

189 A newspaper journalist.

190 OFPRA-CRR, January 2006, pp. 32-33,

191 Mizanur Rahman, lawyer and President, NHRC.

192 *Id.*; Representatives of the Kapaeeng Foundation.

193 Mizanur Rahman, lawyer and President, NHRC.

194 A representative of the Kapaeeng Foundation.

195 Asif Nazrul, Professor of Law, University of Dhaka.

### 3. CONFLICTS OVER LAND

#### 3.1 Characteristics and consequences of land appropriations

Bangladesh currently numbers 158.5 million inhabitants, giving it a population density of 1,101 people per km<sup>2</sup> <sup>196</sup> for a total surface area of 144,000m<sup>2</sup>, one of the highest anywhere in the world<sup>197</sup>.

This inevitably makes land a central national concern: the “country of fertile land” has become a land of litigation.

According to the Association for Land Reform and Development (ALRD) and journalists encountered during the mission, **victims of land appropriation attempts usually live in rural areas**; for the most part, they are **isolated farmers, people with little land to their name, women or members of religious and ethnic minorities**.

Appropriations are usually the work of local “powerful men” enjoying the authorities’ active or passive support thanks to their money or network of influence. They may be the work of politicians, usually from the ruling party, or carried out by alliances of convenience between members of major parties, industrial concerns and private companies<sup>198</sup>.

Appropriations may involve extreme violence. The ALRD informed us of cases where **aggression**, often of a sexual nature, came **without warning**, with a view to breaking a family’s morale and dispossessing them of their property as quickly as possible. There may have been no threats or harassment at all prior to such aggression, following which families usually leave the area to ensure their safety and the reputations of any daughters of marriageable age.

Possession of property has a direct impact on literacy, for women in particular, as only 37% of women from landless families are literate. In addition, between 60 and 70% of people with no land to their names live beneath the poverty line and only 20% of them have access to electricity<sup>199</sup>.

Research carried out by the ALRD has also revealed that people dispossessed of their land generally emigrate to urban areas, leading to a rise in urban land values – which in turn attracts the attention of anyone looking for valuable property, so creating a snowball effect<sup>200</sup>.

#### 3.2. Access to land

In Bangladesh, 80% of land is privately owned and the remaining 20% belongs to the State, divided up into *khas*<sup>201</sup>.

##### 3.2.1. *Khas*

According to information supplied by the ALRD, *khas* are first and foremost distributed to landless people who depend on farming in order to survive, families of veterans of the 1971 war, those who have lost their lands due to erosion, those whose lands have been expropriated by the government, and divorced women with adult sons.

Each beneficiary pays the government a tax of 1 TK per acre.

However, studies carried out by the ALRD show that, in practice, obtainment of a *khas* requires payment of a bribe of around 150 dollars (133 euros) per acre, which makes access to land difficult for low-income families<sup>202</sup>.

<sup>196</sup> Institut National de la Statistique et des Etudes Economiques (INSEE), *Population, superficie et densité des principaux pays du monde en 2014*.

<sup>197</sup> Association for Land Reform and Development (ALRD) and Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC), *Securing the right to land, a CSO review on access to land in Asia*, p. 45

<sup>198</sup> Newspaper journalist.

<sup>199</sup> ALRD and ANGOC, 2009, pp. 46-47, *op.cit.*

<sup>200</sup> ALRD and ANGOC, 2009, p. 49, *Ibid*; BARKAT Abdul, 29/06/2008, p. 6, *op. cit.*

<sup>201</sup> Shamsul Huda and Jahan Moni Rowshan, respectively Executive Director and Assistant Director, ALRD.

<sup>202</sup> Association for Land Reform and Development (ALRD) and Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC), 2009, p. 47, *op. cit.*; BARKAT Abdul, 29/06/ 008, pp. 14-19, *op. cit.*

In addition, numbers of *khas* have not been distributed for a range of reasons, including:

- No finalised registration (due, for example, to demarcation problems);
- Illegal occupation of lands;
- Presence of natural resources under exploitation (water, forestland, etc.).

In total, only 10% of *khas* have actually been distributed by the government to types of families provided for in the regulations.

Finally, ownership documents relating to *khas* are issued in the name of both spouses; 92% of people allocated a *khas* hold a title deed. Such documents may be issued for short (one or more years) or long (99 years) periods<sup>203</sup>.

##### 3.2.2. Privately owned land

Which inheritance laws apply depends on the landowner’s religion. Muslims are governed by the Sharia and Hindus by the Daibhag.

The Sharia only gives women limited inheritance rights and, in practice, what few rights they possess are rarely recognised, owing to the patriarchal system prevailing in Bangladesh; current norms and values dictate that, in order to be regarded as a respectable person, a woman must normally hand over any property she inherits to her brothers. Such “morality” also discourages women from trying to assert their rights.

The Daibhag rules that Hindu women cannot inherit except under exceptional and extraordinary circumstances; they are dependent on their fathers and then on their husbands after they get married. In Hindu families and society, women are viewed as little more than peripheral beings and are therefore highly vulnerable when it comes to conflicts over land.

Finally, agriculture accounts for 60% of jobs and a major part of the country’s financial resources. In total, 56% of land is devoted to farming, with individual private ownership standing at an average of ¾ acre per person. Nonetheless, just 13% of all landowners possess 58% of available land; people living in urban areas and whose jobs have no connection with agriculture generally rent out their land<sup>204</sup>.

#### 3.3. Title deeds

According to Bangladeshi legislation and information provided by the ALRD, the Ministry of Land is responsible for management and administration of land, keeping registers, and enacting land regulations.

Locally, the Ministry is represented by:

- A Commissioner and Deputy Commissioner at district level;
- An Assistant Commissioner at sub-district level;
- An Assistant Land Officer at union level.

The Ministry of Justice manages the Office of the Inspector General of Registration, a body responsible for registration of property sales and transfers.

**A cadastral system exists in Bangladesh, and the ALRD states that all landowners, even in rural areas, possess ownership documents.**

The system comprises a network of Land Offices<sup>205</sup>. Depending on location, their functions are as follows:

At sub-district level, Land Offices keep records of changes relating to land ownership (change of owner’s name, etc.);

At union level, it is possible to consult information on land ownership but not to change it<sup>206</sup>.

<sup>203</sup> Shamsul Huda and Jahan Moni Rowshan, respectively Executive Director and Assistant Director, ALRD.

<sup>204</sup> BARKAT Abdul, 29/06/2008, pp. 25-26, *op. cit.*

<sup>205</sup> Newspaper journalist; members of diplomatic representations in Dhaka; representatives of the Kapaeeng Foundation; Shamsul Huda and Jahan Moni Rowshan, respectively Executive Director and Assistant Director, ALRD.

<sup>206</sup> Shamsul Huda and Jahan Moni Rowshan, respectively Executive Director and Assistant Director, ALRD.

However, **the cadastral system is unreliable and lacks transparency**<sup>207</sup>.

Although cadastres are meant to be accessible to everyone, the omnipresence of corruption makes such access difficult; it is all too often necessary to bribe someone in order to get information that should be had for free.

Land Offices conserve originals of ownership documents; **officially, the data they contain may not be altered except in cases of inheritance or sale. Nonetheless, it is relatively easy to modify such information** with the connivance of a Land Office employee and use of a corrector pen<sup>208</sup>.

And as title deeds are so easily reproduced, it is a simple enough matter to produce a forged document during litigation<sup>209</sup>.

In order to combat such practices, the BRAC NGO<sup>210</sup> trains people responsible for land measurement (*amins*) so as to familiarise them with property rights. Such initiatives, however, are few and far between<sup>211</sup>.

The ALRD also noted a series of unprecedented incidents connected with the **2015 political crisis: 17 Land Offices were burnt down** – something that had never happened before.

**The attacks all occurred in the evening and were led by henchmen of local “men of power” with the aim of destroying property ownership documents and producing forged land titles in their stead.** Local authorities appear to have been largely unwilling to investigate as only 8 legal procedures were instigated<sup>212</sup>.

Conflicts over land, most of which had previously arisen between individuals, took a new turn with the intervention of lawyers retained by large companies, who had no hesitation in turning up at Land Offices to check ownership documents and go to court to dispute ownership claims by vulnerable individuals unable to afford court costs. As a result, individuals targeted by such procedures have little other choice than to sell their lands<sup>213</sup>.

Other practices, although still uncommon, have come to light in the Sylhet district: a number of expatriates who had sent money from abroad to purchase land through a close friend or intermediary saw names other than their own on the land titles concerned upon their return to Bangladesh<sup>214</sup>.

### 3.4. Means of protection

Between **70 and 80% of disputes coming before Bangladeshi courts are in some way connected with conflicts over land**<sup>215</sup>.

According to Shamsul Huda<sup>216</sup>, as there is no special court competent to rule on land conflicts, they are usually dealt with by civil or criminal courts.

It may take **up to 10 years** for a land conflict case brought before a Bangladeshi court to be settled, and related costs (lawyers, etc.) are high (up to several hundred thousand takas)<sup>217</sup>.

Consequently, **local victims of attempted land grabs and those already dispossessed turn to such traditional means of protection as the *shalish***, even though these latter are by no means impartial and do not always resolve disputes<sup>218</sup>.

To help compensate for the *shalish* system's shortcomings, **the Bangladeshi government set up Village Courts**, whose competences include ruling on land conflicts in which sums involved do not exceed 75,000 TK (about 851 euros).

<sup>207</sup> *Id.*; members of diplomatic representations in Dhaka.

<sup>208</sup> Newspaper journalists.

<sup>209</sup> Shamsul Huda and Jahan Moni Rowshan, respectively Executive Director and Assistant Director, ALRD.

<sup>210</sup> For further information on this NGO see 7. "Community activities encouraged by the government"

<sup>211</sup> A. Mushtaque R Chowdhury, Vice-President and Managing Director, BRAC.

<sup>212</sup> Shamsul Huda and Jahan Moni Rowshan, respectively Executive Director and Assistant Director, ALRD.

<sup>213</sup> *Id.*

<sup>214</sup> Newspaper journalists.

<sup>215</sup> Emad Ullah Shahidul Islam, lawyer and former President of the Sylhet District Bar Association; Shamsul Huda and Jahan Moni Rowshan, respectively Executive Director and Assistant Director, ALRD.

<sup>216</sup> Executive Director, ALRD.

<sup>217</sup> 100,000 TK = 1,135 euros

<sup>218</sup> Member of a village court.

Individuals bringing a case before a Village Court are required to pay a tax set at 2 or 4 TK (0.2 or 0.5 euros), depending on whether it is a matter of civil or criminal proceedings. Each Village Court is made up of five members: a president and two people named by each party. If the court's decision is by a 4/5<sup>th</sup> or more majority, it is final and may not be appealed against; if the decision is taken by 3 votes to 2, an appeal may be lodged.

There are also some 200 NGOs in Bangladesh working on the land question. However, most such organisations are not solely focused on the problem, but are also concerned with more general matters such as healthcare and microcredit.

**Consequently, few organisations are of use to private individuals in need of legal assistance.**

Associations providing such support are usually subject to harassment and pressure from corrupt government officials, locally influential individuals or criminals<sup>219</sup>.

In some cases, the press (local newspapers in particular) covers land disputes with a view to raising local government awareness of victims' situations and bring about quicker settlements of budding disputes. Nonetheless, local government bodies do not always take action due to political influence; in only ten out of around 25 cases reported in a national newspaper did the victims have their lands restored to them<sup>220</sup>.

All in all, **successive governments have not made a priority out of settling land conflicts, as their members usually belong to major landowning families** that are either involved in land disputes or have **indirect links with people appropriating land**, as these latter have local influence and can be very generous during election campaigns<sup>221</sup>. According to a representative of a diplomatic mission in Dhaka, the Awami League recently appropriated large quantities of property and land.

In more general terms, the Chief Editor and publisher of *The Daily Star* summed up the situation as the "criminalisation of politics" in Bangladesh, explaining that **mafia-type gangs have close ties with politicians**, with both parties gaining from their collaboration. Local criminals get protection while local politicians get particularly useful henchmen.

<sup>219</sup> BARKAT Abdul, 29/06/ 2008, p. 28, *op. cit.*

<sup>220</sup> Newspaper journalist.

<sup>221</sup> ALRD and ANGOC, 2009, p. 48, *op. cit.*



## 4. RELIGIOUS AND ETHNIC MINORITIES

### 4.1. General situation of religious minorities

All our interlocutors confirmed the conclusions reached by the last OFPRA/CNDA joint mission<sup>222</sup> with regard to **the absence of any major religious conflict between the various communities living in Bangladesh**. Although most Bangladeshi are Muslims, they practise a moderate, Sufi-influenced form of Islam<sup>223</sup>.

As an example, a member of a diplomatic representation in Dhaka mentioned that religious authorities from all four major religions (Muslim, Christian, Buddhist and Hindu) attended official graduation ceremonies. He also called attention to the appointment of a Hindu, Surendra Kumar Sinha, as President of the Supreme Court – the first time this has happened since Independence<sup>224</sup>.

Nonetheless, religious minorities are seen as especially **vulnerable**. And their vulnerability is further exacerbated and taken advantage of during periods of political instability<sup>225</sup>.

**How vulnerable they are depends on a variety of factors, including how wealthy they are, how well-known they are and how well educated they are.**

Imtiaz Ahmed<sup>226</sup> summed up the situation by asserting that: *"It isn't the rich Hindus who are targeted or attacked. There are plenty of Hindus with important jobs. If you've got a network of influence and enough money, you can always stay out of trouble. It is the vulnerable, people who can't lodge complaints as they have no backup, who suffer."*

In addition, the **situation in which minorities find themselves** varies depending on which district they live in: there is **more cause for concern in the districts of Gopalganj, Jessore, Bagerhat<sup>227</sup> and Sathkira as well as districts to the north<sup>228</sup>**.

#### 4.1.1. The Hindu community in Bangladesh

Hindus are Bangladesh's largest religious minority. Although known to have close connections with the ruling party, AL, owing to longstanding ties between Prime Minister Sheikh Hasina's family and the Gandhis, they have continued to leave the country (for India in particular) since the AL came to power<sup>229</sup>.

Dilip Kumar Das Chowdhury, however, emphasised how little real interest Hindus have in political affairs; they support neither the BNP nor the JeI, but have scarcely any greater faith in the AL, which has lost interest in them, well aware that they are only allied to its cause for want of better options. Such lack of politicisation further adds to their vulnerability.

According to the same source, Hindus, even well-educated ones, know little of their dogma as the only religious education dispensed in schools is devoted to Islam. Nonetheless, all Hindus know the name(s) of the deity or deities they worship as well as their place of birth. Generally speaking, they also know the names of their religious texts, Vedas, Puranas and Gita, and can recite extracts from them, and are aware of the major places of pilgrimage in Bangladesh and India.

222 OFPRA-CNDA, 04/2011, p. 113, *op. cit.*

223 Representatives of the Kapaeeng Foundation; Dilip Kumar Das Chowdhury, lawyer and Principal of the Hindu Sanskrit College, Sylhet; Four members of diplomatic representations in Dhaka; Mahfuz Anam, Chief Editor and publisher of *The Daily Star*; Two newspaper journalists; a member of the media; Imtiaz Ahmed, Professor of International Relations, University of Dhaka; Adilur Rahman Khan, lawyer at the Supreme Court, Secretary of Odhikar; Shamsul Huda and Jahan Moni Rowshan, respectively Executive Director and Assistant Director, ALRD.

224 *The Economic Times*, "Bangladesh appoints Surendra Kumar Sinha as new Chief Justice", 12/01/2015.

225 Representatives of the Kapaeeng Foundation; Dilip Kumar Das Chowdhury, lawyer and Principal of the Hindu Sanskrit College, Sylhet; Four members of diplomatic representations in Dhaka; a high-ranking dignitary with close ties to the AL; Mahfuz Anam, Chief Editor and publisher of *The Daily Star* newspaper; two newspaper journalists; an audiovisual media manager; Imtiaz Ahmed, Professor of International Relations, University of Dhaka; Adilur Rahman Khan, lawyer at the Supreme Court and Secretary of Odhikar; Shamsul Huda and Jahan Moni Rowshan, respectively Executive Director and Assistant Director, ALRD.

226 Professor of International Relations, University of Dhaka.

227 Adilur Rahman Khan, lawyer at the Supreme Court and Secretary of Odhikar.

228 *Id.*; representatives of the Kapaeeng Foundation.

229 A member of a diplomatic representation in Dhaka; Shamsul Huda and Jahan Moni Rowshan, respectively Executive Director and Assistant Director, ALRD.

The following three places of pilgrimage draw millions of Hindus every year<sup>230</sup>:

– The **Chandranath Temple** in Sitakunda (Chittagong district), which is also a place of Buddhist pilgrimage and the venue for the *Shiva Chaturdashi* festival, which brings together thousands of pilgrims every February<sup>231</sup>.

– The **Dhakeshwari National Temple** in Dhaka, which is State-owned and the country's leading Hindu place of worship<sup>232</sup>.

– **Langalbandh** (Narayanganj district): a major pilgrimage is held there during the last month of the Bengali year (March/April), during which millions of Hindus take a ritual bath in the River Brahmaputra. In 2015, the event was subject to considerable media attention when a stampeding crowd resulted in the deaths of ten pilgrims<sup>233</sup>.

#### 4.1.2. Specificities of Sylhet's Hindus

According to data collected by the Bureau of Statistics in the **Sylhet division's four districts** (Habiganj, Moulvibazar, Sunamganj and Sylhet) during the 2011 census, **Hindus account for 14%** of the division's overall population<sup>234</sup>. The highest concentration is in **Moulvibazar District (almost 25%)** while Sylhet District itself only contains 7%<sup>235</sup>.

The Sylhet division was largely Hindu up until the 14<sup>th</sup> century and was the birthplace of Sri Chaitanaya's *Hare Krishna* movement, whose members see its founder as the reincarnation of their god. Krishna therefore has a good many devotees in the region, while the goddesses Durga and Sarasvati are also highly placed in the local pantheon<sup>236</sup>.

The **Sri Chaitanya Temple** is located 45 kilometres from the city of Sylhet and hosts a festival on the day of the full moon in the month of Falgun (February/March)<sup>237</sup>.

The **Pona Theerta** festival in the Sunamganj district (an *Upazila* or sub-district of Tahirpur) brings together a million devotees every year for a ritual bath during the last month of the Bengali calendar<sup>238</sup>.

Hindu and Muslim relations are harmonious enough most of the time, and they live side-by-side in urban areas. In rural areas, however, they separate into communities for such practical reasons as access to their places of worship<sup>239</sup>:

In Mijajantal, 300 or 400 Hindu families live side-by-side;

In Chalibandur, 200 families have settled near the new bridge spanning the River Surma;

In Koror Para, one of the largest Hindu communities, comprising almost 500 families, is located near the tea plantations.

230 Dilip Kumar Das Chowdhury, lawyer and Principal of the Hindu Sanskrit College, Sylhet.

231 Bangladesh tourism corporation: [http://www.parjatan.gov.bd/index.php?option=com\\_tourism&view=page&layout=sub\\_sub\\_menu&sub\\_sub\\_menu\\_id=176&Itemid=102](http://www.parjatan.gov.bd/index.php?option=com_tourism&view=page&layout=sub_sub_menu&sub_sub_menu_id=176&Itemid=102)

232 *Id.*

233 *The Independent*, "10 killed in Langalbandh Astami Snan stampede", 28/03/2015.

234 <http://www.bbs.gov.bd/PageWebMenuContent.aspx?MenuKey=246>

235 *Id.*

236 Dilip Kumar Das Chowdhury, lawyer and Principal of the Hindu Sanskrit College, Sylhet.

237 *Id.*; Bangladesh tourism corporation: [http://www.parjatan.gov.bd/index.php?option=com\\_tourism&view=page&layout=sub\\_sub\\_menu&sub\\_sub\\_menu\\_id=176&Itemid=102](http://www.parjatan.gov.bd/index.php?option=com_tourism&view=page&layout=sub_sub_menu&sub_sub_menu_id=176&Itemid=102)

238 Dilip Kumar Das Chowdhury, lawyer and Principal of the Hindu Sanskrit College, Sylhet.

239 *Id.*

## 4.2. Violence and discrimination targeting religious minorities

### 4.2.1. Discrimination

Two people we met with referred to discrimination against religious minorities, in particular as regards access to jobs in the public sector, as no quota system exists in Bangladesh<sup>240</sup>. However, religious minorities, mainly Hindus, are widely represented in the country's police forces<sup>241</sup>.

### 4.2.2. Violence as a tool

According to the ASK organisation, as quoted by *The Daily Star* and *The Independent* newspapers, **761 houses and 193 shops** belonging to the Hindu community were **vandalised** in **2014**, while **247 temples and effigies** were damaged over the same period<sup>242</sup>.

During the **first quarter of 2015**, **17 houses and one shop** were **burnt down**, **105 places of worship vandalised** and **21** members of the Hindu community **injured**<sup>243</sup>.

- **Outbreaks of violence during the elections of 5 January 2014**

Religious minorities are mainly subject to threats during election periods, to dissuade them from voting as well as to take advantage of the instability typical of such periods to appropriate their lands<sup>244</sup>.

The outbreaks of violence that occurred between late 2013 and early 2014, which took place at a time when the legitimacy of ongoing elections was heavily contested, and for which the execution of JeI party leader Abdul Quader Mollah on 12 December 2013 was also partly to blame, were regarded as no more than sporadic<sup>245</sup>. They were not due to religious or political motives linked to the elections. The JeI targeted Hindus partly to dissuade them from testifying before the ICT and partly to exert pressure on the authorities to make them discontinue legal proceedings against their leaders. A number of our interlocutors also asserted that local (BNP and AL) political leaders were involved, hoping to take advantage of the continuing instability to serve their own interests, with the complicity or at least inaction of local authorities<sup>246</sup>. A newspaper journalist stated that minorities in the Sylhet region had not been targets in outbreaks of violence linked to the elections of 5 January 2014 as the opposition had presented scarcely any candidates due to the national boycott.

- **Fundamentalist violence**

Generally speaking, the JeI is seen as a scapegoat for acts of violence committed against minorities (with the exception of acts mentioned above).

As an example, Imtiaz Ahmed<sup>247</sup> cited an attack made on a Hindu in old Dhaka: suspicion initially fell on the JeI before it was discovered that the guilty party was also a Hindu.

A high-ranking dignitary with close ties to the AL asserted that most JeI targets were either atheists or people who held beliefs they considered blasphemous.

<sup>240</sup> *Id.*; Shamsul Huda, ALRD.

<sup>241</sup> Adilur Rahman Khan, lawyer at the Supreme Court and Secretary of Odhikar; Imtiaz Ahmed, Professor of International Relations, University of Dhaka.

<sup>242</sup> *The Daily Star*, "Human rights situation was alarming in 2014: ASK", 31/12/2014; *The Independent*, "Human rights situation was alarming in 2014: ASK", 31/12/2014.

<sup>243</sup> ASK: <http://www.askbd.org/ask/2015/04/01/violence-hindu-community-january-march-2015/>

<sup>244</sup> Representatives of the Kapaeeng Foundation; Dilip Kumar Das Chowdhury, lawyer and Principal of the Hindu Sanskrit College, Sylhet; four members of diplomatic representations in Dhaka; a high-ranking dignitary with close ties to the AL; Mahfuz Anam, Chief Editor and publisher of *The Daily Star* newspaper; two newspaper journalists; a representative of the media; Imtiaz Ahmed, Professor of International Relations, University of Dhaka; Adilur Rahman Khan, lawyer at the Supreme Court and Secretary of Odhikar; Shamsul Huda and Jahan Moni Rowshan, respectively Executive Director and Assistant Director, ALRD.

<sup>245</sup> *Id.*

<sup>246</sup> A high-ranking dignitary with close ties to the AL; Adilur Rahman Khan, lawyer at the Supreme Court and Secretary of Odhikar; a member of the audiovisual media; a newspaper journalist.

<sup>247</sup> Dilip Kumar Das Chowdhury, lawyer and Principal of the Hindu Sanskrit College, Sylhet; four members of diplomatic representations in Dhaka; a high-ranking dignitary with close ties to the AL; two newspaper journalists; a member of the media; Imtiaz Ahmed, Professor of International Relations at the University of Dhaka; Adilur Rahman Khan, lawyer at the Supreme Court and Secretary of Odhikar.

There have also been a number of cases in which extremist groups have turned religious convictions to their own use, as in the emblematic incident of the **outbreak of violence in Ramu in September 2012**. After a photograph deemed blasphemous appeared on a fake Facebook page under the name of a young Buddhist, twelve temples and dozens of houses were destroyed<sup>248</sup>. Although the violence was initially presented as having been carried out by extremist groups, the media later reported that members of the main political parties had been among the vandals<sup>249</sup>. A member of a diplomatic representation laid particular emphasis on the authorities' reaction to the incidents: Sheikh Hasina and several of his ministers immediately visited the places concerned and condemned the acts.

## 4.3. The land question

Most problems that minorities encounter these days have to do with the land question.

Hindus and Buddhists were traditionally well-off landowners, especially in the age-old Hindu stronghold of Sylhet. Those targeted are landowners without adequate means or personal contacts to ensure real protection<sup>250</sup>.

The individuals involved in such land appropriation and the methods they use are no different from those targeting Muslims [see 3.Conflicts over land] with the exception of the Vested Property Act, officially revoked in 2001 but still sometimes applied by local authorities.

## 4.4. Ethnic minorities

Ethnic minorities have strong cultural and linguistic identities distinguishing them from the rest of the population. Unlike religious minorities, they do not regard themselves as "Bengali" and desire constitutional acknowledgment of their distinctive identities. According to the latest census, carried out in 2011, their numbers are estimated at almost 1.6 million, 1.8% of Bangladesh's total population<sup>251</sup>. This figure is disputed, however, as the State only recognises 48 ethnic groups while the Kapaeeng Foundation<sup>252</sup> has identified 55<sup>253</sup>.

### 4.4.1. General situation of ethnic minorities

- **In the lowlands**

66% of ethnic minorities live on the plains<sup>254</sup>, mostly in districts neighbouring the north-western borders (Rajshahi and Dinajpur), in the north (Mymensingh and Tangail), in the northeast (Sylhet) and in the south (Chittagong, Cox's Bazar and Barisal)<sup>255</sup>. The Santal alone account for 30% of ethnic minority members living on the plains, followed by the Garo with an estimated 64,000 members according to the latest census<sup>256</sup>.

Representatives of the Kapaeeng Foundation regard the situation of ethnic minorities living on the plains as more worrying than that of minorities living in the Chittagong Hill Tracts (CHTs), pointing out that the latter live in close-knit communities affording them better protection whereas those on the plains are more scattered<sup>257</sup>.

<sup>248</sup> *The Daily Star*, "Victim of lie, victim of law", 29/09/2014.

<sup>249</sup> A high-ranking dignitary with close ties to the AL, Imtiaz Ahmed, Professor of International Relations, University of Dhaka; Mahfuz Anam, Chief Editor and publisher of *The Daily Star*.

<sup>250</sup> Imtiaz Ahmed, Professor of International Relations, University of Dhaka; Dilip Kumar Das Chowdhury, lawyer and Principal of the Hindu Sanskrit College, Sylhet; Mahfuz Anam, Chief Editor and publisher of *The Daily Star*; Adilur Rahman Khan, lawyer at the Supreme Court and Secretary of Odhikar.

<sup>251</sup> Asia Indigenous Peoples Pact and Kapaeeng Foundation, *Survival under threat: Human rights situation of indigenous peoples in Bangladesh*, August 2014, p. 10.

<sup>252</sup> For further information on this organisation, see 4.5. Means of protection.

<sup>253</sup> Representatives of the Kapaeeng Foundation.

<sup>254</sup> *Id.*

<sup>255</sup> Asia Indigenous Peoples Pact and Kapaeeng Foundation, 08/2014, p. 10, *op. cit.*

<sup>256</sup> *Ibid.* p. 14

<sup>257</sup> Representatives of the Kapaeeng Foundation.

## ● In the CHT highlands

Eleven different ethnic groups comprising the Chakma, Marma, Tripura, Tanchangya, Mro, Lushai, Khumi, Chak, Khyang, Bawm and Pangkhua, collectively referred to as *Jumma* (meaning "land clearers"), accounted for 51% of the CHTs' total population in 2014, as against 97.5% in 1947<sup>258</sup>. The Chakma is the largest of them (with 253,000 members), followed by the Marma (157,000) and Tripura (81,000)<sup>259</sup>.

Since the findings of the 2010 mission in Bangladesh, there has been no significant change in implementation of the provisions of the 1997 Peace Accord<sup>260</sup>. The main points still on hold are:

- resettling refugees returning from India and displaced persons;
- return of lands confiscated from the *Jumma* between 1979 and 1985 and proper operation of the CHT Land Dispute Commission;
- demilitarisation of the region;
- transfer to autonomous local authorities of competences relating to land management, policing, environment, forests, census and tourism (non-exhaustive list)<sup>261</sup>.

### 4.4.2. The land question

#### ● Assessment of the situation in 2014

Over the course of 2014, 102 families including two native to the lowlands were expelled, and 886, including 300 native to the lowlands were under threat of expulsion. Attacks targeting land were made on 153 families (89 from the lowlands and 64 from the CHT). Ten members of ethnic minorities were arrested and 150 (106 of them from the CHTs) were involved in fallacious cases<sup>262</sup>.

#### ● Particularly vulnerable communities

Traditionally, ethnic communities **have a collegial system of land management**, responsibility for which is entrusted to traditional leaders (*Headmen* in the CHTs, *Manjhi* among the Santal and *Nokma* among the Garo) who do not hold any land titles.

Lack of such documents is a major factor in their vulnerability, as it makes it easy to use fake documents obtained by bribery in order to appropriate lands belonging to minorities or target them as "vested properties"<sup>263</sup>.

Representatives of the Kapaeeng Foundation made a distinction between the situation on the plains and in the CHTs, reckoning that it is a good deal easier to take possession of minorities' lands through use of forged documents on the plains, as the special regulations governing the CHTs require that traditional leaders or local authorities agree to the transfer of any land belonging to ethnic communities.

#### ● Main persecutors

- In the lowlands

On the plains, land appropriations are instigated by influential Bengalis, whose income or personal network ensures them the support of local authorities and Land Offices [see 3. Conflicts over land].

Most land appropriations in recent years have been made possible through presentation of forged ownership documents. Recourse to violence and intimidation is also widespread, as is occupation of land by construction of mosques or madrasas<sup>264</sup>.

Some cases of land appropriation may be laid at the door of private enterprises, in particular those owning tea plantations in the Sylhet region and industrial concerns in the mining sector<sup>265</sup>.

<sup>258</sup> Asia Indigenous Peoples Pact and Kapaeeng Foundation, 08/2014, p. 11, *op. cit.*

<sup>259</sup> *Ibid.* p. 13

<sup>260</sup> OFPRA/CNDA, April 2011, p. 116, *op. cit.*

<sup>261</sup> Asia Indigenous Peoples Pact and Kapaeeng Foundation, 08/2014, pp. 138-142, *op. cit.*

<sup>262</sup> Kapaeeng Foundation, *Human Rights report on indigenous people in Bangladesh 2014*, 01/2015, p. 89

<sup>263</sup> Representatives of the Kapaeeng Foundation.

<sup>264</sup> *Id.*

<sup>265</sup> *Id.*

- In the CHTs

Leaving aside land appropriation on the part of private individuals or State-sponsored settlers, many expropriation cases involve the Bangladeshi authorities, mainly the Forestry and Mining Departments and the Borders Guards of Bangladesh (BGB), who set up their camps on land belonging to minorities<sup>266</sup>.

The Forestry Department instigated proceedings to declare almost 86 acres of CHT land a protected natural area in order to obtain management of it<sup>267</sup>.

## 4.5. Means of protection

### 4.5.1. Institutional means

#### ● Police/the justice system

Whether or not victims get police protection depends on the goodwill of the officer they approach, his integrity and the perpetrator's influence. Representatives of the Kapaeeng Foundation told us that, in cases of violence against women, victims do not usually dare lodge a complaint, and if they do, they come up against a whole range of obstacles in asserting their rights. The police regularly refuse to register their complaints or minimise incidents by such practices as writing up complaints as attempted rather than actual rape. A victim must also report the incident to the equally corruptible medical authorities within 24 hours of the aggression, and their conclusions will decide how any eventual investigation will be conducted<sup>268</sup>.

#### ● Vested Property Return Act

The 2001 Vested Property Return Act (VPA), which officially obliges public authorities to return land confiscated from people who can produce proof of ownership, has never really come into force<sup>269</sup>. Since it was enacted, it has been amended five times to make it more favourable to minority interests<sup>270</sup>. As amended in 2011, the VPA lists vested properties in two categories: lands of which the Bangladeshi authorities are custodians (Schedule A) and those that have never been under State control and have been listed as vested properties due to personal interest on the part of Land Office officials (Schedule B). The most recent amendment, adopted in October 2013, declares the "vested property" status of all lands listed in Schedule B to be null and void<sup>271</sup>.

Consequently, there is a generation gap between those dispossessed of their lands during the Indo-Pakistani War and their legatees, who are tasked with instigating proceedings to get their lands back. As Hindus only share land among their male descendants, there have been no few disputes hinging on identification of a property's current owner. In 2011, an amendment in favour of Hindu women was adopted, recognising usufruct with regard to inheritance and so enabling their husbands and male children to assert their rights over confiscated lands<sup>272</sup>.

In 2012, special courts were established in 61 districts to deal exclusively with expropriation cases arising from the Vested Property Act. However, the ALRD representatives we spoke to emphasised the slowness with which proceedings moved and lack of court financing. 190,000 cases are currently pending, accounting for a full 95% of cases registered, while only 5% have so far been settled<sup>273</sup>.

Even with all its amendments, the VPA remains incomplete. There are still too many obstacles to the smooth course of justice, with over-complex and overlong procedures largely to blame<sup>274</sup>.

<sup>266</sup> *Id.*

<sup>267</sup> Kapaeeng Foundation, 01/2015, p. 89, *op. cit.*

<sup>268</sup> Representatives of the Kapaeeng Foundation.

<sup>269</sup> For further information on the Vested Property Act and its consequences, see OFPRA/CNDA, April 2011, p. 113, *op. cit.* or the BLAST NGO website.

<sup>270</sup> Shamsul Huda and Jahan Moni Rowshan, respectively Executive Director and Assistant Director, ALRD.

<sup>271</sup> *Id.*

<sup>272</sup> *Id.*

<sup>273</sup> *Id.*

<sup>274</sup> *Id.*; Dilip Kumar Das Chowdhury, lawyer and Principal of the Hindu Sanskrit College, Sylhet.

The ALRD publication "Land Agenda First", issue 6, 04-06/2014, reports the case of a Hindu living in Manikganj and owning piece of land he inherited upon his father's death in 1991.

When he went to the Land Office in January 2013 to pay the yearly tax, he discovered that his land had been registered as (Schedule B) "vested property". His attempts to rectify the situation by presenting ownership documents to the Land Office went unheeded. After reading an ALRD leaflet on procedures to follow in such cases, he submitted a request to the Vested Property Return Tribunal on 27 March 2013. A preliminary hearing was set for 12 June 2013 and then postponed. In October 2013, after the ALRD had informed him that Schedule B had been repealed, he went to the Assistant Commissioner's office to instigate a transfer procedure involving payment of taxes. His request, which was registered in June 2014, was without result. Intermediaries with connections in the Land Ministry suggested that he speed up the process for a "fee", which he refused to do. He went back to the Assistant Commissioner's office armed with a circular issued by the Land Ministry and widely disseminated by the ALRD, ordering the competent authorities to expedite transfers of ownership of lands listed in Schedule B. Transfer to his name was finally carried out on 2 July 2014.

#### • **National Human Right Commission (NHRC)**

Kapaeeng Foundation representatives emphasised that, as the NHRC does not have enough staff to carry out independent inquiries, it must rely on government agencies. They also stressed that, although the Commission can issue recommendations to the authorities, it has no powers of coercion and that in most cases referred to it, the departments at fault simply ignore the reports it compiles. It has an estimated 5% success rate<sup>275</sup>.

In May 2013, Kapaeeng referred the case of 21 families belonging to the Chak ethnic group to the NHRC; they had been expelled from their village in the Bandarban district by an alliance made up of local politicians and private companies. The NHRC first of all called upon the local authorities concerned to investigate, and these latter produced a report in favour of the perpetrators. Kapaeeng disputed the report's findings and once again referred the case to the NHRC, which this time asked the ministry responsible for the CHTs to look into the case. The ministry found in favour of the victims and the families are now back in their village; however, no charges have been brought against their aggressors. The NHRC looks on the case as one of its successes<sup>276</sup>.

#### 4.5.2. Non-Governmental Organisations (NGOs)

##### • **NGOs defending religious minorities**

A representative of Sylhet's Hindu community told us how difficult it was to register organisations defending religious minorities by the authorities in the sake of secularism. He stated that he was President of the Human Rights Congress for Minorities, an association based in the United States and approved by UNESCO, but had never managed to obtain its registration in Bangladesh. In spite of everything, his organisation manages to assist minorities by intervening directly with public officials and the police. He **laid emphasis on the large number of bodies in Sylhet claiming to uphold human rights and managing to obtain finance from international programmes thereby, but not committing themselves to any real action**<sup>277</sup>.

The same interlocutor described the Bangladesh Hindu Buddha Christian Oikya Parishad (**BHBCOP**) as an organisation with close ties to the public authorities, undertaking hardly any action other than issuing certificates and organising protest chains for publicity purposes<sup>278</sup>.

##### • **Kapaeeng: an NGO in defence of ethnic minorities**

Set up in 2004, the Kapaeeng Foundation defends and promotes the rights of ethnic minorities. It has some sixty employees and is backed up by a network of local organisations in villages around the country, which inform it of incidents involving ethnic minorities in the CHTs and on the plains. After checking information it receives, the Foundation submits reports to national and international institutions and publishes accounts of incidents, most of which can be found in English on its website<sup>279</sup>. It also comes to the help of victims by alerting the police and NHRC, and tries to draw the media's attention by involving it in investigations in the field and holding press conferences<sup>280</sup>. The Foundation's 2014 annual report summarises the main incidents it recorded over the year.

#### 4.5.3. Use of the media as a way of exerting pressure

Several interlocutors highlighted the role played by the media, as major media coverage may enable a case to be resolved by raising the public's and public authorities' awareness of the problems faced by ethnic and religious minorities through making persecutors' identities public<sup>281</sup>.

Nonetheless, much emphasis was placed on **the biased nature of local media**<sup>282</sup>. Kapaeeng told us that it tends to go through journalists based in Dhaka, with *The Daily Star*, *Prothom Alo*, *Dhaka Tribune* and *New Age* at the top of their list, or make use of social networks.

Kapaeeng Foundation representatives gave the example of an attempt to appropriate land belonging to the Oraon minority, which failed thanks to media coverage of the incident: in February 2014, a group of individuals started on construction of a building on land belonging to the minority, which immediately informed the Executive Director of the Ethnic Community Development Organization (ECDO), which in its turn passed on the information to the public authorities, human rights defence organisations and the written press, which sent reporters to cover the incident, causing the perpetrators to flee the scene<sup>283</sup>.

<sup>275</sup> Representatives of the Kapaeeng Foundation.

<sup>276</sup> Representatives of the Kapaeeng Foundation, complemented by the account of the incident published on their website: <http://kapaeeng.org/update-report-on-eviction-of-chak-indigenous-peoples-by-land-grabbers-at-naikhyongchari-in-bandarban/>

<sup>277</sup> Dilip Kumar Das Chowdhury, lawyer and Principal of the Hindu Sanskrit College, Sylhet.

<sup>278</sup> *Id.*

<sup>279</sup> Representatives of the Kapaeeng Foundation.

<sup>280</sup> *Id.*

<sup>281</sup> Representatives of the Kapaeeng Foundation; two newspaper journalists.

<sup>282</sup> *Id.*

<sup>283</sup> *Id.* complemented by the account of the incident published on their website: <http://kapaeeng.org/local-up-chairman-grabs-land-belonging-to-indigenous-oraon-peoples-in-sylhet/>

## 5. THE SITUATION OF SEXUAL AND GENDER MINORITIES

Shakawat Hossain asserted that only educated Bangladeshi from privileged, westernised backgrounds use LGBTI terminology. A more frequently heard expression is "Men Having Sex with Men" (MSM), and, according to the same interlocutor, numbers of MSM do not consider themselves gay. The Bengali language also contains its own terms for lesbians, homosexuals and bisexuals. The word *kothi*, for example, is applied to effeminate men and has no pejorative connotations<sup>284</sup>.

### 5.1. The legal framework and its application

Article 377 of the Bangladeshi Penal Code, entitled "Unnatural Offences", stipulates that "Whoever voluntarily has carnal intercourse against the order of nature with any man, woman or animal shall be punished with imprisonment for life, or with imprisonment of either description for a term which shall not be less than two years nor more than ten years, and shall also be liable to fine. Explanation: Penetration is sufficient to constitute the carnal intercourse necessary to the offence described in this section."

Although a few cases have been registered under Article 377, none of them have led to legal proceedings or convictions, usually due to lack of witnesses or evidence<sup>285</sup>. However, a legal expert attached to the Bandhu Social Welfare Society (BSWS) told us that Article 377 can be used to blackmail or exert pressure on LGBTI individuals.

He also cited Article 86 of the Metropolitan Ordinance Act, entitled "Penalty for being found under suspicious circumstances between sunset and sunrise", which can be used against LGBTI individuals, in particular its subparagraph (b): "Having without any satisfactory excuse his face covered or otherwise disguised"<sup>286</sup>, as men wearing makeup and women's clothes or meeting in small groups during the hours stipulated in the ordinance may be arrested on the basis of the Article.

Article 54<sup>287</sup> of the Code of Penal Procedure, which allows the arrest of a person simply upon suspicion and without a warrant, is also used against LGBTI individuals<sup>288</sup>.

### 5.2. The necessity of concealing sexual orientation to ensure safety

#### 5.2.1. The risk of persecution in the event of refusing to conform with Bangladeshi heterosexual norms

According to testimonies collected from 751 lesbians, homosexuals and bisexuals (including around 100 lesbians)<sup>289</sup>, more than 50% of them live in fear of their sexual orientation being discovered, while 59% asserted that they had been discriminated against because of it<sup>290</sup>.

Our interlocutors stressed the fact that **the gravity of violence or persecution** is naturally **correlated to the visibility** of the homosexuals, bisexuals or lesbians concerned, as well as **to their social backgrounds**, as they are less favourably looked upon by the poorer classes than by upper social echelons. In addition, LGB individuals' situations differ depending on whether they live in large cities like Dhaka, Sylhet or Chittagong, or in the provinces. For example, in the **Bangladeshi capital, two people of the same sex**, whether men or women, **can live together without fear as long as they are discreet** about the nature of their relationship<sup>291</sup>.

284 Shakawat Hossain, (BoB).

285 Shale Ahmed, Executive Director, BSWS; Zahid Hussain, legal expert, BSWS; Shakawat Hossain, BoB.

286 [http://bdlaws.minlaw.gov.bd/sections\\_detail.php?id=511&sections\\_id=137](http://bdlaws.minlaw.gov.bd/sections_detail.php?id=511&sections_id=137)

287 [http://bdlaws.minlaw.gov.bd/print\\_sections\\_all.php?id=75](http://bdlaws.minlaw.gov.bd/print_sections_all.php?id=75)

288 Zahid Hussain, legal expert, BSWS; Shakawat Hossain, BoB.

289 Shakawat Hossain, BoB; Shale Ahmed, Executive Director, BSWS.

290 *Dhaka Tribune*, "LGB community feels conflict in faith, lack of confidence", 19/12/2014.

291 Shale Ahmed, Executive Director, BSWS; Zahid Hussain, legal expert, BSWS; Shakawat Hossain, BoB; member of a diplomatic representation in Dhaka.

#### Shakawat Hossain, BoB :

« As long as you are doing everything privately, no question is asked. Families don't talk and don't ask questions about sex. I lived for 2 years with my ex-partner at my parents' house and maybe they were suspicious but they never asked anything, because they didn't know. Now they would be uncomfortable because they know. »

Consequently, **very few** homosexuals, bisexuals or lesbians **reveal their sexual orientation** due to the risks it exposes them to. Those who "come out" or whose sexual orientation is discovered risk reprisals that may be anything from forced psychological "conversion" therapy<sup>292</sup> or loss of their rights within the family to being cast out by the latter or subjected to torture<sup>293</sup>. Between **September 2013 and September 2014**, the BSWS documented **33 cases of aggression, 82 of domestic violence and 154 of discrimination** against LGBTI individuals<sup>294</sup>.

#### S., 24 years old, a young lesbian women encountered in Dhaka during the mission

"I had a crush on someone that ended up breaking my heart; I was very young and I told my mother, "I'm gay". "You're what?!" she asked. They took me to a psychiatrist as they thought it was some kind of mental disease. It was horrible. After I was like "I'm straight", I pretended it and it worked. I recently told them I was dating a boy and they were pleased [...] People think it's just a phase that will pass when you grow up and meet a boy."

Homosexuals, bisexuals and lesbians face **family pressure to conform to the Bangladeshi social and heterosexual norms** represented by marriage. **For men, the critical age is 30**. Most homosexuals get married and lead a **double life** unbeknownst to their wives. If these latter have any doubts about their husbands, given women's place in Bangladeshi society, they tend to close their eyes<sup>295</sup>.

For women, marriage proposals become more pressing once they have completed their higher education<sup>296</sup>. According to BSWS representatives, **kothis and lesbians may be forced into marriage** after having repeatedly refused to wed. They have to resort to subterfuge in order to delay matters, claiming that they need to continue studying or wish to pay for their weddings themselves so that their families are not burdened with the expense involved.<sup>297</sup>

Finally, according to representatives of BoB and BSWS, women are regarded as "asexual" in Bangladesh, and, given the way they are stigmatised in Bangladeshi society, **lesbians are yet more vulnerable and subject to** mental health problems and depression.

#### 5.2.2. Discrimination in the workplace and in access to healthcare

The young lesbian woman we met with in Dhaka explained that she had told her friends about her orientation but, like most lesbians, homosexuals and bisexuals, kept it hidden at her workplace so as to avoid being harassed or even dismissed on false grounds.

Effeminate male homosexuals (*kothis*) also have a hard time finding jobs<sup>298</sup>.

The BSWS, whose "Legal Talk" programme makes 190 lawyers available to it across Bangladesh and which has set up a hotline open 5 days a week, estimated that they had received around 1,000 calls in 2014. Most of them concerned cases of domestic violence, discrimination and requests for general or legal information from people with middle-class or disadvantaged backgrounds<sup>299</sup>.

The BSWS, with the **NHCR's** involvement, managed to win Sohel Rana's case; he had been dismissed from his job after revealing his gender identity and had not been paid his salary between May and September 2013<sup>300</sup>.

292 Also known as "sexual reorientation therapy".

293 Shale Ahmed, Executive Director, BSWS; Zahid Hussain, legal expert, BSWS; Shakawat Hossain, BoB; S. young lesbian woman.

294 US Department Of State, Bureau of Democracy, Human Rights and Labor, *Country Reports on Human Rights Practices for 2014 - Bangladesh*, 25/06/2015.

295 Shakawat Hossain, BoB.

296 S., young lesbian woman.

297 *Id.*

298 Shakawat Hossain, BoB; Shale Ahmed, Executive Director, BSWS.

299 Zahid Hussain, legal expert, BSWS.

300 Zahid Hussain, legal expert, BSWS; BSWS, "Rights violation, a case study", 12/12/2013.

Imrul Khan<sup>301</sup> spoke of the problems LGB individuals could encounter in the field of healthcare, the **problems they have in obtaining medical treatment** in public hospitals and their fear of mockery and discrimination if they went to such institutions.

### 5.3. Society's attitude to hijras

#### 5.3.1. Recognition of a "third gender"

Hijras form a heterogeneous community made up of transvestites, hermaphrodites, transsexuals, homosexuals and eunuchs. The Prime Minister's Cabinet recognised the community as a "third gender" on 11 November 2013, since when **the term "hijra" has been included on its members' identity cards**. Such recognition confirms that Bangladeshi society is somewhat more tolerant of hijras than it is of LGB individuals<sup>302</sup>. The community also gets more coverage in Bangladeshi media<sup>303</sup>. The role played by two hijras in the arraignment of the blogger Yasiqur Rahman Babu's murderers in early April 2015 was lauded by the local press and Bangladeshi authorities<sup>304</sup>. Be that as it may, hijras are still victims of discrimination and violence<sup>305</sup>.

#### 5.3.2. Discrimination and violence

As with LGB individuals, their situation is closely connected with their social background and family environment<sup>306</sup>. Nonetheless, situations can be reversed if, for example, in a poor family, the money coming in from a hijra member's begging is the only source of income. In such cases, the family closes its eyes to his gender identity and way of life<sup>307</sup>. BSWs representatives told us that most calls to their legal aid centre came from hijras who had been deprived of their inheritance and property rights as the law only refers to women and men, and makes no mention of a third gender.

### 5.4. Meeting places

Although **homosexuals still meet** in parks such as Dhaka's **Ramna Park** and **bus and railway stations**, use of the **Internet** has largely supplanted these traditional cruising grounds, as it is considered easier to access and "safer". Individuals going to known pick-up places risk being the targets of police harassment. The most widely used websites are **Manjam, Planetromeo, Okcupid, Grindr** and the **Facebook social network**<sup>308</sup>. Shakawat Hossain explained that the reason some users do not post their photographs is more for fear of being recognised and the taboo of homosexuality than for security reasons.

In addition, **there are no purely social meeting places** such as "gay friendly" or specifically LGBTI restaurants or bars **in the capital**. LGBTI individuals usually meet at private parties<sup>309</sup>. The Boys of Bangladesh association, which does not have an office, regularly organises picnics, events and film screenings in Dhaka, Chittagong and Sylhet's parks, restaurants and cafés so as to encourage them to go out and meet each other in public with a view to getting their cause talked about in Bangladesh society. Shakawat Hossain<sup>310</sup> told us that, although only three people attended their first event, there are now around a hundred every time, and that heterosexuals often joined in too. Holding free events or only charging very low admission fees (around two euros) enables the association to reach out to the maximum number of people. Few lesbians take part in such events, however, largely as a matter of caution, and mostly meet on the Internet for the same reason<sup>311</sup>.

The first "**Hijra Pride**" festival took place from **2 to 10 November 2014** on the initiative of the BSWs and in cooperation with the Bangladeshi Ministry of Social Affairs and UNAIDS. "Hijra pride" encompassed a range of events in seven of the country's districts, including seminars with representatives of the hijra community and members of the government, police and civil society; henna festival, and hijra talent competitions with parades in several Bangladeshi cities on 10 November<sup>312</sup>. Several thousand people took part, including police officers, and no untoward incident was recorded<sup>313</sup>.

301 Managing Director, Marie Stopes Bangladesh.

302 Member of a diplomatic representation in Dhaka.

303 Shakawat Hossain, BoB.

304 Member of a diplomatic representation in Dhaka; *Dhaka Tribune*, "Captors of Oyasiqur's killers fear being named", 01/04/2015.

305 Shakawat Hossain, BoB; Shale Ahmed, Executive Director, BSWs.

306 Shakawat Hossain, BoB.

307 *Id.*

308 Shale Ahmed, Executive Director, BSWs; Zahid Hussain, legal expert, BSWs; Shakawat Hossain, BoB; S., young lesbian woman.

309 *Id.*

310 BoB.

311 S., young lesbian woman.

312 BSWs, *Report on Hijra Pride 2014 Bangladesh*, March 2015, 36 pp.

313 Shale Ahmed, Executive Director, BSWs.

### 5.5. Associations and partners

The **BSWS** was set up in 1996, purportedly to deal with "male health problems", and was officially registered in 1997 with no mention made of male homosexuality. Since its creation, it has been dealing with questions connected with the LGBTI community, advocating change in discriminatory laws and social attitudes. **The BSWs is currently active in 20 districts, with 34 local offices and 516 employees**. It does not provide LGBTI individuals in need with temporary shelter but has set up a "youth corner" entitled HIM intended for young homosexuals, where they can meet people and find support. In 2013, around 20 people turned up there every day<sup>314</sup>.

**BoB** is an association composed of 5 or 6 volunteers; its approach is more social than political, and it focuses on mobilisation, advocacy in favour of homosexuals and networking. Because it has so few members and no office, the association directs those approaching it in need of help or shelter to the competent organisations. As Shakawat Hossain explained, for the same reasons and in order to avoid abuses, BoB does not respond to requests for attestations or testimonials.

Both associations mentioned the **Sambhab** organisation, which is intended for lesbians and has links with its Indian counterpart Sappho, a provider of advice and social links.

The **Marie Stopes Bangladesh** association, which focuses on family planning and sexual health, has also developed the "Link Up" project intended for MSM and transgender individuals, and disseminates information on STDs<sup>315</sup>.

Finally, there are many community associations that uphold the hijra cause, including **Shushta Jiban, Shomporker, Noya Shetu** and **Roopbaan**, the first LGBTI magazine, launched in January 2014<sup>316</sup>.

### 5.6. The religious authorities' attitude

According to Shakawat Hossain<sup>317</sup>, the LGBTI question is largely ignored by extremist religious movements as, although pro-LGBTI movements exist on the Bangladeshi scene, they take care to be highly discreet. In his opinion, the more visible LGBTI individuals are, the more violent extremist movements' reactions are prone to be. Along with BSWs members, he recalls the demonstrations held following the Nobel prize-winners' joint declaration in April 2012, in which Bangladeshi Nobel prize-winner Mohamad Yunus participated, condemning the judicial proceedings against LGBTI individuals in Uganda.

### 5.7. The public authorities' attitude

Representatives of associations whom we met with in Dhaka all emphasised their good cooperation with the Bangladeshi authorities and NHRC<sup>318</sup>.

The BSWs implements programmes designed to raise awareness of the LGBTI question among Bangladeshi police forces, with which they are sometimes able to tackle the subject head on. However, due to the conservative attitudes of some of its partners, it adapts its modes of presentation accordingly by approaching the question indirectly via the prism of public health.

Shale Ahmed asserts that, although there are **fewer incidents of police violence against LGBTI individuals, harassment and extortion of money continue**. For example, LGBTI individuals living by prostituting themselves are more vulnerable and are victimised by the police, who require bribes up to 500 TK (about 6 euros) on the pretext that prostitution is against the law. Many such victims do not lodge complaints for fear of reprisals.

Such harassment and extortion may also be partly due to poor coordination between the Ministry of Health and the Ministry of the Interior, with the first encouraging distribution of condoms while the second insists that carrying large numbers of such contraceptives is illegal<sup>319</sup>.

314 BSWs, *Annual report 2013, The Vibes and Vows*, p. 9 et p. 28

315 <http://mariestopes.org/news/world-aids-day-special-linking-reach-most-vulnerable>

316 BSWs, *Report on Hijra Pride 2014 Bangladesh*, March 2015, p. 6

317 BoB.

318 Shale Ahmed, Executive Director, BSWs; Zahid Hussain, legal expert, BSWs; Shakawat Hossain, BoB.

319 Shale Ahmed, Executive Director, BSWs; Shakawat Hossain, BoB.

## 6. TEXTILE WORKERS' UNIONS AND DEFENCE ASSOCIATIONS

**Bangladesh has an overall unionisation rate of 4% for a total of around 60 million employees. Most unions** are to be found in **public sectors** (banks, insurance, energy, and water distribution) and the **textiles** sector<sup>320</sup>.

Bangladesh is the world's fourth leading exporter of ready-to-wear garments<sup>321</sup>; in 2014, the International Labour Organisation (ILO) estimated that there were over 3,500 textile factories in the country (out of a total of 4,200<sup>322</sup>) focusing solely on export, most of which are located in Dhaka and Chittagong<sup>323</sup>. The sector employs four million workers, 80% of them women, and has an indirect impact on some twenty million jobs. Development of the textile industry has helped emancipate women and lower poverty levels. Nonetheless, only 5% of sector employees are union members, scarcely higher than the national average<sup>324</sup>.

### 6.1. Update on the situation since the collapse of Rana Plaza

#### 6.1.1. Improved safety standards

Following the Rana Plaza disaster in April 2013<sup>325</sup> and yielding to international pressure, the United States' suspension of the country's Generalized System of Preference (GSP) status<sup>326</sup> in particular, the Bangladeshi government committed itself to taking action and has now ratified seven of the ILO's eight fundamental conventions<sup>327</sup>. In mid-2013, an agreement was signed between top European brands and union partners with a view to reducing fire risks<sup>328</sup>.

According to the interlocutors we met with, considerable progress has been made with regard to safety. The ILO, which lends its support to the Bangladeshi authorities in ongoing improvement of the inspection system so that it meets international standards, reports that 75% of textile companies have so far been inspected, and that 32 of them were closed following inspection<sup>329</sup>.

#### 6.1.2. A rise in the minimum wage

At the end of 2013, the **minimum wage** was increased from 3,000 TK (about 34 euros) to **5,300 TK (about 60 euros)**<sup>330</sup>. The ILO indicated that, with overtime worked, monthly incomes could come to 7,000 TK (about 80 euros). In Kalpona Akhter's<sup>331</sup> opinion, this is still not enough for a mother to lead a proper life, obliging her to work 11 to 14 hours a day.

Union representatives we met with also spoke out against employers' continuing recourse to compulsory overtime<sup>332</sup>.

#### 6.1.3. Progress with regard to union rights

The Rana Plaza disaster had two main consequences as far as unions were concerned: sector employees began to realise the need to stand together and the government relaxed restrictions on setup of unions<sup>333</sup>.

The ILO emphasised that progress was being made, with registration of unions becoming easier and more transparent and the **April 2015** launch of **online registration**<sup>334</sup>.

320 Srinivas B. Reddy, Country Director, ILO.

321 The Bangladesh Garment Manufacturers and Exporters Association (BGMEA) <http://www.bgmea.cobd/home/about/AboutGarmentsIndustry>

322 The BGMEA: [http://www.bgmea.cobd/home/pages\\_test/TradeInformation](http://www.bgmea.cobd/home/pages_test/TradeInformation)

323 Srinivas B. Reddy, Country Director, ILO.

324 *Id.*

325 Rana Plaza was a building accommodating several clothing workshops. Its collapse on 24 April 2013 caused over 1,100 deaths.

326 Munir Quddus, "GSP suspension: What to do now", *The Daily Star*, 01/07/2013.

327 Srinivas B. Reddy, Country Director, ILO.

328 Kalpona Akhter, Managing Director, BCWS.

329 Srinivas B. Reddy, Country Director, ILO.

330 *The Huffington Post*, "Bangladesh Garment Workers Get A Raise", 11/04/2013.

331 Managing Director, BCWS.

332 Kalpona Akhter, Managing Director, BCWS; Babul Akhter, President, BGIWF.

333 Srinivas B. Reddy Country Director, ILO; Kalpona Akhter, Managing Director, BCWS.

334 [http://www.ilo.org/dhaka/informationresources/PublicInformation/WCMS\\_358947/lang--en/index.html](http://www.ilo.org/dhaka/informationresources/PublicInformation/WCMS_358947/lang--en/index.html)

**Three hundred new unions** were registered **between April 2013 and March 2015**, whereas only 132 existed up to 2012<sup>335</sup>. Nonetheless, the 300 new organisations' long-term survival is far from certain as most of them or not regarded as legitimate by employers<sup>336</sup>. A number of bodies (ILO, BCWS, BGIWF and Solidarity Center<sup>337</sup>) provide them with training on labour law, and the ILO advises them to initiate dialogue with employers on the more consensual question of safety before going on to tackle the thorny question of profit-sharing<sup>338</sup>.

However, the registration system is still riddled with corruption, with continuing threats against and pressure on union members and those on the way to being so<sup>339</sup>.

### 6.2. Registration procedures and hindrances to union rights

**In order to be registered, a union must represent 30% of the employees of the company** in which it intends to operate. Once the quota has been reached, workers wishing to set up a union must obtain a **D Form** from the **Joint Department of Labour's (JDL) Register for Registration of Trade Unions**.

They must then return the duly completed document to the JDL along with a P Form containing personal information on members (name, age, address, marital status and membership number), the organisation's statutes and the makeup of an elected or appointed committee. The JDL takes a decision within sixty days, and, **notifying the organisation in writing in the event of refusal**<sup>340</sup>.

The greater the workforce, the more **difficult** it is to comply with the **quota rule**; for some factories with 10,000 or 15,000 employees, it may be effectively impossible to reach the required quota as workers on the list of union members may be subjected to **pressure** or even **physical violence** on the part of middle or upper management personnel seeking to get them to remove their names. For example, when Register officers arriving at a factory to check the credibility of a list submitted by a new union ask the workers in front of their employer whether they really wish to form a union, they may be too afraid to answer affirmatively, leading the officers to conclude that the quota has not been reached<sup>341</sup>.

Civil servants responsible for registration may demand a bribe to ensure it happens, and, in the event of refusal, may even go as far as approaching the management of the company concerned and suggest that registration can be refused against payment of a sum of money<sup>342</sup>. This has become less common since the collapse of Rana Plaza and the government's determination to make the procedure more transparent<sup>343</sup>.

There is also a close relationship between textiles and politics: **10% of company owners are also members of parliament** and can take advantage of their seats in order to exert pressure on the JDL<sup>344</sup>.

Babul Akhter noted that in 2014 his federation submitted 31 union registration requests, 16 of which were arbitrarily rejected for no apparent reason.

### 6.3. Highly politicised federations

Although trade unions are not necessarily politicised<sup>345</sup>, they are all affiliated to one or other national federation<sup>346</sup>, most of which depend on political parties. **The Jatiya Sramik League (JSL) is connected with the AL and the Bangladesh Jatiyatabadi Sramik Dal (BJSJ) with the BNP**. Babul Akhter asserted that his federation and the forty unions affiliated to it have no political ties.

335 Srinivas B. Reddy, Country Director, ILO.

336 *Id.*

337 Srinivas B. Reddy, Country Director, ILO; Kalpona Akhter, Managing Director, BCWS; Babul Akhter, President, BGIWF.

338 Srinivas B. Reddy, Country Director, ILO.

339 Kalpona Akhter, Managing Director, BCWS; Babul Akhter, President, BGIWF.

340 *Id.*

341 Babul Akhter, President, BGIWF.

342 Kalpona Akhter, Managing Director, BCWS; Babul Akhter, President, BGIWF.

343 Srinivas B. Reddy, Country Director, ILO.

344 Babul Akhter, President, BGIWF.

345 Srinivas B. Reddy, Country Director, ILO; Kalpona Akhter, Managing Director, BCWS; Babul Akhter, President, BGIWF.

346 *Id.*

There are currently **seventy-two union federations** in the **textiles sector**, only twenty-three of which are registered, **ten active, and two to be taken seriously**: BGIWF and the Bangladesh Independent Garment Workers Union Federation (BIGWUF)<sup>347</sup>. During national negotiations with union partners, the authorities only invite representatives of federations sponsored by their party, so biasing eventual dialogue<sup>348</sup>.

Unions pay an **annual contribution** to their federations, **which do not issue membership cards**<sup>349</sup>.

#### 6.4. Union membership

There is little formality to the procedure for joining a union. Workers only need to pick up a **form** from the union's President/Vice-President or secretary and **pay the dues (20 TK a month** on average, the equivalent of **0.22 euros**). Employees usually join after experiencing problems at work, looking to the union to provide them with support.

**Unions do not issue membership cards**, although each union member normally has a **membership number**.

All members of unions affiliated with the BGIWF can supply its name and address, which is not necessarily the case with other federations, depending on their degree of activism<sup>350</sup>.

#### 6.5. Crackdowns on union members

The main reason for low rates of unionisation is the repressive action often taken against workers who wish to mobilise their ranks<sup>351</sup>. Persecution can take a wide variety of forms, including threats, pressure, unfair dismissal, aggression, and implication in spurious cases of vandalism or illegal demonstration<sup>352</sup>.

Union leaders are the most exposed:

– Aminul Islam, one of the leaders of the BGIWF and BCWS, was murdered on 4 April 2012. The case has yet to be solved<sup>353</sup>.

– Kalpona Akhter (BCWS) and Babul Akhter (BGIWF) were both implicated in eleven fallacious cases in August 2010, detained for a month and subjected to ill treatment. BCWS's authorisation was revoked. The last charges laid against them were dropped in April 2014 following international pressure. Nonetheless, they assert that they are still being watched.

#### 6.6. Means of protection

The BCWS provides workers with legal assistance and helps them in their initiatives. Most cases that the organisation defends concern employees who have been dismissed for spurious reasons without compensation. The BCWS currently has some 1,000 cases waiting to be heard. Given the slow pace of procedures, with some cases taking up to five years before being brought before a judge, and the lack of independence and haphazard nature of the judicial system, there is frequent recourse to mediation<sup>354</sup>.

In March 2015, the ILO helped set up a State call line for anonymous reporting of abusive practices on the part of employers<sup>355</sup>.

Even so, the sector's extreme politicisation and factory owners' influence on the media complicate the work carried out by unions, who have a hard time getting their demands listened to<sup>356</sup>.

347 Kalpona Akhter, Managing Director, BCWS; Babul Akhter, President, BGIWF.

348 *Id.*

349 Babul Akhter, President, BGIWF.

350 *Id.*

351 Srinivas B. Reddy, Country Director, ILO; Kalpona Akhter, Managing Director, BCWS; Babul Akhter, President, BGIWF.

352 Kalpona Akhter, Managing Director, BCWS; Babul Akhter, President, BGIWF.

353 Tula Connell, "3 Years Later, No Justice for Slain Garment Worker Leader", *Solidarity Center*, 06/04/2015.

354 Kalpona Akhter, Managing Director, BCWS.

355 [http://www.ilo.org/dhaka/Informationresources/Publicinformation/Pressreleases/WCMS\\_352652/lang--en/index.htm](http://www.ilo.org/dhaka/Informationresources/Publicinformation/Pressreleases/WCMS_352652/lang--en/index.htm)

356 Kalpona Akhter, Managing Director, BCWS.

## 7. COMMUNITY ACTIVITIES ENCOURAGED BY THE GOVERNMENT

### 7.1. Family planning centres, supported by religious and secular authorities alike

According to World Bank data, Bangladesh's total fertility rate (TFR) in 2013 was 2.2 births per woman. Nevertheless, the rate varies from one district to another; five out of the country's seven divisions, Dhaka, Rangpur, Rajshahi, Khulna and Barisal, have fertility rates of between 1.9 and 2.3, while they are higher in the Chittagong and Sylhet divisions (respectively 2.8 and 3.1 births per woman)<sup>357</sup>.

Associations met with over the course of the mission<sup>358</sup> started their activities in Bangladesh in the 1980s and focus on mother and child healthcare, including access to methods of contraception.

They have all developed their activities in **close collaboration with local, national, religious and traditional authorities**, enjoying strong support from the Ministry of Health and organising training programmes at religious schools<sup>359</sup>.

Although family-planning centre employees were targeted by fundamentalist religious groups in the 1990s, **this is no longer the case** and they now practise their professions with no fears for their safety<sup>360</sup>. A few social barriers are all that remain these days, such as misgivings on the part of the occasional patriarch and the problems women living in rural areas encounter in getting to centres due to lack of means of transport or of money to pay for the journey.

Organisations working in the field of family planning are active in all of Bangladesh's districts and among all classes of society, from wealthy residential neighbourhoods to shantytowns.

The Marie Stopes Bangladesh association's slogan "*a child by choice not by chance*" is an example of the effective communication methods developed by family planning centres. Their activities are accepted by the population as a whole and women visiting them are not stigmatised in their communities. **Bangladesh appears much in favour of family planning centre activities**, so much so that even imams are to be heard preaching on the merits of contraception<sup>361</sup>.

Nonetheless, it should be pointed out that **teenage girls who go to family planning centres are vulnerable**, as their doing so may arouse suspicions regarding possible sexual relations and ferment rumours about their personal situations<sup>362</sup>.

#### 7.1.1. How family planning centres operate – accessibility

The RHSTEP is the only organisation in the country with a presence in public hospitals, where the authorities make space available to it. Other bodies carry out their activities in privately owned buildings.

Family planning centres are based in cities. However, the Shimantik and Marie Stopes Bangladesh organisations both use "satellite clinics", mobile units that visit rural areas at hours adapted to the professional activities of those in need of family planning services. Shimantik's satellite clinics visit villages in the Sylhet District after the women have finished their day's work in the fields<sup>363</sup>.

**Access to family planning centres may be free of charge or paid**. While Shimantik highlights the fact that it does not charge for its services so as to facilitate access to them, other bodies such as the RHSTEP assert that family-planning centre users have greater trust in paying offers, believing that payment ensures higher service quality. Fees do not usually exceed 350 TK (about 4 euros) for a consultation, although a few centres in Dhaka's wealthier neighbourhoods are more expensive.

Women visiting family planning centres have to complete a registration form, which is kept by the bodies concerned and which must indicate their and their husband's identity.

357 [World Bank, data, Fertility rates: http://donnees.banquemondiale.org/indicateur/SP.DYN.TFRT.IN](http://donnees.banquemondiale.org/indicateur/SP.DYN.TFRT.IN)

358 Marie Stopes Bangladesh; Reproductive Health Services Training and Education Programme (RHSTEP); Shimantik.

359 Imrul Hassan, Managing Director, Marie Stopes Bangladesh; Suraiya Sultana, Executive Director, RHSTEP; Shimantik association management staff; member of a diplomatic representation in Dhaka.

360 *Id.*

361 Member of a diplomatic representation in Dhaka.

362 Imrul Hassan, Managing Director, Marie Stopes Bangladesh; Suraiya Sultana, Executive Director, RHSTEP; Shimantik association management staff.

363 Shimantik association management staff.



However, **no check is made on the husband's name**, which enables widowed and divorced women to put down any name they wish, even an invented one, and so obtain access to contraception methods. In addition, all **data collected remains confidential** and may only be divulged upon a court order. **Women visiting family planning centres are almost always received by female staff** and men by male staff, as organising matters in this way fosters confidence-building and more open discussion<sup>364</sup>.

### 7.1.2. Family-planning centre employee profile

#### ● Centre composition

Family planning centres comprise medical staff, coordinators, project leaders and supportive staff, who are responsible for mail transport and making photocopies.

Most employees are women<sup>365</sup>. Imrul Hassan<sup>366</sup>, for example, informed us that 57% of his staff were female while the supportive staff were mostly male.

#### ● Recruitment and training

Job offers are published on centre and/or specialised employment websites, as well as in such national newspapers as *The Daily Star* and *Prothom Alo*.

Candidates submit a *curriculum vitae* and undergo one or more recruitment interviews. **Procedures are selective** as a great many people apply for such positions.

**Coordinators and project leaders must hold a Master's degree**, preferably in social sciences, development, or some similar subject. Lesser qualifications such as the SSC or HSC are not enough, as these jobs are regarded as positions of responsibility.

Once recruited, new employees receive special standardised training administered by the organisation itself, either at its head office or hands-on in a family planning centre<sup>367</sup>. Shimantik's management told us that it had a training centre at its head office in Sylhet, providing its employees with initial and ongoing training alike.

Medical staff are doctors and nurses, while supportive staff are recruited on the basis of SSC or HSC qualifications<sup>368</sup>.

### 7.1.3. Available methods of contraception

#### ● The pill, IUDs and condoms

Methods of contraception are adapted to family composition and the woman's age. The **pill, which is used by 57% of Bangladeshi women**, is the most popular method<sup>369</sup>. It is available at family planning centres and pharmacies; centres also provide implants.

If there are already several children in the family, an IUD is suggested as the most permanent form of contraception. However, this method is still less widespread and women tend to regard it as less convenient as it requires more thorough monitoring, in particular as regards possible infection<sup>370</sup>.

According to Suraiya Sultana<sup>371</sup>, **condoms are available in family planning centres** but are **little sought after** by the population, which seems reluctant to use them despite the fact that they are distributed free of charge or at a token price of 1 TK each. With a view to changing behaviour, centres emphasise their role in preventing STDs and disseminate information to couples rather than women only, in order to raise awareness directly among husbands.

364 Imrul Hassan, Managing Director, Marie Stopes Bangladesh; Suraiya Sultana, Executive Director, RHSTEP; Shimantik association management staff.

365 *Id.*

366 Managing Director, Marie Stopes Bangladesh.

367 Imrul Hassan, Managing Director, Marie Stopes Bangladesh; Suraiya Sultana, Executive Director, RHSTEP; Shimantik association management staff.

368 *Id.*

369 Imrul Hassan, Managing Director, Marie Stopes Bangladesh.

370 *Id.*

371 Executive Director, RHSTEP.

Finally, the government has launched voluntary sterilisation programmes, encouraging men and women to volunteer to undergo the procedure by offering them clothing and a little money in return.

#### ● Voluntary termination of pregnancy

Abortion is illegal in Bangladesh; however, the law provides for cases where **the mothers' health is endangered**, in which **pregnancy may be terminated within the first four months**.

Consequently, it is in practice possible to terminate a pregnancy voluntarily in Bangladesh, as the notion of danger to the mother may be taken to cover psychological as well as physical endangerment. **Family planning centres provide this possibility and the practice is tolerated by the authorities**, which hope to change the behaviour of women in distress, who may resort to more traditional but also more dangerous methods<sup>372</sup>.

However, both Imrul Hassan and Suraiya Sultana suggested that such tolerance may no longer be the rule if voluntary termination of pregnancy becomes a matter of public debate. Furthermore, although traditional authorities are not opposed to the procedure in cases where medical problems occur during pregnancy, they are not in favour of developing the practice further.

### 7.2. Microcredit

BRAC is the country's second leading organisation with regard to granting of microcredit, after the Grameen Bank founded by 2006 Nobel Prize winner Muhammad Yunus.

The two organisations have different practices, however: BRAC has developed a multi-social approach, with each microcredit beneficiary also having access to healthcare, educational and legal-aid services, while the Grameen Bank is a participatory banking institution in which each person contracting a microloan possesses shares.

These bodies, which declare themselves to be politically neutral, work in close collaboration with the official and traditional authorities, in particularly via local development committees<sup>373</sup>.

BRAC and Grameen Bank executives all agree in saying that **microcredit organisation employees are not targets of threats or persecution due to their professional activities**, which are well understood by the population as a whole. Their assessment was confirmed by members of diplomatic representations in Dhaka.

Although Muhammad Yunus has personally encountered problems of a political nature in his dealings with the authorities, he stressed that they in no way affected the work of Grameen Bank employees.

#### 7.2.1. Criteria for obtaining microcredit

**Thanks to efficient, well-established local professional networks, microcredit organisations are easily accessible to the general population**<sup>374</sup>.

In practice, a group of individuals submits a project requiring financing via a microloan. The project is examined by the local branch and, in BRAC's case, a set of criteria are taken into account in order to validate the proposal:

- project viability,
- repayment capacities,
- profitability.

**The average sum borrowed is between 20,000 and 24,000 TK** (about 230 to 275 euros); repayment is usually made over a year, during which a set weekly sum is repaid<sup>375</sup>. BRAC employees meet some five million women a week, come to repay a portion of their loans<sup>376</sup>.

372 Imrul Hassan, Managing Director, Marie Stopes Bangladesh; Suraiya Sultana, Executive Director, RHSTEP.

373 A. Mushtaque R Chowdhury, Vice-President and Managing Director, BRAC; Muhammad Yunus, founder of the Grameen bank, Nobel Peace Prize, President of the Yunus Centre.

374 *Id.*

375 *Id.*

376 A. Mushtaque R Chowdhury, Vice-President and Managing Director, BRAC.

### 7.2.2. Employee profile

Job offers are published on the Internet and in the press. A. Mushtaque R. Chowdhury told us that his organisation also employed the services of "head-hunters", which goes to show how much competition there is for jobs in microcredit.

Candidates for jobs as coordinators must have a Master's degree in social sciences or some other speciality related to the position on offer. Once recruited, new employees undergo standardised special training dispensed by the organisation concerned. Employees are sometimes sent abroad for more specialised training, depending on their positions. Jobseekers with an HSC can only be recruited as field employees and may not hold positions of responsibility<sup>377</sup>.

**Most microcredit organisation employees are men; only 8% are women.** As microcredit work requires frequent travel and numerous encounters, it tends to be unpopular with the families of young women employed in such organisations<sup>378</sup>.

Each Grameen Bank employee is assigned a personal number, issued a **business card** and **affiliated to a local branch**. All data is computerised and kept by the organisation. Employees are also **grouped together in associations**, to which they can refer any problems encountered in the course of their professional activities<sup>379</sup>.

BRAC and Grameen Bank executives all agree in saying that, in the event of a problem arising, such as a personal conflict between an employee and a microcredit beneficiary, they support their employees; the authorities are equally responsive.

### 7.2.3. Influence of microcredit on traditional family structures

Most microloans are contracted by women for farming, stockbreeding or garment-making projects. This being so, microcredit has brought about significant changes in the traditional Bangladeshi family structure.

Men were hesitant when microcredit programmes first arrived in villages, feeling their position as head of the family was threatened by women being active professionally and thinking that it would be up to them to repay the money borrowed by their wives. However, their behaviour has evolved considerably **thanks to social and religious arguments developed by microcredit bodies**.

Mohammad Yunus explained that, in order to enable women to continue developing professional activities and get husbands to understand such projects' usefulness, the Grameen Bank had targeted men in emphasising a variety of aspects concerned:

- the advantage of the family having a second source of income,
- women coming to understand how onerous a man's work was,
- sharing of financial responsibilities between husband and wife.

**Consequently, microcredit organisation employees are well respected by the population; as an illustration of this, in order to ensure operation of the system in rural areas, employees transport some 40,000 TK (about 459 euros) each and every day without encountering any problems along the way**<sup>380</sup>.

<sup>377</sup> *Id.*

<sup>378</sup> Muhammad Yunus, founder of the Grameen bank, Nobel Peace Prize, President of the Yunus Centre.

<sup>379</sup> *Id.*

<sup>380</sup> *Id.*

## 8. UPDATING OF INFORMATION IN CIVIL-STATUS DOCUMENTS

According to members of the French embassy's consular service in Bangladesh, it is extremely difficult to ascertain the authenticity of a civil status document without making local enquiries. Due to the widespread corruption in Bangladesh, the content of a document which has every indication of authenticity may well be false. On the other hand, a certificate copied out by hand on a loose sheet of paper may be authentic even though it does not appear so, owing to the lack of such equipment as printers and photocopiers in registry offices. Nonetheless, such a document would be considered a non-identical copy and therefore invalid. Since 3 July 2006, when the Bangladeshi law of 2004 bearing on registration of births and deaths came into force, **all birth certificates must be issued on form no. 3**, a regulation with which all the country's registry offices are obliged to comply. This being so, a **birth certificate may be authentic but not a certified copy**<sup>381</sup>.

All civil-status documents were initially drawn up on the basis of such scholastic documents as SSCs and HSCs. Consequently, if someone has reached at least SSC level in their schooling, a comparison with information included on his or her diploma may well prove of use<sup>382</sup>.

All school certificates are recorded on the Ministry of Education's website: <https://web.archive.org/web/20150315082640/http://archive.educationboard.gov.bd/>

### 8.1. Birth certificates

All birth certificate issued after 2013 should now be registered on the Birth Registration Information System (BRIS) database: [http://bris.lgd.gov.bd/pub/?pg=verify\\_br](http://bris.lgd.gov.bd/pub/?pg=verify_br). Nonetheless, it may happen that a birth certificate is not registered. The measure is only coming into effect gradually in the provinces, and it may be that the registrar responsible for registering the certificate omitted to do so. Updating continues, however, and all birth certificates should eventually be included in the database, which already contains a good many pre-2013 certificates. It must be said that no checks are carried out as to the reliability of information entering the database (the fact that a certificate is registered does not mean that it is authentic)<sup>383</sup>. A UNICEF information sheet specifies that only 1.4% of 2013 births were registered within the 45-day legal deadline<sup>384</sup>.

### 8.2. Muslim marriage and divorce certificates

As was mentioned in the report on the OFPRA/CNDA joint mission in April 2011, Muslim marriages and divorces must be recorded in a register held by a *kazi* (Muslim registrar)<sup>385</sup>. The registration fee varies depending on the dowry, with a minimum of 100 TK (about 1.14 euros) and a maximum of 4,000 TK (about 49 euros); according to a *kazi* in Mohakhali Gulshan, it is set at 1.25% of the dowry. Each *kazi* holds a marriage register and a divorce register – there are no centralised registers at national level.

For further details on Muslim marriages and marriages in other faiths, the information contained in the report on the OFPRA/CNDA joint mission in November 2010 is still valid<sup>386</sup>.

### 8.3. Death certificates

Although there is an official death certificate form, it is not always used in practice. Cause of death is generally included on the certificate, and further details may be added if the applicant requires it. Article 8 of the law on registration of births and deaths stipulates that information on the death may be supplied by the deceased's son, daughter, guardian or any other authorised person within the 30 days following its occurrence<sup>387</sup>.

<sup>381</sup> Bernard Regemba, Consul and Head of Chancellery, French Embassy in Dhaka

<sup>382</sup> *Id.*

<sup>383</sup> *Id.*

<sup>384</sup> UNICEF, Bangladesh Country Office, Child Protection Section, *Birth registration*, May 2014, p. 2

<sup>385</sup> [http://www.lawjusticediv.gov.bd/static/marriage\\_registration.php](http://www.lawjusticediv.gov.bd/static/marriage_registration.php)

<sup>386</sup> OFPRA-CNDA, April 2011, pp. 155-161, *op. cit.*

<sup>387</sup> *Id.*

## 8.4. Identity cards

Bangladeshi identity cards were issued for the December 2008 general election. As with all other civil-status documents, information on the holder's identity may be altered in exchange for a bribe. The combination of figures included on a card cannot be changed, however, and correspond to specific information. The first four figures correspond to the year of birth for both types of numbering, and the two following figures to the district number for 17-figure identity cards.

## Conclusion

The mission team met with almost 70 interlocutors in 12 days, enabling it to shed light on the eight areas of concern in their remit and acquire updated information.

Interviews conducted showed that political acts of violence are committed by various parties, and that nowadays they not only affect opposition activists but members of civil society as well.

In addition, although spurious cases and land conflicts are still very much a reality in Bangladesh, mechanisms for protection and legal redress exist, but do not seem accessible to everyone. Widespread corruption in the justice system and police is also an obstacle to implementation of the Rule of Law and obtainment of legal remedies.

Furthermore, the opposition's political activists and members of religious, ethnic and sexual minorities are especially vulnerable in Bangladesh, in particular if they come from disadvantaged backgrounds and have no networks of influence to call upon.

Labour law has made progress since the collapse of Rana Plaza in April 2013. Nonetheless, union members are still potential targets of reprisals on the part of heads of companies.

As for members of civil society working in the spheres of family planning and microcredit, they now enjoy government support. Their programmes and activities are accepted by their fellow citizens and the mission could find no cause for concern in their regard.

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## Acronyms/abbreviations

AL: Awami League

ALRD: Association for Land Reform and Development

ASK: Ain o Salish Kendra

BCL: Bangladesh Chattra League

BCWS: Bangladesh Center for Worker Solidarity

BGB: Border Guards Bangladesh

BGIWF: Bangladesh Garments & Industrial Workers Federation

BGMEA: Bangladesh Garment Manufacturers and Exporters Association

BHBCOP: Bangladesh Hindu Buddha Christian Oikya Parishad

BICS: Bangladesh Islami Chattra Shibir

BIGWUF: Bangladesh Independent Garment Workers Union Federation

BJCD: Bangladesh Jatiotabadi Chattra Dal

BJJD: Bangladesh Jatiotabadi Jubo Dal

BJSD: Bangladesh Jatiyatabadi Sramik Dal

BLAST: Bangladesh Legal Aid and Services Trust

BNP: Bangladesh Nationalist Party

BoB: Boys of Bangladesh

BSCBA: Bangladesh Supreme Court Bar Association

BSWS: Bandhu Social Welfare Society

CHT: Chittagong Hill Tracts

CNDA: Cour Nationale du Droit d'Asile

DMPO: Dhaka Metropolitan Police Ordinance

ECDO: Ethnic Community Development Organization

FIR: First Information Report

HSC: Higher School Certificate

JeI: Jamaat-e Islami

JP: Jatiya Party

JSD: Jatiya Samajtantrik Dal

JSL: Jatiya Sramik League

LDP: Liberal Democratic Party

LGBTI: Lesbian, Gay, Bisexual, Transgender and Intersex

MSM: Men Having Sex with Men	
NHRC: National Human Rights Commission	
OC: Officer in Charge	
IO: Investigation Officer	
OFPRA: <i>Office Français de Protection des Réfugiés et Apatrides</i> (French Office for the Protection of Refugees and Stateless Persons)	
IOM: International Organisation for Migration	
ILO: International Labour Organisation	
UNDP: United Nations Development Programme	
RAB: Rapid Action Battalion	
RHSTEP: Reproductive Health Services Training and Education Programme	
SSC: Secondary School Certificate	
TK: Taka	
UNAIDS: The Joint United Nations Programme on HIV/AIDS	
VPA: Vested Property Return Act	

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