

Flygtningenævnets baggrundsmateriale

Bilagsnr.:	117
Land:	Bangladesh
Kilde:	British Home Office
Titel:	"Operational Guidance Note"
Udgivet:	21. december 2007
Optaget på baggrundsmaterialet:	5. februar 2008



OPERATIONAL GUIDANCE NOTE

BANGLADESH

CONTENTS

1. Introduction	1.1 – 1.4
2. Country assessment	2.1 – 2.13
3. Main categories of claims	3.1 – 3.5
Members of political parties	3.6
Political activists in fear of members of opposing parties	3.7
Victims of domestic violence	3.8
Biharis	3.9
Hindus	3.10
Ahmadis	3.11
Prison conditions	3.12
4. Discretionary Leave	4.1 – 4.2
Minors claiming in their own right	4.3
Medical treatment	4.4
5. Returns	5.1 – 5.2
6. List of source documents	

1. Introduction

- 1.1** This document evaluates the general, political and human rights situation in Bangladesh and provides guidance on the nature and handling of the most common types of claims received from nationals/residents of that country, including whether claims are or are not likely to justify the granting of asylum, Humanitarian Protection or Discretionary Leave. Case owners must refer to the relevant Asylum Instructions for further details of the policy on these areas.
- 1.2** This guidance must also be read in conjunction with any COI Service Bangladesh Country of Origin Information at: http://www.homeoffice.gov.uk/rds/country_reports.html
- 1.3** Claims should be considered on an individual basis, but taking full account of the guidance contained in this document. In considering claims where the main applicant has dependent family members who are a part of his/her claim, account must be taken of the situation of all the dependent family members included in the claim in accordance with the Asylum Instructions on Article 8 ECHR. If, following consideration, a claim is to be refused, case owners should consider whether it can be certified as clearly unfounded under the case by case certification power in section 94(2) of the Nationality Immigration and Asylum Act 2002. A claim will be clearly unfounded if it is so clearly without substance that it is bound to fail.

Source documents

- 1.4** A full list of source documents cited in footnotes is at the end of this note.

2. Country assessment

- 2.1** Bangladesh is a parliamentary democracy with a non-executive president elected by

parliament. Parliament and president are both elected for five years.¹

- 2.2** In the general election held in October 2001 and adjusting by-elections, the 'Four-Party' Alliance led by Khaleda Zia's Bangladesh Nationalist Party (BNP) won an overall majority, with 219 seats out of 300 (BNP - 195 seats; Jamaat-e-Islami - 17 seats; the Naziur Jatiya Party - 4 seats; and the Islami Oikya Jote – 3 seats). The main opposition party, the Awami League (AL) won 58 seats. International observers reported that the election was generally free and fair, but there were reports of election-related violence, ballot rigging and other election malpractice. The AL publicly refused to accept the result, however, and from 2001 to 2006 AL attendance in parliament was sporadic.²
- 2.3** Political and terrorist violence has increased in recent years. In August 2004, 23 were killed in a grenade attack on an AL political rally in Dhaka where the AL's leader, Sheikh Hasina, was speaking. In January 2005, the former Finance Minister, Shah Kibria, was assassinated along with four colleagues and over 70 were injured in a grenade attack at an AL rally in north eastern Bangladesh. On 17 August 2005, there was a series of over 400 co-ordinated incendiary explosions throughout Bangladesh for which the militant Islamist group Jamatul Mujahedin Bangladesh (JMB) reportedly claimed responsibility. Two people were killed and over 100 injured.³
- 2.4** The Government's five-year term of office came to an end in October 2006 and an interim caretaker government was due to take office for the period leading up to the general election scheduled for 22 January 2007. However, thousands of opposition protestors took to the streets as the Government and the AL failed to agree to who should lead the Caretaker Government. Following violent clashes between supporters of the two main political parties, President Iajuddin Ahmed announced that he would personally assume the role of Chief Advisor of the Caretaker Government. A 14-party alliance led by the Awami League still did not accept President Ahmed's neutrality, however, and in January 2007 the 14-party alliance announced a boycott of the general election on the grounds that it would not be fair and that the voter list had been found to be flawed and out of date.⁴
- 2.5** Against the background of serious differences between the BNP and the AL regarding the general election, political demonstrations and civil unrest, on 11 January 2007, President Iajuddin Ahmed declared a state of emergency and resigned his role as Chief Adviser of the Caretaker Government. The President further announced the postponement of the general election for an unspecified period to allow time for errors in the voter list to be rectified and to ensure that the elections would be 'free, fair and credible'. A curfew was imposed in Dhaka and more than sixty other cities and towns across Bangladesh which was lifted on 13 January 2007. On 12 January 2007, Fakhruddin Ahmed, a former governor of the Bangladesh Central Bank, who is widely regarded as politically neutral, was sworn in as the new Chief Adviser of the Caretaker Government.⁵
- 2.6** On the same day, the Emergency Power Ordinance 2007 was introduced to give the authorities the power to restrict any activities deemed to be 'subversive to the state'; 'hampering the relations of Bangladesh with foreign countries'; or 'disrupting peace in any part of the country or creating enmity, hatred, or confrontations among different sections of society'. As a result, political parties were banned from holding meetings as were trade union activities including rallies and demonstrations, though some of these restrictions were lifted in September 2007. There has also been a degree of media censorship and self-

¹ Foreign and Commonwealth Office (FCO) Country Profile 2007: Bangladesh

² Home Office COI Service (COIS) Bangladesh Country of Origin Information Report 2007 (Background Information: History), FCO Country Profile 2007: Bangladesh & British Broadcasting Corporation (BBC) News Timeline: Bangladesh

³ COIS Bangladesh Country Report 2007 (Background Information: History) & FCO Country Profile 2007: Bangladesh

⁴ COIS Bangladesh Country Report 2007 (Background Information: History & Recent Developments)

⁵ COIS Bangladesh Country Report 2007 (Background Information: Recent Developments) & FCO Country Profile 2007: Bangladesh

censorship. In April 2007, the Chief Advisor stated the Caretaker Government's intention to hold the general election before the end of 2008 and the recently reconstituted Election Commission has deployed teams throughout the country to register individuals for a new voter list and national identity cards.⁶

- 2.7** Bangladesh was ranked worst on Transparency International's Corruption Perceptions Index from 2001 to 2005; its position improved in 2006. The Caretaker Government has expressed its intention to curb corruption and, in February 2007, the Anti-Corruption Commission (AAC) was reconstituted and strengthened. By 13 April 2007, more than 160 prominent politicians, businessmen, senior bureaucrats and an unknown number of other individuals had been detained since the state of emergency was declared, primarily on charges relating to corruption or tax evasion. The AAC has also actively pursued cases against former Prime Ministers Khaleda Zia and the AL's Sheikh Hasina who have both been arrested on corruption related charges.⁷
- 2.8** Bangladesh does not have a good human rights record. On coming to power the BNP Government pledged to take a number of actions to improve human rights during its term in office. However, significant steps including the separation of the lower judiciary and the executive, and the establishment of an independent Human Rights Commission and Ombudsman were not progressed. In 2006, the higher levels of the judiciary displayed some degree of independence, however, and the Supreme Court sometimes ruled against the Government in criminal, civil, and politically controversial cases. The Caretaker Government has worked to separate the lower judiciary from executive control and place it under the control of the Supreme Court.⁸
- 2.9** Law enforcement agencies, and in particular the Rapid Action Battalion (RAB) are reported to have committed a wide range of human rights abuses and nearly all abuses have gone un-investigated and unpunished. Since its inception in 2004, the RAB has pursued an aggressive strategy against criminal gang members that has led to a large number of killings in so-called 'crossfire' incidents. There have also been reports of 'crossfire' deaths at the hands of police. The deaths, often under unusual circumstances, apparently sometimes occurred while the accused were in custody and during police operations; however, the authorities described the deaths of some identified criminals as occurring in crossfire between the RAB and crime gangs. These crossfire custodial deaths are viewed by some human rights groups as a form of extrajudicial execution.⁹
- 2.10** There have been attacks on religious minorities since the BNP Government came into power in October 2001, including Hindus and the Ahmadiyya community. Towards the end of 2003, anti-Ahmadiyya groups grew more vociferous, demanding that the Ahmadis be declared non-Muslim, and attacking Ahmadi mosques. Amnesty International criticised the Government for not taking action against the hate campaign and for the January 2004 (unenforced) banning of Ahmadiyya publications. The police have recently proved more effective at preventing some of the threatened sieges to Ahmadiyya mosques and other centres, but acts of intimidation have continued to take place.¹⁰

⁶ COIS Bangladesh Country Report 2007 (Background Information: Recent Developments), FCO Country Profile 2007: Bangladesh, BBC News Timeline: Bangladesh, BBC News Country Profile: Bangladesh, BBC News 'Bangladesh parties reopen offices' dated 11 September 2007 & BBC News 'Q&A Bangladeshi crisis' dated 3 September 2007

⁷ COIS Bangladesh Country Report 2007 (Background Information: Recent Developments), FCO Country Profile 2007: Bangladesh, BBC News 'Q&A Bangladeshi crisis' dated 3 September 2007 & BBC News 'Bangladesh stuck in political limbo' dated 3 September 2007

⁸ COIS Bangladesh Country Report 2007 (Background Information: Recent Developments & Human Rights: Judiciary) & FCO Country Profile 2007: Bangladesh

⁹ COIS Bangladesh Country Report 2007 (Human Rights: Security Forces)

¹⁰ COIS Bangladesh Country Report 2007 (Human Rights: Freedom of Religion) & FCO Country Profile 2007: Bangladesh

- 2.11** On 23 February 2005, following a spate of murders, bombings and related terrorist activities across the country, the Government banned two militant Islamic groups - *Jamatul Mujahedin Bangladesh* (JMB or JM) and *Jagrata Muslim Janata Bangladesh* (JMJB). On 17 October 2005, the Government also banned the Islamic group Harkat-ul-Jihad-al-Islami (Huji) as a 'terrorist' organisation. There were a number of further incidents during 2005, including the co-ordinated incendiary explosions on 17 August, the bombing of law courts and the assassination of judges which were attributed to JMB and other extremist Islamic groups.¹¹
- 2.12** Police arrested over 800 people between 30 November 2005 and early January 2006 on suspicion of being involved in terrorist activity. On 28 February 2006, a court sentenced 21 men to death, three of them in absentia, for their part in the simultaneous bomb explosions of 17 August 2005. All 21 were reported to be members of JMB. In March 2006, Shaikh Abdur Rahman, the leader of JMB surrendered to police after a 30-hour siege. Siddiquil Islam, alias 'Bangla Bhai,' said to be the chieftain of the JMJB and very senior member of JMB, was also arrested. On 29 May 2006, a court in the southern town of Jhalakathi convicted and sentenced both men to death for the murder by bombing of two judges in November 2005. They were hanged on 29 March 2007. By the end of 2006, 698 individuals had been arrested in connection with the August 2005 co-ordinated bombings and for other bombings attributed to the JMB. The courts had, by the end of the year, also issued 32 death sentences, 62 life imprisonment sentences and 59 other sentences of varying durations. There was no JMB linked violence during 2006, however, on 1 May 2007 there were simultaneous bomb explosions at railway stations in Dhaka, Silhet and Chittagong. Jadid al-Qaeda Bangladesh, a previously unknown group, claimed responsibility for the attacks, but Bangladeshi intelligence officials believe they were carried out under the supervision of the JMB.¹²
- 2.13** Bangladesh retains the death penalty. According to Amnesty International's 2007 Report, at least 130 people were sentenced to death in 2006 and one person was actually executed.¹³

3. Main categories of claims

- 3.1** This Section sets out the main types of asylum claim, human rights claim and Humanitarian Protection claim (whether explicit or implied) made by those entitled to reside in Bangladesh. It also contains any common claims that may raise issues covered by the Asylum Instructions on Discretionary Leave. Where appropriate it provides guidance on whether or not an individual making a claim is likely to face a real risk of persecution, unlawful killing or torture or inhuman or degrading treatment/ punishment. It also provides guidance on whether or not sufficiency of protection is available in cases where the threat comes from a non-state actor; and whether or not internal relocation is an option. The law and policies on persecution, Humanitarian Protection, sufficiency of protection and internal relocation are set out in the relevant Asylum Instructions, but how these affect particular categories of claim are set out in the instructions below.
- 3.2** Each claim should be assessed to determine whether there are reasonable grounds for believing that the applicant would, if returned, face persecution for a Convention reason - i.e. due to their race, religion, nationality, membership of a particular social group or political opinion. The approach set out in *Karanakaran* should be followed when deciding how much weight to be given to the material provided in support of the claim (see the Asylum Instructions on Assessing Credibility in Asylum and Human Rights Claims).
- 3.3** If the applicant does not qualify for asylum, consideration should be given as to whether a grant of Humanitarian Protection is appropriate. If the applicant qualifies for neither asylum nor Humanitarian Protection, consideration should be given as to whether he/she qualifies

¹¹ COIS Bangladesh Country Report 2007 (Background Information: History)

¹² COIS Bangladesh Country Report 2007 (Background Information: History & Recent Developments)

¹³ COIS Bangladesh Country Report 2007 (Human Rights: Death Penalty), FCO Country Profile 2007: Bangladesh & Amnesty International (AI) Report 2007: Bangladesh

for Discretionary Leave, either on the basis of the particular categories detailed in Section 4 or on their individual circumstances.

3.4 This guidance is **not** designed to cover issues of credibility. Case owners will need to consider credibility issues based on all the information available to them. (For guidance on credibility see para 11 of the Asylum Instructions on Assessing Credibility in Asylum and Human Rights Claims)

3.5 All Asylum Instructions can be accessed via the Horizon intranet site. The instructions are also published externally on the Home Office internet site at:
<http://www.ind.homeoffice.gov.uk/documents/asylumpolicyinstructions/>

3.6 Members of political parties

3.6.1 Applicants may seek asylum or make a human rights claim based on ill-treatment amounting to persecution at the hands of the Bangladesh authorities due to their involvement with political organisations. Applicants may fall into one of two categories:

- those who describe themselves as supporters or members of the Awami League (AL), who have participated in low level political activity at local level, and who express fear of ill-treatment at the hands of the local police. Similar claims are also made by members of other political parties such as the *Bangladesh National Party (BNP)* or *Jatiya Party* (who claim a fear of *local* police who are politically aligned in opposition to them).
- high profile political activists, i.e. those who are known beyond their local area perhaps because of police interest or media coverage, may claim a fear of persecution or ill-treatment on return to Bangladesh as a consequence of their political activity.

3.6.2 *Treatment.* Although the Constitution prohibits arbitrary arrest and detention, in 2006 law enforcement agencies arrested and detained persons arbitrarily and used national security legislation such as the Special Powers Act (SPA) of 1974 to detain citizens without filing formal charges or specific complaints. Section 54 of the Criminal Procedure Code and Section 86 of the Dhaka Metropolitan Police (DMP) Ordinance provide for the detention of persons on the suspicion of criminal activity without an order from a magistrate or a warrant, and according to the U.S. Department of State, the BNP Government regularly arrested persons without formal charges, or specific complaints during 2006, sometimes for the expression of views critical of or different from the Government. Both ordinances were misused during 2006 and mass arrests, often politically motivated, occurred. The local human rights organization Ain o Shalish Kendro (ASK) reported that the BNP Government used Section 144 to ban assemblies of more than four people 164 times during 2006 and that police in Dhaka arrested large numbers of opposition party members prior to opposition rallies during the year.¹⁴

3.6.3 In 2006, individuals were not always able to criticize the BNP Government publicly without fear of reprisal, and the Government often attempted to impede criticism by prohibiting or dispersing political gatherings. In recent years, political violence during demonstrations and general strikes has killed hundreds of people in major cities and injured thousands, and the police have often used excessive force against opposition protesters. Senior party officials have also been targeted, and in September 2006, five AL leaders were beaten severely during street protests and sustained serious injuries.¹⁵

3.6.4 The BNP Government stated in 2006 that it held no political prisoners, however, opposition parties and human rights monitors claimed that many political activists were arrested and convicted for unfounded criminal charges during the year. Reports suggest that most such detentions appeared to last for several days or weeks, and defendants in most cases

¹⁴ COIS Bangladesh Country Report 2007 (Human Rights: Arrest And Detention – Legal Rights & Political Affiliation)

¹⁵ COIS Bangladesh Country Report 2007 (Human Rights: Introduction & Political Affiliation)

received bail; however, dismissal of wrongful charges or acquittal took considerably longer.¹⁶

3.6.5 Against the background of serious differences between the BNP and the AL regarding the general election, political demonstrations and civil unrest, on 11 January 2007, President Ahmed declared a state of emergency. The following day the Caretaker Government introduced the Emergency Power Ordinance 2007 to give the authorities the power to restrict any activities deemed to be 'subversive to the state'; 'hampering the relations of Bangladesh with foreign countries'; or 'disrupting peace in any part of the country or creating enmity, hatred, or confrontations among different sections of society'. As a result, political parties were banned from holding meetings and political rallies and demonstrations were also banned, though these restrictions were partially lifted in September 2007. According to reports, more than 4,000 people were detained in the three days after the imposition of the state of emergency. By 13 April 2007, the Caretaker Government had also reportedly arrested more than 160 prominent politicians, businessmen and senior bureaucrats on corruption related charges.¹⁷

3.6.6 ***Sufficiency of protection.*** If the fear is of ill-treatment amounting to persecution by the state authorities individuals cannot apply to those authorities for protection. However, Applicants in this category do not generally claim to be in fear of the state authorities themselves, but fear the local police who are politically motivated and with views in opposition to theirs. In this circumstance, however, they cannot approach the local police for protection.

3.6.7 ***Internal relocation.*** The Bangladesh Constitution provides for the right of free movement within the country and although there were instances in 2006 when restrictions were imposed, the BNP Government generally respected these rights during the year. The Emergency Power Ordinance 2007 introduced by the Caretaker Government in January 2007 has given the authorities the power to restrict any activities deemed to be 'subversive to the state'; 'hampering the relations of Bangladesh with foreign countries'; or 'disrupting peace in any part of the country or creating enmity, hatred, or confrontations among different sections of society'.¹⁸

3.6.8 Where the ill-treatment feared is at the hands of local police, individuals can relocate to areas where their political opinions do not bring them to the attention of the local police or areas where they are in the political majority. It is highly unlikely that such individuals will be pursued outside of the local area. It would not be unduly harsh to expect individuals to relocate in these circumstances.

3.6.9 ***Conclusion.*** There is little information on whether any individuals have faced ill-treatment at the hands of the authorities since the state of emergency was declared in January 2007 for reason of their membership or support of a mainstream political party. Political parties were banned from holding meetings under the Emergency Power Ordinance introduced on 12 January 2007, but restrictions were subsequently eased in September 2007. It is unlikely that anyone claiming involvement in low-level political activities would be able to demonstrate that the treatment they might suffer at the hands of local police would amount to a well-founded fear of persecution within the terms of the 1951 Convention. Although there may not be sufficient protection provided at local level in their home areas, such applicants can relocate safely to escape the attention of local officials and therefore such

¹⁶ COIS Bangladesh Country Report 2007 (Human Rights: Political Affiliation)

¹⁷ COIS Bangladesh Country Report 2007 (Background Information: History & Recent Developments), FCO Country Profile 2007: Bangladesh, BBC News Timeline: Bangladesh, BBC News Country Profile: Bangladesh, BBC News 'Bangladesh parties reopen offices' dated 11 September 2007, BBC News 'Q&A Bangladeshi crisis' dated 3 September 2007, BBC News 'Bangladesh stuck in political limbo' dated 3 September 2007 & The Daily Star 'Ban on indoor politics relaxed' dated 10 September 2007

¹⁸ COIS Bangladesh Country Report 2007 (Human Rights: Freedom of Movement) & U.S. Department of State report on Human Rights Practices (USSD) 2006: Bangladesh (Section 2)

claims will generally fall to be refused and be clearly unfounded. The exact nature of the political activity and level of involvement with any political party should be thoroughly investigated, however, and case owners should assess on an individual case by case basis whether there may be a real risk that high profile activists will encounter persecution or ill-treatment by the Caretaker Government as a consequence of their political opinion. The grant of asylum may therefore be appropriate in some cases.

3.7 Political activists in fear of members of opposing parties

3.7.1 Some applicants may make a human rights or asylum claim based on a fear of ill-treatment by members of opposing political parties or a fear of opposing factions within their own party.

3.7.2 *Treatment.* Tensions between the two main political parties, the Bangladesh National Party (BNP) and the Awami League (AL), has continued in recent years and political violence during demonstrations and general strikes has killed hundreds of people in major cities and injured thousands. According to local NGOs, more than 300 people were killed and almost 9,000 were injured in politically motivated violence in 2005.¹⁹

3.7.3 Against the background of serious differences between the BNP and the AL regarding the general election, political demonstrations and civil unrest, on 11 January 2007, President Ahmed declared a state of emergency. The Emergency Power Ordinance 2007 was introduced the following day to give the interim authorities the power to restrict any activities deemed to be 'subversive to the state'; 'hampering the relations of Bangladesh with foreign countries'; or 'disrupting peace in any part of the country or creating enmity, hatred, or confrontations among different sections of society'. As a result, political parties were banned from holding meetings and political rallies and demonstrations were also banned, though some of these restrictions were lifted in September 2007.²⁰ There is little information on whether clashes between members or supporters of opposing political parties such as the BNP and the AL have continued to any significant degree since the state of emergency was declared by the Caretaker Government in January 2007.

3.7.4 *Sufficiency of protection.* The police are organised nationally, under the Ministry of Home Affairs (MOHA), and have a mandate to maintain internal security and general law and order. Until October 2006, the police were generally ineffective, sometimes reluctant to investigate persons affiliated with the BNP, and were used frequently for political purposes by the BNP Government. The Rapid Action Battalion (RAB), a better-equipped police unit drawing personnel from various police units and security agencies, including the military, developed plans for overall police reform, but few concrete steps were taken in 2006 to address human rights problems.²¹

3.7.5 During 2007, the Caretaker Government has made progress on the Police Reform Programme (PRP) which is designed to assist the Bangladesh police to improve efficiency and professionalism. Eleven model thanas (police stations), designed under the programme, have so far opened in different regions of the country, officers are receiving training on human rights, gender awareness and on accountability. A draft ordinance (Bangladesh Police Ordinance 2007) has also been prepared to redefine the roles and responsibilities of police, with the ultimate goal of protecting human rights.²² Whilst not always fully effective the authorities have not shown that they are unwilling or unable to

¹⁹ COIS Bangladesh Country Report 2007 (Background Information: History & Recent Developments & Human Rights: Introduction & Political Affiliation)

²⁰ COIS Bangladesh Country Report 2007 (Background Information: Recent Developments), FCO Country Profile 2007: Bangladesh, BBC News Timeline: Bangladesh, BBC News Country Profile: Bangladesh, BBC News 'Bangladesh parties reopen offices' dated 11 September 2007 & BBC News 'Q&A Bangladeshi crisis' dated 3 September 2007

²¹ COIS Bangladesh Country Report 2007 (Human Rights: Security Forces)

²² COIS Bangladesh Country Report 2007 (Background Information: Recent Developments & Human Rights: Security Forces)

offer sufficiency of protection from members of opposing political parties or opposing factions of a applicants own party.

3.7.6 Internal relocation. The Bangladesh Constitution provides for the right of free movement within the country and although there were instances in 2006 when restrictions were imposed, the BNP Government generally respected these rights during the year. The Emergency Power Ordinance 2007 introduced by the Caretaker Government in January 2007 has given the authorities the power to restrict any activities deemed to be 'subversive to the state'; 'hampering the relations of Bangladesh with foreign countries'; or 'disrupting peace in any part of the country or creating enmity, hatred, or confrontations among different sections of society'.²³

3.7.7 Political violence in Bangladesh is generally localised, and intensifies at election times. Internal relocation is, therefore, a viable option and applicants could relocate from areas where they are in the political minority to safer areas that are not dominated by political violence or where they are in the political majority.

3.7.8 Caselaw.

UKIAT 08102 Islam [2002]. There is sufficiency of protection for BNP members, i.e. members of the party in power. In this case it was found that there was no reason why a local BNP party worker would be at risk from the authorities. There was no reason why she should not be able to look to the authorities for protection in respect of her claim to be at risk from the Awami League.

EWHC 189 (Admin) Husan [2005]. In this case involving an individual who had left the student wing of the BNP and joined the student wing of the Awami League, the High Court held that there was no evidence that the individual concerned was a marked man nationally and that he could therefore relocate. The court upheld the Secretary of State's decision to certify this case as clearly unfounded.

3.7.9 Conclusion. Whilst protection from governmental sources may not be available in all cases, those in fear of ill-treatment by members of opposing political parties or in fear of opposing factions within their own party will generally be able to relocate internally away from the area where they are at risk. Claims made on this basis are therefore also likely to be clearly unfounded and will fall to be certified. However, the precise nature of political activity and level of involvement of both the applicant and the opposing party member(s) with any political party should be investigated in detail. A grant of asylum or HP would only be appropriate in exceptional cases, where an individual was able to show that he/she remained at risk because of specific factors relating to his/her particular history, and internal relocation was not an option.

3.8 Victims of domestic violence

3.8.1 Some female applicants seek asylum or make a human rights claim on the grounds that they are the victims of domestic violence and are unable to seek protection from the authorities. Occasionally the applicant will state that the abuser bribed the police (or otherwise exerted influence on the police) not to take action on the complaints made against them.

3.8.2 Treatment. Domestic violence is widespread in Bangladesh, although difficult to quantify. Much of the reported violence against women in 2006 was related to disputes over dowries. The law prohibits rape and physical spousal abuse but makes no specific provision for spousal rape as a crime.²⁴

²³ COIS Bangladesh Country Report 2007 (Human Rights: Freedom of Movement) & USSD 2006: Bangladesh (Section 2)

²⁴ COIS Bangladesh Country Report 2007 (Human Rights: Women)

- 3.8.3** For a World Health Organisation (WHO) report in November 2005 covering ten countries, 1,603 women were interviewed in Dhaka and 1,527 were interviewed in the rural area of Matlab in Bangladesh between 2000 and 2003. Among women who were or had been married, 40 per cent in Dhaka and 42 per cent in Matlab reported physical violence by their husband at some point in their lives; 37 per cent in Dhaka and 50 per cent in Matlab reported sexual violence by their husband. Of ever-married women, 19 per cent in Dhaka and 16 per cent in Matlab had been physically abused within the past year. In both areas, 66 per cent of the women who had been physically abused did not tell anyone about the violence and over half did not seek help. Over 50 per cent of those said they did not seek help because they did not think the violence was very serious, while 31 per cent in Dhaka and 43 per cent in Matlab remained silent because of feelings of shame or because they feared they would not be believed.²⁵
- 3.8.4** The patriarchal nature of society and of the household, especially in rural areas, reportedly permits socially acceptable violence against women in the form of physical chastisement, psychological violence and threats of violence by a husband. It has also been reported that an interpretation of religious teaching reinforces this social sanction.²⁶
- 3.8.5** The Penal Code provides sanction: all forms of physical violence, some forms of psychological violence and threats of physical injury constitute criminal offences. In practice, however, when such an offence is committed by a husband against his wife, it is not considered as an offence punishable in the same way. The Women and Children Repression Prevention Act (2000), as Amended in 2003, lays down severe penalties for violent offences against women; it also provides for the speedy trial of offenders in special tribunals situated throughout the country. The Act specifies deterrent punishment for dowry-related crimes and also covers such 'stranger' offences as rape, trafficking and abduction; however, it has been stated that there is no mention of punishment for husbands for abusing wives, except in dowry offences. The Dowry Prohibition Act, passed in 1980, also makes giving, taking or demanding dowry a punishable offence. There are no specific civil law remedies to which victims of wife abuse can resort, other than divorce and claims for dower, maintenance and custody. A wife can seek an injunction under the Civil Procedure Code, the Specific Relief Act or the Family Court Ordinance of 1985, but these are ancillary to other proceedings. The various special laws to protect women from abuse have not proved as effective as they were designed to be; their deterrent value has been diminished by low conviction rates.²⁷
- 3.8.6** Acid attacks on women by rejected suitors, angry husbands, or those seeking revenge is also a serious problem. In 2006, assailants threw acid in the faces of women and a growing number of men, leaving victims disfigured and often blind.²⁸
- 3.8.7** Two new laws were introduced in 2002 - the Acid Crime Prevention Act 2002 and the Acid Control Act 2002 - to restrict the import and sale of acid in open markets, allow for trials in acid throwing cases by a special tribunal (with a right of appeal to a higher court) to make the maximum punishment for acid throwing offences the death penalty and to provide for the treatment and rehabilitation of victims. Statistics provided by the Acid Survivors Foundation (ASF) show that the number of recorded attacks peaked in 2002, and have since been declining. 180 acid attack incidents were recorded in 2006, with a total of 221 victims; in 2005, 214 incidents were recorded, with 270 victims; and in 2004 there were 266 recorded incidents involving 325 victims. Of the 221 victims in 2006, there were 134 women, 57 men and 30 children under 18 years, of whom the majority were girls. Case conviction rates increased after the introduction of the two new acid-related laws in 2002; there were then a lower number of convictions in 2004 and 2005. In 2006, 47 per cent of recorded acid attacks in 2006 were, according to ASF, in connection with land or property or money disputes; 13 per cent of attacks related to marital or dowry disputes and 10 per cent

²⁵ COIS Bangladesh Country Report 2007 (Human Rights: Women)

²⁶ COIS Bangladesh Country Report 2007 (Human Rights: Women)

²⁷ COIS Bangladesh Country Report 2007 (Human Rights: Women)

²⁸ COIS Bangladesh Country Report 2007 (Human Rights: Women)

of attacks were categorised as 'refusal/rejection of love/marriage/ sex'.²⁹

- 3.8.8** The Suppression of Violence against Women and Children Act 2000 carries the death penalty or life imprisonment for rape if death or injury results or is intended. Attempted rape is subject to a penalty of five to ten years' imprisonment. Amnesty International's 2004 Annual Report (covering events of 2003) stated that women's rights groups blamed the low rate of convictions for violence against women on a lack of government institutions to support the victims and a lack of trained police officers to investigate the cases.³⁰
- 3.8.9 Sufficiency of protection.** Owing to the prevalent patriarchal attitude towards women, in most cases complaints are not recorded properly by the police, evidence is hard to produce or establish and there is a very slim chance of the perpetrator being punished. A study by the Family Court in Dhaka showed that husbands rarely appear and thus suits are dismissed in their absence and wives are denied justice. There is, in general, reluctance among abused women to seek relief against their husbands, often due to social stigma, economic insecurity, fear of retribution, or acceptance of violence as a social norm. Laws specifically prohibit certain forms of discrimination against women, provide for special procedures for persons accused of violence against women and children, call for harsher penalties, provide compensation to victims, and require action against investigating officers for negligence or wilful failure of duty. However, enforcement of these laws is weak. In July 2003, an amendment to the current law was passed, weakening provisions for dowry crimes and addressing the issue of suicide committed by female victims of acts of 'dishonour'.³¹
- 3.8.10** The law prohibits rape and physical spousal abuse but makes no specific provision for spousal rape as a crime. During 2006, local NGOs found 639 reported incidents of rape. The press reported that 126 of the rape victims were killed and that another 13 committed suicide after being raped. Human rights monitors insisted that the actual number of rapes in 2006 was higher, as many rape victims did not report the incidents in order to avoid social disgrace. Prosecution of rapists was uneven in 2006.³²
- 3.8.11** The Bangladeshi Women Affairs Department runs six shelters, one each in the six divisional headquarters, for abused women and children. The Bangladesh National Women Lawyers Association (BNWLA) also runs facilities to provide shelter to destitute persons and distressed women and children.³³ Whilst some women may be reluctant to report incidents of domestic violence it has not been shown that the authorities are unwilling or unable to offer some form of protection in the majority of cases.
- 3.8.12 Internal relocation.** The Bangladesh Constitution provides for the right of free movement within the country and although there were instances in 2006 when restrictions were imposed, the BNP Government generally respected these rights during the year.³⁴ Internal relocation may be a viable option for women who fear domestic violence, however, factors such as the social and professional background of an individual applicant must be carefully considered when determining relocation as an option.
- 3.8.13 Caselaw.**

UKIAT 00070 RA and others [2005]. The IAT found that: a) women in Bangladesh who are subject to domestic violence are not a particular social group (the evidence of discrimination isn't at the Shah and Islam level); b) the adjudicator did not err in law in finding that appropriate protection was available in Bangladesh; and c) the adjudicator did not err in law in finding that internal relocation was an option.

²⁹ COIS Bangladesh Country Report 2007 (Human Rights: Women)

³⁰ COIS Bangladesh Country Report 2007 (Human Rights: Women)

³¹ COIS Bangladesh Country Report 2007 (Human Rights: Women)

³² COIS Bangladesh Country Report 2007 (Human Rights: Women)

³³ COIS Bangladesh Country Report 2007 (Human Rights: Women)

³⁴ COIS Bangladesh Country Report 2007 (Human Rights: Freedom of Movement) & USSD 2006: Bangladesh (Section 2)

3.8.14 Conclusion. Domestic violence is widespread in Bangladesh. There are constitutional and legal safeguards aimed at protecting women's rights, but application of these safeguards is uneven. Internal relocation to escape domestic violence may be an option where, in the particular circumstances of the applicant's case, it is not considered unduly harsh for the victim to do so. Claims based on fear of domestic violence are unlikely to engage the UK's obligations under the 1951 UN Refugee Convention and do not in general qualify for asylum as women in this category are not in a particular social group. However, case owners should consider each case on its individual facts to assess whether a grant of Humanitarian Protection may be appropriate.

3.9 Biharis

3.9.1 Applicants of Bihari ethnic origin may claim asylum or make a human rights claim on the grounds of being 'stateless' in Bangladesh. Many applicants are likely to have lived in camps reserved for the Biharis, but there are individual applicants who have moved out of the camps and have lived and worked among the Bangladeshi majority. Some applicants may have applied for Bangladeshi citizenship whilst others may not have made an application. In addition to the issue of statelessness, some Bihari applicants may claim affiliation to one of the political parties and may have experienced political violence in clashes with political opponents. Biharis may also cite poverty and lack of educational or employment opportunities, particularly in the camps.

3.9.2 Treatment. Approximately 300,000 non-Bengali Bihari Muslims who emigrated to the former East Pakistan during the 1947 partition of British India and who supported Pakistan during the 1971 War of Independence continued to live in camps throughout Bangladesh in 2006. According to Refugees International, these persons lived in camps in the country with little access to both education and medical resources. Some Biharis declined citizenship in 1972 and were awaiting repatriation to Pakistan, where the Government was reluctant to accept them. Many of the stranded Biharis born after 1971 have assimilated into the mainstream Bengali-speaking environment. The Bihari remained in Bangladesh after independence, but later asked to be 'repatriated' to Pakistan. Pakistan accepted some 170,000 in 1973 and in 1992 agreed to take a further 3,000 families. This repatriation process began in 1993 but - after only 325 families had relocated - Pakistan suspended the process, apparently due to funding constraints. The two countries have yet to agree on a resumption of the resettlement process. The Bihari population is accommodated in 66 special camps throughout Bangladesh, though many Biharis now live outside of those camps. It has been reported that approximately half of the Biharis live outside of camps and that in general they are integrated into the local community, eligible to receive passports, to vote, to attend college, and are able to exercise most of the rights of citizens.³⁵

3.9.3 The legal status of the Biharis has been the subject of a major controversy. Bangladesh's citizenship laws bar from citizenship those who have acknowledged allegiance to a foreign state, and the Bangladesh Government has claimed that the Biharis have done so by seeking resettlement to Pakistan. In 2003, the Bangladesh High Court recognised ten Bangladeshi-born Biharis as citizens, however, the Government has continued to refuse to acknowledge the Biharis as a community as Bangladeshis and has not as yet granted Bangladeshi citizenship to any other members of the Bihari community.³⁶

3.9.4 In the 66 Bihari camps, living conditions are generally poor and said to be deteriorating. Many families live in very cramped accommodation. Water and sanitation is inadequate and healthcare and education facilities are minimal. Poverty is widespread in Bangladesh, and the basic situation for the Biharis resembles that of the poorest citizens of the country.³⁷

³⁵ COIS Bangladesh Country Report 2007 (Human Rights: Ethnic Groups)

³⁶ COIS Bangladesh Country Report 2007 (Human Rights: Ethnic Groups)

³⁷ COIS Bangladesh Country Report 2007 (Human Rights: Ethnic Groups)

- 3.9.5 Sufficiency of protection.** Those who fear ill-treatment amounting to persecution by the state authorities cannot apply to these authorities for protection. The police are organised nationally, under the Ministry of Home Affairs (MOHA), and have a mandate to maintain internal security and general law and order. In 2006, the police were generally ineffective, were reluctant to investigate persons affiliated with the BNP, and were used frequently for political purposes by the BNP Government. The Rapid Action Battalion (RAB), a better-equipped police unit drawing personnel from various police units and security agencies, including the military, developed plans for overall police reform, but few concrete steps were taken in 2006 to address human rights problems.³⁸
- 3.9.6** During 2007, the Caretaker Government has made progress on the Police Reform Programme (PRP) which is designed to assist the Bangladesh police to improve efficiency and professionalism. Eleven model thanas (police stations), designed under the programme, have so far opened in different regions of the country, officers are receiving training on human rights, gender awareness and on accountability. A draft ordinance (Bangladesh Police Ordinance 2007) has also been prepared to redefine the roles and responsibilities of police, with the ultimate goal of protecting human rights.³⁹ There is no evidence to suggest that a Bihari would be unable to access protection from the police in Bangladesh were they to face mistreatment or societal discrimination at the hands of the wider public on the grounds of their ethnicity. There is also no evidence that Biharis are any less likely than other citizens of the country to access protection from the state.
- 3.9.7 Internal relocation.** The Bangladesh Constitution provides for the right of free movement within the country and although there were instances in 2006 when restrictions were imposed, the BNP Government generally respected these rights during the year. The Emergency Power Ordinance 2007 introduced by the Caretaker Government in January 2007 has given the authorities the power to restrict any activities deemed to be 'subversive to the state'; 'hampering the relations of Bangladesh with foreign countries'; or 'disrupting peace in any part of the country or creating enmity, hatred, or confrontations among different sections of society'.⁴⁰ Biharis who live outside the camps are able to exercise most of the rights of citizens and camp-based Biharis are also able to travel throughout Bangladesh, though they are not issued with international travel documents.⁴¹ Therefore, internal relocation would not be unduly harsh in the majority of cases.

3.9.8 Caselaw.

AU [2004] UKIAT 00121. The IAT examined the position of a Bihari appellant by considering the CIPU report of October 2003. They stated 'There is nothing to indicate that a Bihari is less likely to receive a fair hearing than any other citizen of Bangladesh...Even if they (warrant/documents) are genuine and there is a risk of prosecution, there is no real risk of persecution for a Convention reason or treatment contrary to Article 3.'

Syed Mahmud Hossin [2002] UKIAT 02751. The IAT find that there is no breach of Article 3 to return a Bihari to a refugee camp.

Abu Quashem [2002] UKIAT 04999. The Tribunal determined that the objective country evidence does not support the Bihari appellant's argument that he would not get Bangladeshi citizenship if he were to apply. A stateless person, in accordance with Article 1 of the Convention, must demonstrate that he is outside the country of his former habitual residence and is unable or unwilling to return. The latter was not demonstrated in this particular case.

GA [2002] UKIAT 05810 CG. 'The background evidence does not establish that all Biharis are at risk of persecution or treatment contrary to their human rights.'

³⁸ COIS Bangladesh Country Report 2007 (Human Rights: Security Forces)

³⁹ COIS Bangladesh Country Report 2007 (Background Information: Recent Developments & Human Rights: Security Forces)

⁴⁰ COIS Bangladesh Country Report 2007 (Human Rights: Freedom of Movement) & USSD 2006: Bangladesh (Section 2)

⁴¹ COIS Bangladesh Country Report 2007 (Human Rights: Ethnic Groups)

3.9.9 Conclusion. There is no evidence to suggest that Biharis suffer persecution either at the hands of the state authorities or non-state agents in Bangladesh on grounds of ethnicity. There is also no evidence that Biharis are any less likely than other citizens of the country to access protection from the state were they to face mistreatment or discrimination from the wider public. It is therefore unlikely that a Bihari applicant would be able to demonstrate a well founded fear of persecution on account of their ethnic origin alone. Whilst living conditions within camps in Bangladesh are harsh, over half of Biharis live outside the camp and are integrated into the wider society, and conditions in camps are not such as to amount to torture or inhuman or degrading treatment and engage the UK's obligations under Article 3 of the ECHR. Claims made under this category are therefore likely to be clearly unfounded and as such fall to be certified.

3.10 Hindus

3.10.1 Hindus may claim asylum or make a human rights claim on the basis that as members of a minority religion they face attacks or intimidation by members of other religious groups, particularly Islamic fundamentalists.

3.10.2 Treatment. Sunni Muslims constitute 88 percent of the population. Approximately 10 percent of the population is Hindu. The remainder of the population is mainly Buddhist or Christian (mostly Catholic). There also are small populations of Shi'a Muslims, Sikhs, Baha'is, animists, and Ahmadis. Estimates of their numbers vary from a few thousand to 100,000 adherents for each faith.⁴²

3.10.3 Reports of harassment by BNP supporters of Hindus, who traditionally vote for the *Awami League (AL)*, immediately preceded and followed the 2001 election. Reported incidents included killings, rape, looting, and torture. The BNP acknowledged reports of atrocities committed between Muslims and Hindus; however, the BNP claimed that they were exaggerated. In 2001, the High Court ordered the Government to investigate and report on attacks on religious minorities and to demonstrate that it was taking adequate steps to protect minorities. The Government submitted its report to the High Court in 2002. The report claimed that some of the incidents of post-election violence were not connected to communal relations. It also alleged that some of the reports of violence were fabricated or exaggerated. Since the submission of the report, neither the High Court nor the Government has taken further action.⁴³

3.10.4 In 2005 and 2006, reported incidents in which Hindus were the victims included rape, torture, kidnappings, land grabbing and forced evictions, as well as the destruction of Hindu temples and/or religious icons. Some of these incidents were reportedly carried out by BNP supporters and Islamic extremists.⁴⁴ Sporadic and isolated incidents of violence or intimidation also appear to have continued to take place in 2007. The Bangladesh Hindu Bouddha Christian Oikya Parishad (BHBCOP), a Dhaka-based non-governmental organisation (NGO), recorded that 136 incidents of violent and other crime, or acts of intimidation, occurred between January and March 2007 in which the victims were either Hindu or members of other minority religious communities, or in which Hindu sacred images or property was destroyed or damaged. It is not clear from the reports how many of the incidents were religiously motivated, but in most cases the perpetrators were reported to be 'fundamentalists' or 'miscreants'.⁴⁵

3.10.5 Many Hindus have been unable to recover landholdings lost because of discrimination in the application of the law, especially under the Vested Property Act. The act was an East Pakistan-era law that allowed 'enemy' (in practice Hindu) lands to be expropriated by the Government. Approximately 2.5 million acres of land were seized from Hindus, and almost

⁴² COIS Bangladesh Country Report 2007 (Human Rights: Freedom of Religion)

⁴³ COIS Bangladesh Country Report 2007 (Human Rights: Freedom of Religion)

⁴⁴ COIS Bangladesh Country Report 2007 (Human Rights: Freedom of Religion)

⁴⁵ Bangladesh Hindu Bouddha Christian Oikya Parishad (BHBCOP)

all of the 10 million Hindus in the country were affected. However, in April 2001, parliament passed the Vested Property Return Act. This law stipulated that land remaining under government control be returned to its original owners, provided that the original owners or their heirs remain resident citizens. In 2002, parliament passed an amendment to the Vested Property Return Act, allowing the Government unlimited time to return the vested properties.⁴⁶

- 3.10.6 Sufficiency of protection.** The Constitution establishes Islam as the state religion but provides for the right to practice, subject to law, public order, and morality, the religion of one's choice. There is no evidence to suggest that the Caretaker Government does not generally respect this provision in practice; however, in 2005 and 2006, Hindu, Christian, and Buddhist minorities experienced some discrimination and occasional violence.⁴⁷
- 3.10.7** Religion exerts a powerful influence on Bangladeshi politics, and the BNP Government was sensitive to the Muslim consciousness of its political allies, *Jamaat-e-Islami* and the *Islami Okiyya Jote*, as well as the majority of its citizens. The BNP Government took some steps to promote interfaith understanding and to provide police protection for the religious festivals of other minorities, most notably the Hindus. In 2006, however, government officials, including the police, were often ineffective in upholding law and order and were sometimes slow to assist religious minority victims of harassment and violence. The BNP Government and many civil society leaders also stated that violence against religious minorities normally had political or economic motivations and could not be attributed only to religion. In October 2007, the Caretaker Government continued efforts to provide protection at Hindu religious festivals by deploying a large contingent of police and Rapid Action Battalion (RAB) personnel to maintain peace and security at the celebration of Durga Puja.⁴⁸
- 3.10.8** The police are organised nationally, under the Ministry of Home Affairs (MOHA), and have a mandate to maintain internal security and general law and order. In 2006, the police were generally ineffective, reluctant to investigate persons affiliated with the BNP, and were used frequently for political purposes by the BNP Government. The RAB, a better-equipped police unit drawing personnel from various police units and security agencies, including the military, developed plans for overall police reform, but few concrete steps were taken in 2006 to address human rights problems.⁴⁹
- 3.10.9** During 2007, the Caretaker Government has made progress on the Police Reform Programme (PRP) which is designed to assist the Bangladesh police to improve efficiency and professionalism. Eleven model thanas (police stations), designed under the programme, have so far opened in different regions of the country, officers are receiving training on human rights, gender awareness and on accountability. A draft ordinance (Bangladesh Police Ordinance 2007) has also been prepared to redefine the roles and responsibilities of police, with the ultimate goal of protecting human rights.⁵⁰ It has not been shown that the authorities are unwilling or unable to offer protection to Hindus in Bangladesh therefore in the majority of cases sufficiency of protection would be available.
- 3.10.10 Internal relocation.** The Bangladesh Constitution provides for the right of free movement within the country and although there were instances in 2006 when restrictions were imposed, the BNP Government generally respected these rights during the year. Political opponents, however, frequently used enforced transportation blockades and enforced strikes to obstruct freedom of movement in 2006. The Emergency Power Ordinance 2007 introduced by the Caretaker Government in January 2007 has given the authorities the power to restrict any activities deemed to be 'subversive to the state'; 'hampering the

⁴⁶ COIS Bangladesh Country Report 2007 (Human Rights: Freedom of Religion)

⁴⁷ COIS Bangladesh Country Report 2007 (Human Rights: Freedom of Religion)

⁴⁸ COIS Bangladesh Country Report 2007 (Human Rights: Freedom of Religion) & United News of Bangladesh 'Foolproof security arranged for Durga Puja beginning 17 October' dated 15 October 2007

⁴⁹ COIS Bangladesh Country Report 2007 (Human Rights: Security Forces)

⁵⁰ COIS Bangladesh Country Report 2007 (Background Information: Recent Developments & Human Rights: Security Forces)

relations of Bangladesh with foreign countries'; or 'disrupting peace in any part of the country or creating enmity, hatred, or confrontations among different sections of society'.⁵¹ Religious violence in Bangladesh is not state-sponsored. Internal relocation is, therefore, generally a viable option and applicants could relocate from areas where they are in the religious minority to safer areas that are not dominated by such violence or where they are in the majority.

3.10.11 Conclusion. There is no evidence to suggest that the Caretaker Government condones religious violence, and in the majority of cases sufficiency of protection would be available. The threshold for persecution, torture or inhuman and degrading treatment may be passed in individual cases. However, this is not inevitable and each case should still be considered individually on its own merits. In the majority of cases internal relocation, to an area where the applicant's specific religious group is in the majority, is not considered unduly harsh. Therefore a grant of asylum or Humanitarian Protection would not usually be appropriate. In certain cases, applicants may be able to establish a valid claim for asylum if it is shown that internal relocation would be unduly harsh, due to the specific facts of their case, and sufficiency of protection is not available.

3.11 Ahmadis (Ahmadiyyas)

3.11.1 Ahmadis may claim asylum or make a human rights claim on the basis that as members of a minority religion they face attacks or intimidation by members of other religious groups particularly Islamic fundamentalists.

3.11.2 Treatment. The Ahmadi community was founded in the 1880s by *Mirza Ghulam Ahmad*, who was born in the Punjab town of Qadiyan. It later split into two groups, of which *Qadiani* is the larger; the other is the *Lahore* branch. While they identify as a Muslim community, Ahmadis are considered heretics by mainstream Islam because *Mirza Ghulam Ahmad* proclaimed himself to be the expected *Mahdi*, or prophet, thereby rejecting a fundamental tenet of Islam.⁵²

3.11.3 Anti-Ahmadi agitations began during 2003. Since then they have been the targets of attacks and harassment prompted by clerics and the rhetoric of leaders of the *Islami Okkiya Jote*, an Islamic party and coalition partner of the BNP. Throughout 2004 and into 2005, the Khatme Nabuwat (KN), an umbrella organization of Islamist groups dedicated to the preservation of "*the finality of the prophethood*" of Mohammad, threatened the Ahmadiyya community with attacks on their mosques and campaigned for Ahmadis to be declared non-Muslim.⁵³

3.11.4 Following demands for the ban of Ahmadiyya publications and that Ahmadis be declared non-Muslims, the BNP Government announced a ban on publications on 8 January 2004. However, the then prime minister announced several days later that the Government would not declare Ahmadis to be non-Muslims. Bangladesh's High Court also suspended the Order banning Ahmadiyya publications pending the hearing of a legal challenge brought by human rights groups. By the end of 2006, the BNP Government's ban on publishing Ahmadiyya literature remained stayed by the High Court, effectively allowing the publication of material.⁵⁴

3.11.5 Ahmadis have continued to be the target of hate campaigns by a number of Islamic groups in Bangladesh, including Khatme Nabuwat Andolon Bangladesh (KNAB), a splinter group of KN. These groups have mobilised crowds to chant anti-Ahmadi slogans, have sought confiscation of Ahmadi mosques, and demanded that the Government declare the sect non-Muslim. These agitators have led marches to occupy Ahmadi mosques, attacked Ahmadi

⁵¹ COIS Bangladesh Country Report 2007 (Human Rights: Freedom of Movement) & USSD 2006: Bangladesh (Section 2)

⁵² COIS Bangladesh Country Report 2007 (Human Rights: Freedom of Religion)

⁵³ COIS Bangladesh Country Report 2007 (Human Rights: Freedom of Religion)

⁵⁴ COIS Bangladesh Country Report 2007 (Human Rights: Freedom of Religion)

homes and places of worship, been involved in the 'excommunication' and illegal house arrest of Ahmadis, and been involved in the killing of an Ahmadi Imam. Perpetrators of bomb explosions at railway stations on 1 May 2007 reportedly left messages which were threatening to the Ahmadiyya community.⁵⁵

3.11.6 Sufficiency of protection. The Constitution establishes Islam as the state religion but provides for the right to practice, subject to law, public order, and morality, the religion of one's choice. The BNP Government generally respected this provision in practice, however, attacks on religious and ethnic minorities continued to be a problem during 2005 and 2006. Protests demanding that Ahmadis be declared non-Muslims and instances of harassment continued sporadically during 2005 and 2006, but the BNP Government generally acted in an effective manner to protect Ahmadis and their property and refused to give in to any of the protesters' demands.⁵⁶

3.11.7 In 2005 and 2006, the BNP Government took some steps to promote interfaith understanding and there were examples of the police acting to prevent KNAB-led marchers seizing Ahmadi mosques in Dhaka. Protesters were also stopped from hanging signs outside certain Ahmadi mosques, declaring them non-mosques or threatening the lives or property of Ahmadis. This contrasted sharply from previous years, when police sometimes facilitated the hanging of such signs. In addition, eight people were arrested in 2006 in connection with the June 2005 arson and bombings at Ahmadiyya mosques in Nator, Brahmanbaria and Bhadugarh.⁵⁷

3.11.8 There is no evidence to suggest that the Caretaker Government condones religious violence or is unwilling to act upon harassment or ill-treatment faced by the Ahmadiyya community. In March 2007, for example, police protected the local Ahmadiyya community when it removed an anti-Ahmadiyya signboard from a mosque in Khulna. In June 2007, nine senior Khatme Nabuwat members, including the leader of the International Khatme Nabuwat Movement Bangladesh (IKNMB), were charged in connection with an attack on, and ransacking of, an Ahmadiyya complex at Jyotindra Nagar in April 2005.⁵⁸

3.11.9 Whether there is sufficiency of protection needs to be considered in light of the particular facts of the case i.e. whether attempts were made to seek protection and if not why not and, if protection was sought, what the police response was, but in most cases, sufficient protection will be available.

3.11.10 Internal relocation. The Bangladesh Constitution provides for the right of free movement within the country and although there were instances in 2006 when restrictions were imposed, the BNP Government generally respected these rights during the year. The Emergency Power Ordinance 2007 introduced by the Caretaker Government in January 2007 has given the authorities the power to restrict any activities deemed to be 'subversive to the state'; 'hampering the relations of Bangladesh with foreign countries'; or 'disrupting peace in any part of the country or creating enmity, hatred, or confrontations among different sections of society'.⁵⁹ Religious violence in Bangladesh is not state-sponsored. Internal relocation is, therefore, generally a viable option and applicants could relocate from areas where they are in the religious minority to safer areas that are not dominated by such violence.

3.11.11 In 2004, it was estimated that there were approximately 100,000 Ahmadis living in

⁵⁵ COIS Bangladesh Country Report 2007 (Human Rights: Freedom of Religion)

⁵⁶ COIS Bangladesh Country Report 2007 (Human Rights: Freedom of Religion)

⁵⁷ COIS Bangladesh Country Report 2007 (Human Rights: Freedom of Religion)

⁵⁸ COIS Bangladesh Country Report 2007 (Human Rights: Freedom of Religion), U.S Department of State International Religious Freedom Report 2007: Bangladesh & The Daily Star 'Top Khatme Nabuat leaders among nine granted bail' dated 7 June 2007

⁵⁹ COIS Bangladesh Country Report 2007 (Human Rights: Freedom of Movement) & USSD 2006: Bangladesh (Section 2)

Bangladesh.⁶⁰ Whilst violence against Ahmadis is localised case owners will need to consider whether, in the light of the size of the Ahmadi community in Bangladesh, it would be unduly harsh to expect the applicant to relocate to an area where Ahmadis may not be present.

3.11.12 Conclusion. There is no evidence to suggest that the Caretaker Government condones religious violence, but societal attitudes towards Ahmadis may in some instances result in the harassment of individuals and the threshold for persecution, torture or inhuman and degrading treatment may be passed in some individual cases. However, this is not inevitable, and each case should still be considered individually on its own merits to assess whether the applicant sought and was provided with protection and/or whether internal relocation is an option. In certain cases applicants may qualify for asylum.

3.12 Prison conditions

3.12.1 Applicants may claim that they cannot return to Bangladesh due to the fact that there is a serious risk that they will be imprisoned on return and that prison conditions in Bangladesh are so poor as to amount to torture or inhuman treatment or punishment.

3.12.2 The guidance in this section is concerned solely with whether prison conditions are such that they breach Article 3 of ECHR and warrant a grant of Humanitarian Protection. If imprisonment would be for a Refugee Convention reason, or in cases where for a Convention reason a prison sentence is extended above the norm, the claim should be considered as a whole but it is not necessary for prison conditions to breach Article 3 in order to justify a grant of asylum.

3.12.3 Consideration. According to the U.S. Department of State report on Human Rights Practices, prison conditions were abysmal in 2006 and were a contributing factor to custodial deaths. All prisons were overcrowded and lacked adequate facilities. Government figures indicated that the prison population of 72,013 in 2006 was more than 250 percent of the official prison capacity. It was also reported in March 2006 that 67.7 percent of the prison population comprised pre-trial detainees/remand prisoners. The prison population has increased further in 2007, peaking at 89,000 in June compared to 77,000 before the declaration of the state of emergency. In July 2007, it stood at 84,000 according to the Deputy Inspector General of Prisons⁶¹

3.12.4 Juveniles are required by law to be detained separately from adults; however, due to a lack of facilities, many juveniles were incarcerated with adults during 2006. Women prisoners are held separately from men but face the same extremely poor conditions. On 3 October 2006, parliament passed a law allowing release on parole of women prisoners of certain categories and their eventual freedom from imprisonment on fulfilment of certain conditions.⁶²

3.12.5 In general, the BNP Government did not permit visits by independent human rights monitors in 2006. Government-appointed committees of prominent private citizens in each prison locality monitored prisons monthly but did not release their findings. District judges occasionally also visited prisons during the year, but rarely disclosed their findings.⁶³

3.12.6 Caselaw.

UKIAT 00054 Chowdhury [2002]. The Tribunal found that the prison conditions in which the claimant would be detained 'are not reasonably likely to be such as to amount to inhuman or degrading treatment.'

⁶⁰ COIS Bangladesh Country Report 2007 (Human Rights: Freedom of Religion)

⁶¹ COIS Bangladesh Country Report 2007 (Human Rights: Prison Conditions)

⁶² COIS Bangladesh Country Report 2007 (Human Rights: Prison Conditions)

⁶³ COIS Bangladesh Country Report 2007 (Human Rights: Prison Conditions)

3.12.7 Conclusion. Whilst prison conditions in Bangladesh are poor with overcrowding in some establishments being a particular problem, conditions are unlikely to reach the Article 3 threshold. Therefore, even where applicants can demonstrate a real risk of imprisonment on return to Bangladesh a grant of Humanitarian Protection will not generally be appropriate. However, the individual factors of each case should be considered to determine whether detention will cause a particular individual in his particular circumstances to suffer treatment contrary to Article 3, relevant factors being the likely length of detention the likely type of detention facility and the individual's age and state of health. Where in an individual case treatment does reach the Article 3 threshold a grant of Humanitarian Protection will be appropriate.

4. Discretionary Leave

4.1 Where an application for asylum and Humanitarian Protection falls to be refused there may be compelling reasons for granting Discretionary Leave (DL) to the individual concerned. (See Asylum Instructions on Discretionary Leave) Where the claim includes dependent family members consideration must also be given to the particular situation of those dependants in accordance with the Asylum Instructions on Article 8 ECHR.

4.2 With particular reference to Bangladesh the types of claim which may raise the issue of whether or not it will be appropriate to grant DL are likely to fall within the following categories. Each case must be considered on its individual merits and membership of one of these groups should *not* imply an automatic grant of DL. There may be other specific circumstances related to the applicant, or dependent family members who are part of the claim, not covered by the categories below which warrant a grant of DL – see the Asylum Instructions on Discretionary Leave and the Asylum Instructions on Article 8 ECHR.

4.3 Minors claiming in their own right

4.3.1 Minors claiming in their own right who have not been granted asylum or HP can only be returned where they have family to return to or there are adequate reception, care and support arrangements. At the moment we do not have sufficient information to be satisfied that there are adequate reception, care and support arrangements in place for minors with no family in Bangladesh.

4.3.2 Minors claiming in their own right without a family to return to, or where there are no adequate reception, care and support arrangements, should if they do not qualify for leave on any more favorable grounds be granted Discretionary Leave for a period as set out in the relevant Asylum Instructions.

4.4 Medical treatment

4.4.1 Applicants may claim they cannot return to Bangladesh due to a lack of specific medical treatment. See the IDI on Medical Treatment which sets out in detail the requirements for Article 3 and/or 8 to be engaged.

4.4.2 It is reported that medical facilities in the Bangladesh are scarce; in the fiscal year 2005/06 there were 49,669 hospital beds, 42,101 registered doctors and 14,689 registered nurses in the public sector. (This translates to approximately 27 doctors and 10 registered nurses per 100,000 population). The private sector provides the major proportion of outpatient curative care, especially among the poor, while the public sector serves the larger proportion of inpatient care.⁶⁴

4.4.3 The Bangladesh Government has been operating a National Integrated Population and Health Programme (NIPHP), or Health and Population Sector Programme (HPSP). The health policy is directed at improving equity and accessibility to the Essential Services

⁶⁴ COIS Bangladesh Country Report 2007 (Human Rights: Medical Issues)

Package (ESP). Since 1997, USAID has funded the NIPHP employing a network of technical assistance organisations and local NGOs to deliver the Government's ESP.⁶⁵

- 4.4.4** Mental health care is provided at the primary level by primary care physicians and health workers, at the secondary level by district hospitals, though only one hospital is equipped to provide the services, and at tertiary level by teaching hospitals. Of the 14 drugs for psychiatric treatment listed in the WHO Project Atlas survey for 2005, only three were not available in Bangladesh.⁶⁶
- 4.4.5** Bangladesh is a country with low HIV prevalence but high 'vulnerability'. Bangladesh has documented the lowest condom use, very high numbers of clients of sex workers, low knowledge of HIV/AIDS, and extensive needle/syringe sharing by drug users in the region. In spite of this, national commitment to HIV/AIDS prevention and care is reportedly high. The BNP Government's National Strategic Plan on HIV/AIDS for the period 2004 to 2010 was formally launched in May 2005 to coordinate and fund a national response to HIV. A prevention project, jointly funded by the BNP Government, the World Bank, and DFID also ran from 2003 until June 2006. It has been estimated by UNAIDS in 2007 that between 6,400 and 18,000 adults in Bangladesh are living with HIV. Over 70 per cent of people in 'most-at-risk' categories are believed to have been reached by prevention programmes; however, only one per cent of HIV-infected men and women are believed to be receiving anti-retroviral therapy.⁶⁷
- 4.4.6** Where a case owner considers that the circumstances of the individual applicant and the situation in Bangladesh reach the threshold detailed in the IDI on Medical Treatment making removal contrary to Article 3 or 8 a grant of Discretionary Leave to remain will be appropriate. Such cases should always be referred to a Senior Caseworker for consideration prior to a grant of Discretionary Leave.

5. Returns

- 5.1** Factors that affect the practicality of return such as the difficulty or otherwise of obtaining a travel document should not be taken into account when considering the merits of an asylum or human rights claim. Where the claim includes dependent family members their situation on return should however be considered in line with the Immigration Rules, in particular paragraph 395C requires the consideration of all relevant factors known to the Secretary of State, and with regard to family members refers also to the factors listed in paragraphs 365-368 of the Immigration Rules.
- 5.3** Bangladeshi nationals may return voluntarily to any region of Bangladesh at any time by way of the Voluntary Assisted Return and Reintegration Programme (VARRP) implemented on behalf of the Border and Immigration Agency by the International Organization for Migration (IOM) and co-funded by the European Refugee Fund. IOM will provide advice and help with obtaining travel documents and booking flights, as well as organising reintegration assistance in Bangladesh. The programme was established in 1999, and is open to those awaiting an asylum decision or the outcome of an appeal, as well as unsuccessful asylum seekers. Bangladeshi nationals wishing to avail themselves of this opportunity for assisted return to Bangladesh should be put in contact with the IOM offices in London on 0800 783 2332 or www.iomlondon.org.

6. List of source documents

- Home Office COI Service (COIS) Bangladesh Country of Origin Information Report (dated 31 August 2007). http://www.homeoffice.gov.uk/rds/country_reports.html

⁶⁵ COIS Bangladesh Country Report 2007 (Human Rights: Medical Issues)

⁶⁶ COIS Bangladesh Country Report 2007 (Human Rights: Medical Issues)

⁶⁷ COIS Bangladesh Country Report 2007 (Human Rights: Medical Issues)

- United News of Bangladesh 'Foolproof security arranged for Durga Puja beginning 17 October' dated 15 October 2007.
- The Daily Star 'Ban on indoor politics relaxed' dated 10 September 2007.
<http://www.thedailystar.net/story.php?nid=3437>
- The Daily Star 'Top Khatme Nabuat leaders among nine granted bail' dated 7 June 2007.
<http://www.thedailystar.net/2007/06/07/d70607070192.htm>
- U.S. Department of State International Religious Freedom Report 2007: Bangladesh (released on 14 September 2007). <http://www.state.gov/g/drl/rls/irf/2007/90226.htm>
- Amnesty International Report 2007: Bangladesh.
<http://thereport.amnesty.org/eng/Regions/Asia-Pacific/Bangladesh>
- Bangladesh Hindu Bouddha Christian Oikya Parishad (BHBCOP).
<http://www.bhbcop.org/bulletin/atrocity.html>
- U.S. Department of State report on Human Rights Practices 2006: Bangladesh (released on 6 March 2007). <http://www.state.gov/g/drl/rls/hrrpt/2006/78869.htm>
- British Broadcasting Corporation (BBC) News Timeline: Bangladesh (last updated on 20 November 2007). http://news.bbc.co.uk/1/hi/world/south_asia/country_profiles/1160896.stm
- BBC News Country Profile: Bangladesh (last updated on 14 December 2007).
http://news.bbc.co.uk/1/hi/world/south_asia/country_profiles/1160598.stm
- BBC News 'Bangladesh parties reopen offices' dated 11 September 2007.
http://news.bbc.co.uk/1/hi/world/south_asia/6988539.stm
- BBC News 'Q&A Bangladeshi crisis' dated 3 September 2007.
http://news.bbc.co.uk/1/hi/world/south_asia/6255773.stm
- BBC News 'Bangladesh stuck in political limbo' dated 3 September 2007.
http://news.bbc.co.uk/1/hi/world/south_asia/6976614.stm
- Foreign and Commonwealth Office (FCO) Country Profile 2007: Bangladesh (last reviewed 23 October 2007).
<http://www.fco.gov.uk/servlet/Front?pagename=OpenMarket/Xcelerate/ShowPage&c=Page&cid=1007029394365&a=KCountryProfile&aid=1018965297515>

Asylum Policy
21 December 2007