

Flygtningenævnets baggrundsmateriale

Bilagsnr.:	336
Land:	Bangladesh
Kilde:	OMCT og Odhikar
Titel:	Cycle of Fear
Udgivet:	Juli 2019
Optaget på baggrundsmaterialet:	3. september 2019

CYCLE OF FEAR

COMBATING IMPUNITY
FOR TORTURE AND
STRENGTHENING THE RULE
OF LAW IN BANGLADESH

July 2019

Cycle of Fear

Combating Impunity for Torture and Strengthening the Rule of Law in Bangladesh

<i>List of abbreviations</i>	3
<i>About the Authors</i>	4
I. Executive Summary – From recognition to cure: the need for setting a rule of law agenda	5
1. The problem of torture in Bangladesh	5
2. Ten step anti-torture and rule of law agenda for Bangladesh	8
3. Recommendations to the international community	9
II. Introduction	10
III. Methodology	10
IV. Legal Framework	11
1. International Anti-Torture Legal Framework	11
2. Domestic Legal Framework to Combat and Prevent Torture	13
a. Torture and Custodial Death (Prohibition) Act 2013	13
b. Court Directives to Prevent Torture in Custody.....	15
c. Police Regulations and Laws	17
V. Historical and political background – root causes of torture in Bangladesh	18
1. Independence of Bangladesh	18
2. Instability and Power Struggles between 1972 and 2011	19
3. Political Conflict since 2011 and Human Rights Violations	21
4. National Security and Acts of Extremism.....	21
VI. Trends and Patterns of Torture and Ill-treatment	22
1. Torture and Other forms of Ill-treatment in Custody and at Arrest	23
a. Death Due to Torture.....	25
b. Judicial remand.....	26
c. Ill Treatment due to Poor Prison Conditions.....	27
2. Torture and Ill-Treatment by the Rapid Action Battalion.....	27
VII. Impediment to Accountability and Causes for Impunity	33
1. Structural reasons for the persistence of torture in Bangladesh.....	35
a. Corruption and Integrity of the Judiciary and Law Enforcement	35
b. Confession as the Gold Standard of Evidence	37
c. Lack of Independent Investigation and Complaint Mechanisms	39
d. Reprisals and Lack of Victim and Witness Protection.....	41
e. Lack of Redress and Reparation.....	42
2. Instable political situation fosters the use of torture	43
a. Suppression of Opposition and Partisan Law Enforcement.....	43

b.	Trade-offs Between Government and Rapid Action Battalion	45
c.	Counter Terrorism Operations.....	46
d.	Crack Down of Civil Society and the Media	47
3.	Enactment of repressive laws.....	49
a.	Special Powers Act of 1974	49
b.	Information and Communication Technology Act of 2006	51
c.	Anti-Terrorism Act of 2009	51
d.	Foreign Donation (Voluntary Activities) Regulation Act of 2016.....	52
VIII.	Conclusion and Recommendations	53
a.	Ten step anti-torture and rule of law agenda for Bangladesh.....	54
b.	Recommendations to the international community.....	57
IX.	Appendice.....	59

List of abbreviations

ASK – Ain o Salish Kendra (organisation)

ATA – Anti-Terrorism Act

BDR – Bangladesh Rifles

BGB – Border Guard Bangladesh

BLAST – Bangladesh Legal Aid and Services Trust

BNP – Bangladesh Nationalist Party

CAT – Comittee Against Torture

CID - Criminal Investigation Department

DB – Detective Branch

DSB – District Special Branch

ECOSOC – United Nations Economic and Social Council

FIDH – Fédération Internationale des Ligues des Droits de l’Homme

ICCPR – International Covenant on Civil and Political Rights

ICT – Information and Communication Technology (Act)

JI – Jamaat-e-Islami

JMB – Jamaatul Mujahedeen Bangladesh

LGRD – (Ministry) of Local Government, Rural Development and Co-operatives

MP – Member of Parliament

NGO – Non-Governmental Organisation

NHRC – National Human Rights Commission

OMCT - World Organisation Against Torture (Organisation Mondiale contre la Torture *in French*)

RAB – Rapid Action Battalion

SB – Special Branch

UN – United Nations

About the Authors

This is a joint report written and published in July 2019 by the World Organisation Against Torture (OMCT) and Odhikar.

The World Organisation Against Torture is the catalyst of the SOS-Torture network, a coalition of more than 200 international and national non-governmental organisations fighting torture, summary execution, enforced disappearances and all other cruel, inhumane or degrading treatment and punishment. With offices in Geneva, Brussels and Tunis, OMCT runs programmes to favour State compliance with international law and national anti-torture legislation, provide urgent assistance to victims of torture and seek justice for them, advocate greater protection for children in detention, women, and human rights defenders worldwide.

Odhikar is a Dhaka based human rights organization, established in October 1994 to create a wider monitoring and awareness raising system on the abuse of civil and political rights in Bangladesh. The rights watchdog contributes to policy advocacy aiming to address the contemporary human rights situation in Bangladesh. Odhikar has special consultative ECOSOC status at the United Nations and is a member organization of the 250 strong SOS torture network of the OMCT.

Over the past years, OMCT member organization Odhikar has faced serious threats, persecution for publishing critical human rights violations, and the arbitrary freezing of its accounts, including of funding from the European Union and other donors. The OMCT wishes to place on record that international human rights law recognizes the specific role and protection of human rights defenders and their organizations, including when submitting critical information such as on torture, to international bodies such as the UN Committee Against Torture. Ultimately, the aim of this report, which forms part of a global initiative of the OMCT, is to engage all those concerned in improving the response to torture as reflected in the obligations voluntarily assumed by Bangladesh under international law.

I. Executive Summary – From recognition to cure: the need for setting a rule of law agenda

Torture and other forms of cruel, inhuman and degrading treatment with pervasive levels of impunity and complacency have for a long time been deeply rooted in the law enforcement reality and the legal and judicial system in Bangladesh. The lack of any report to the UN Committee Against Torture for some twenty years in violation of the reporting obligations under the Convention Against Torture is only a synonym for the challenges of fighting torture.

This is the grim picture on the basis of the information gathered by the OMCT during its visits to the country while meeting members of government, the national human rights institution, civil society, legal community and victims and their families, and it is reflected in the cases of alleged torture, reported and documented by its member organization, Odhikar. Torture and cruel, and inhuman or degrading treatment are not only a reality in Bangladesh, large parts of the public, law enforcement and judiciary appear to take torture in judicial remand as a reality. Regrettably, there appears a lack of awareness – or at least of resolute action – to counter the poisonous effect of torture has for society, the rule of law and sustainable security in the country.

This report seeks to lay out the torture challenge in the country in its many current facets, including both political and non-political torture. It calls for a renewed recognition of the problem at all levels in order to define a decisive and forward looking rule of law agenda which tackles the problem not only in words but also through action. This action plan requires using the UN Convention Against Torture, including its international reporting obligations ignored for over two decades, as a basis to translate legal norms and commitment into reality for society.

1. The problem of torture in Bangladesh

Bangladesh faces a deeply rooted crisis of incidents of torture and impunity in which it is nearly impossible for victims of torture to obtain justice despite certain legislative advances through the adoption of an anti-torture law in the country. The systematic failure to investigate, prosecute, and punish perpetrators compounds the problem and constitutes a serious breach of Bangladesh's international obligation, first and foremost its obligations under the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (called hereafter Convention against Torture or the Convention), which Bangladesh ratified more than 20 years ago. It is telling in this regard, that respective governments in Bangladesh have failed for two decades to submit any report to the UN Committee Against Torture (CAT), as required by the Convention, making it one of the longest overdue and non-reporting States in the world today.

Having examined more than 300 reported and alleged torture incidents and met with members of the executive, the judiciary, prison authorities, the National Human Rights Commission (NHRC), representatives of Embassies, International Organisations, domestic and international non-governmental organisations (NGOs), human rights and political activists, lawyers, and several torture victims and their families, this report seeks to put the issue of torture on the agenda, calling for new rule of law to counter the present culture of impunity. To this end, a set of recommendations attempts to present a roadmap to advance the rule of law, which is the cornerstone in the fight against torture and all the more important in a politically charged climate.

Due to the nature of torture being largely exercised outside of the public vision, with victims traumatized or terrified of possible reprisals, it is impossible to have firm statistics about its occurrence. On the basis of our information and the consultations held over the past four years, we are confident to say, that it is evident that torture is common if not widespread and systematic. This is even more so as we have seen little or no evidence that torture allegations are effectively investigated and that specific systems would be in place to overcome the system of self protection of law enforcement and to ensure accountability for torture in reality. We have learned of various forms of ill-treatment that form part of a detainees common experience. Over the years the information received reveals that extreme forms of physical violence, such as shooting in legs or knees, breaking bones, drilling holes in arms and legs, and rape, as well as mental abuse, including mock executions and death threats, have been inflicted upon persons in custody and during arrest. It affects ordinary criminal suspects about whom little information is known

or reported that are caught up in the justice system and is in part connected to a poor rule of law capacity and culture in the law enforcement and prosecuting offices. It is frequently connected directly to the extortion of bribes and corruption in the law enforcement structure. Torture is also used in order to extract information or to get a confession, which remains the gold standard of evidence. As law enforcement lacks capacity and relevant training, modern forensic means to investigate a crime are mostly absent in practice. Magistrates do not typically ask statements by an accused to be corroborated by other investigatory means and evidence. Contrary to domestic law, detainees spend days or weeks, and not just the lawful 24 hours, in remand before they are presented to a Magistrate. In addition, we were told that Magistrates, instead of complying with their legal obligation to ensure that an arrested person is not tortured, systematically send detainees back to remand even when there are clear signs of torture and knowing that they will be further abused. Inactions by a Magistrate are hardly ever appealed because of the impossibility to successfully present a future case before the same Magistrate or one of his/her colleagues. Magistrates themselves are vulnerable to government influence as judicial appointments and promotion are overseen by the Ministry of Law, Justice and Parliamentary Affairs. Corruption and political appointments within the judiciary are a serious impediment to accountability for torture and ill-treatment and undermines the credibility of the entire justice system.

As a result, there is a widespread perception we encountered that ‘judicial remand’ is tantamount to ill-treatment and even torture. In many instances we found in our meetings, including with the NHRC and the legal community, that the lack of a rule of law culture and proper crime investigation capacity is perceived as a regrettable but unfortunate reality or is met with a large degree of complacency. This reflects to us a marked lack of recognition of the dimension of the problem and understanding of its impact for the state, long-term security, the credibility of its institution, and for the rule of law.

On top of this, in recent years we have seen an increase of torture allegations, enforced disappearances and extra-judicial killings in the context of the present political crisis. This reflects not only a dissipating climate of democracy and checks and balances, but a climate of human rights abuses and impunity which risks to further exacerbate tensions and entrench authoritarian rule¹. Elite forces, such as the country’s Rapid Action Battalion (RAB), are operating de facto largely outside the control of any civilian and judicial authority rendering the prospect of accountability illusory.

This report highlights the need to rethink the rule of law compliance and political neutrality of all security and law enforcement forces, including and in particular the RAB and special forces. This must be examined against a background of a deeply rooted culture by the former and present government to use special forces as a political tool rather than a tool for crime prevention. This is even more important if the real threat of violent extremism is to be addressed. Abuse, lack of accountability and perception in target communities will only feed future discontent with the State, including growing aspects of extremism and undermining the efforts required to counter ‘terrorism’.

Part of such a rule of law agenda has to be a process of restoring the confidence by all sides of society into a real system of checks and balances that ensure the neutrality of the judiciary as well as other checks and balances such as the Election Commission, the Anti-Corruption Commission, and the NHRC. Moreover, decades of power struggles between the two main political parties immersed the country in a rule of law crisis which overshadowed any debate about torture eradication.

While the government has declared at various times a ‘zero tolerance policy’ towards torture and other serious human rights violations, there is little evidence of such a policy ever being pursued and transformed into real accountability. To the contrary, it appears that the present political crisis in the country overshadows the much-needed discussion on the rule of law and compliant law enforcement as the cornerstones of society.

¹ This authoritarian turn has also been recognized internationally. See ‘Democracy under Pressure: Polarization and Repression are Increasing Worldwide’ a report by Bertelsmann Stiftung, March 2018, paragraph six, available at: <https://www.bertelsmann-stiftung.de/en/press/press-releases/press-release/pid/democracy-under-pressure-polarization-and-repression-are-increasing-worldwide/>. Also see <http://www.bti-project.org/en/key-findings/regional/asia-and-oceania/> at paragraph nine.

Torture affects individuals, traumatizes victims, families and societies and has far bigger impacts on societies than is generally recognized. In our meetings and visits, we have seen a lack of recognition of victims at all levels in terms of their protection in the criminal justice system and preventing their re-traumatization, as well as access to social, medical or legal assistance to rebuild their lives. Maybe most worrying is the lack of recognition of torture and victims as a problem. In this context, it is particularly important to ensure that victims have somebody to turn to, including a functioning judiciary, independent and effective complaint mechanisms, and above all civil society organizations who are able to work freely on torture and impunity issues without fear of reprisal, harassment and interference. A zero tolerance policy against torture cannot exist if there is a fear of reprisal or repression by those who monitor, report, and document torture or support victims and their families.

The Torture and Custodial Death (Prohibition) Act 2013, which criminalizes torture, regulates that complaints can be directly lodged with a court instead of the police and an officer with the rank of a superintendent has to investigate allegations and provide for compensation. However, it is rarely implemented. The rule of law further suffers from legal uncertainty and unpredictability since other legal safeguards against torture remain unimplemented. Law enforcement disregards the Supreme Court landmark decision of *Bangladesh Legal Aid and Services Trust (BLAST) v. Bangladesh* that provides detailed guidelines for arrest, remand, and detention. Concretely, this means that lawyers are typically not present at interrogations, persons are not informed about reasons of arrest, police officers do not provide an arrestee with their identity, and death in custody is not systematically investigated.

Civil society organisations, activists, and human rights defenders who document torture and criticize the government for its serious human rights abuses are under attack. The Foreign Donation (Voluntary Activities) Regulation Act 2016, enables government officials to inspect, monitor and evaluate the activities of NGOs and its members and requires anyone receiving foreign contribution to get approval from the NGO Affairs Bureau. In addition, derogatory remarks on the Constitution and constitutional bodies or “anti-State activities” are considered an offence under this act. As a result, many organisations have had to close down or stop their activities and there remain very few activists and NGOs working on torture in the country.

The Information and Communication Technology Act 2006 (amended 2009 and 2013) (ICT Act) has been used to suppress and silence activists, journalists and government critics by criminalizing the publishing or transmitting of defamatory or false information which prejudices the state, states harmful religious sentiments, or causes deterioration of law and order. Consequently, media reporting on torture and other abuse faced closure and editors have been arrested. Furthermore, rallies or demonstrations for more rights and against abuse are cracked down with excessive force.

Against this complicated backdrop, the eradication of torture in Bangladesh should be envisaged through the following ten step anti-torture and rule of law agenda. For the reform to be effective and efficient these measures should be adopted holistically.

2. Ten step anti-torture and rule of law agenda for Bangladesh²

1. The government should **officially recognize torture** as a systemic issue in Bangladesh.
2. The government should **set up a joint national/international committee to assess systemic failures** in the law enforcement and judiciary system.
3. The government should start **transforming the Bangladeshi police force into a police service**, through corroborating the proof of confessions with other investigatory means and evidences, enforcing the *BLAST v. Bangladesh* directives, establishing a civilian oversight mechanism and dismantle the Rapid Action Battalion.
4. The government should **depoliticize the Judiciary** by ensuring the independent appointment and selection of judges, automatically opening investigations into cases of torture or ill-treatment even in the absence of formal complaints, ensuring that Magistrates record torture allegations duly and establishing an independent oversight mechanism to monitor the judiciary.
5. The government should **improve the capacity of the National Human Rights Commission** and allow it to function independently, by broadening its mandate to encompass alleged human rights violations involving State actors, the NHRC should be composed of representatives of non-governmental organizations, universities and qualified experts and parliament and the government representatives participating should only serve in an advisory capacity.
6. The government should **ensure adequate redress and reparation for victims of torture**, by establishing an independent commission of inquiry to investigate all cases of torture, disappearances, custodial deaths and extrajudicial killings. The commission should be mandated to recommend cases for prosecution.
7. The government should engage in **fighting corruption in Bangladesh** with a specific focus on law enforcement and the judiciary, by mapping the loop-holes in Bangladeshi legislation encouraging corrupt practices and informal practices of corruption – and propose and enact revised legislation accordingly and drawing up an anti-corruption strategy on the basis of the mapping's findings.
8. The government should **ensure detainees' rights in detention and police remand**, by enforcing the strict respect of the lawful 24 hours remand prior to the presentation in front of the Magistrate and ensure the respect of access to counsel and that the families are informed about the time and place of arrest and detention. The Code of Criminal Procedure and the Penal Code should be amended as laid down in the *BLAST v. Bangladesh* ruling and the BLAST safeguards should be secured during arrest, remand and detention.
9. The government should **create an enabling environment for citizens and civil society in Bangladesh** to foster a constructive public dialogue about torture and rule of law. The following laws should be repealed: Foreign Donation (Voluntary Activities) Regulation Act 2016, the Information and Communication Technology Act 2006, Special Powers Act of 1974, and the Anti-Terrorism Act (ATA) of 2009.
10. **Bangladesh should re-commit to its international obligations**, by submitting the overdue report to the Committee against Torture and ratify the Optional Protocol to the Convention against Torture; recognizing the competence of the CAT to receive and consider individual complaints and issuing a standing invitation to all United Nations (UN) Special Procedures.

² The following anti-torture and rule of law agenda is a shortened version, the more detailed version can be found in the conclusion of this report.

3. Recommendations to the international community

To counter the systemic use of torture in Bangladesh, the international community should:

- Publicly acknowledge the widespread and systemic occurrence of torture in Bangladesh;
- Vet all Bangladeshi military and police personnel applying to UN peacekeeping missions making sure that they have not been involved in any human rights violation;
- Condition aid and trade with Bangladesh on the taking of concrete steps towards the eradication of torture and the advancement of rule of law in the country.
- Support independent civil society activists in Bangladesh in their fight against torture and impunity.
- Push for the creation of a UN Special Rapporteur on the situation of human rights Bangladesh.

II. Introduction

Torture and cruel, inhuman and degrading treatment is a common practice in Bangladesh. Shooting of legs or knees, breaking bones, drilling holes in arms and legs, rape, mock executions and death threats are recurrent elements of over 300 alleged incidents of torture on which this report is based.

For decades, torture and abuse have been a part of the modus operandi of the law enforcement in Bangladesh. This has left deep scars on the collective body of the Bangladeshi society, beyond the scars left on the tortured and the torturers.³ The structural use of torture as a means of upholding law and order, instilling fear and quashing dissent has erased people's trust in the police, the (para)military, intelligence agencies, the judiciary and the executive powers. The authority of the State is upheld too often by fear and not by respect or consent, infecting these important social bonds. The scars caused by torture at both the individual and societal levels will last for generations to come.

The prohibition against torture is absolute. It is one of the strongest protected norms in international law – it is firmly embedded in customary international law and codified in human rights law, international humanitarian law, international criminal law and international refugee law. The absolute character of the prohibition of torture implies that it can never be justified, not even in exceptional circumstances such as situations of public emergency or national security.

In 1998, Bangladesh ratified the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Despite the government's welcome declaration of a zero-tolerance policy and the adoption of a law criminalizing torture in 2013, torture is still widespread and systematically practiced in Bangladesh. Although many torture victims can name the perpetrators and the place where they were tortured, no or little action is taken to investigate or bring perpetrators to justice. The virtual impunity they enjoy reinforces the practice of torture, since they are confident that they will not be held responsible for their actions, and those within the system willing to see change feel discouraged from blowing the whistle of addressing the wrongdoing of their colleagues.

In the case of Bangladesh, to combat the use of torture it is not a question of "getting rid of a few bad apples" as it is portrayed at the time. Rather, it is a matter of fixing a whole system which has become dysfunctional in important parts.

This report aims to understand the deeply rooted phenomena of torture in Bangladesh, the reasons for its occurrence, its persistence, and to lay out a ten step anti-torture and rule of law agenda to ultimately fight the plight of torture in Bangladesh.

The reports consist of five parts, the first one presents the international and the national legal framework regulating the prohibition of torture and rule of law. The second part puts the issue of torture into the context of a short historical and political background. The third part presents the trends and patterns of ill-treatment and torture in Bangladesh. The fourth part depicts the impediment to accountability and causes for impunity for torture cases. Lastly, the fifth part concludes and presents the way forward with a ten step anti-torture and rule of law agenda.

III. Methodology

This report is a joint product written by Odhikar and OMCT. Its findings are based on alleged incidents of torture reported to and collected by Odhikar between January 2009 and December 2017 and information gathered during OMCT missions to Bangladesh in April 2016, April 2017 and July 2017.

³ 'Other than post-traumatic stress symptoms, torture survivors have elevated rates of anxiety, depression, and adjustment problems, including outbreaks of anger and violence directed towards family members. Symptoms should always be understood in the context above. No diagnostic terminology encapsulates the deep distrust of others which many torture survivors have developed, nor the destruction of all that gave their lives meaning. Guilt and shame about humiliation during torture, and about the survivor's inability to withstand it, as well as guilt at surviving, are common problems which discourage disclosure', Amanda C de C Williams, Jannie van der Merwe, 'The psychological impact of torture', British Journal of Pain, available at: <http://journals.sagepub.com/doi/full/10.1177/2049463713483596>.

Odhikar has a network of volunteer human rights defenders operating throughout the country. Information about the incidents is collected through interviews conducted with the victims and their families and verified through fact-finding missions and information provided by grass root activists and media reports. It is important to note that between 2016 and 2017 reports about reprisals and threats against victims and their families as well as against organizations and the media reporting on torture have increased. This has resulted in a decrease in reported incidents collected over time, for instance 75 reported incidents of torture were collected in 2009 while 19 were collected in 2016. This adds on to the already difficult situation in gathering information of acts of torture, since the crime is seldom committed in public and the victims are often reluctant to report about it mostly due to fear of reprisals. A handful of cases are presented in the report to exemplify the patterns of torture, the information was collected directly by Odhikar personnel and through reliable media reports. The information underlying this report is collected in a manner ensuring the security of the victims and their families and do not aim at presenting judicial standards of proof. A table of the incidents of torture that resulted in the death of the victim is annexed to the report.

During the OMCT missions conducted in Bangladesh, OMCT representatives met with prison authorities, officials from the Ministry of Justice, members of the judiciary, members of the National Human Rights Commission, representatives of Embassies and International Organisations, representatives of domestic and international non-governmental organisations, human rights and political activists, lawyers, and several torture victims and their families.

This research is part of an OMCT global program to analyze compliance with the UN Convention Against Torture that aims at harnessing the attention countries that have ratified the Convention but have never submitted a State report to the UN Committee Against Torture, which is the case of Bangladesh. Bangladesh ratified the Convention Against Torture in 1998 and should have submitted its initial report in 1999, the report still remains pending.

IV. Legal Framework

1. International Anti-Torture Legal Framework

The legal framework prohibiting torture and other ill-treatment is one of the most developed in international human rights law. The prohibition of torture is not only a norm of customary international law, but it is also absolute and enjoys *jus cogens* status. This means that the prohibition of torture is universal and so fundamental to the international community that it is considered binding upon all nations irrespective of the treaties they ratified. The prohibition of torture and other ill-treatment is a preemptory norm that applies *erga omnes*. In addition, no less than twelve treaties – seven international⁴ and five regional⁵ – prohibit torture and ill-treatment. Bangladesh has ratified all seven international treaties that are the Convention against Torture, the International Covenant on Civil and Political Rights (ICCPR), the four Geneva Conventions of 1949 as well as the Rome Statute of the International Criminal Court. There are, furthermore, numerous global and regional declarations, protocols and resolutions that aim at eradicating or preventing torture and other cruel, inhuman, and degrading treatment or punishments and there are treaties, such as the Convention on the Rights of the Child or the Convention against the Discrimination against Women, that more broadly prohibit violence against children or women including torture. Both national and international courts and quasi-judicial bodies have affirmed the absolute prohibition of torture, its *jus cogens* status and have applied it in terms of peace and war.⁶

⁴ Convention Against Torture, International Covenant on Civil and Political Rights, Rome Statute, the four Geneva Conventions of 1949.

⁵ American Convention on Human Rights “Pact of San Jose”; Inter-American Convention to Prevent and Punish Torture; European Convention on Human Rights, European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment; African Charter on Human and People’s Rights.

⁶ See e.g. International Criminal Tribunal for the former Yugoslavia, Prosecutor v. Furundzija, Case No. Case No. IT-95-17/1-T, 10 December 1998, paras. 134–164.

The Convention against Torture contains in Article 1 the most widely accepted definition of torture according to which:

the term “torture” means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.

Furthermore, the Convention against Torture prohibits other forms of ill-treatment in Article 16 by stating that

Each State Party shall undertake to prevent in any territory under its jurisdiction other acts of cruel, inhuman or degrading treatment or punishment which do not amount to torture as defined in article I, when such acts are committed by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. In particular, the obligations contained in articles 10, 11, 12 and 13 shall apply with the substitution for references to torture of references to other forms of cruel, inhuman or degrading treatment or punishment.

Typical situations that give rise to an Article 16 violation are: prison overcrowding; harsh prison conditions including lack of food, lack of medical services, inadequate facilities; prolonged solitary confinement; non-segregation of female and male detainees; reprisals, intimidation and threats against persons reporting acts of torture or ill-treatment and many others.

The Convention against Torture is one of the most detailed normative frameworks of all standards that apply to human rights violations. The Convention against Torture regulates (i) investigation, (ii) complaints, (iii) punishment as well as (iv) redress for torture and cruel, inhuman and degrading treatment.

- (i) Article 12 provides that “Each State Party shall ensure that its competent authorities proceed to a prompt and impartial investigation, wherever there is reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction.” Thereby, investigations have to be undertaken ex officio. An impartial investigation requires that the agency that is accused of having committed torture is not in charge of investigations.⁷
- (ii) Article 13 requires State Parties to “ensure that any individual who alleges he has been subjected to torture in any territory under its jurisdiction has the right to complain to, and to have his case promptly and impartially examined by, its competent authorities. Steps shall be taken to ensure that complainant and witnesses are protected against all ill-treatment or intimidation as a consequence of his complaint or any evidence given. States therefore have to provide the necessary procedures for victims to exercise their right to complain in a non-bureaucratic manner without fear of reprisals.”⁸ Detainees and arrestees need to be informed about their right to complain and about the procedures available to them. Moreover, authorities need to take steps to protect victims who complained by for instance removing them to another place of detention, change of personnel responsibility or suspend accused officials.
- (iii) State parties are further required under Article 4 to see to that “all acts of torture are offences under its criminal law”. To this end, “Each State Party shall make these offences punishable by appropriate penalties which take into account their grave nature.” The CAT has made clear that the obligation under the Convention further require that perpetrators actually be

⁷ Committee against Torture, Concluding Observations on Thailand, UN Doc. CAT/C/THA/CO/1, 20 June 2014, para.15(a).

⁸ Manfred Nowak and Elizabeth McArthur, *The United Nations Convention against Torture* (OUP 2008), p. 449.

punished. The CAT has repeatedly expressed concerns about the relative low number of convictions in light of numerous allegations of torture.⁹

- (iv) Article 14 obliges State Parties to “ensure in its legal system that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation, including the means for as full rehabilitation as possible. In the event of the death of the victim as a result of an act of torture, his dependents shall be entitled to compensation.” In a General Comment specifying the obligations under this Article the CAT stated that the right to redress encompasses restitution, compensation, rehabilitation, satisfaction and the right to the truth, and guarantees of non-repetition.¹⁰

The Convention against Torture provides a detailed blueprint for member States in their fight against torture. Unfortunately, Bangladesh has insufficiently implemented the Convention’s obligations. Although it has enacted an anti-torture law criminalizing torture, the law only partly implements the Convention standards and is hardly applied in practice. This results in systematic impunity for torture and other ill-treatment. The reasons for impunity that are assessed in this report are analyzed against the background of Bangladesh’s international obligations under the Convention.

2. Domestic Legal Framework to Combat and Prevent Torture

a. Torture and Custodial Death (Prohibition) Act 2013

In 2013, the Parliament passed the Torture and Custodial Death (Prohibition) Act 2013. While not entirely consistent with the Convention against Torture, the Act is nevertheless a piece of landmark legislation. It criminalizes the act of torture by law enforcement agencies including the Police, Rapid Action Battalion, Border Guard Bangladesh, Customs, Immigration, Criminal Investigation Department (CID), Detective Branch (DB), Special Branch (SB), Intelligence Agencies, Ansar Village Defense Party, Coast Guard and any other State agency engaged in enforcement and implementation of the law in the country.¹¹ The Act furthermore criminalizes custodial death that is defined as ‘the death of a person in the custody of a public officer’; moreover any death of a person during an illegal detention, at the time of arrest by any law enforcing agent shall imply as ‘custodial death’; and death occurring whilst a person is being arrested or taken into detention; being questioned, irrespective of the fact that whether the person is a witness in a case or not.’¹²

The Act takes into consideration that a complaint of torture may not be entertained in a police station and allows for the complainant to lodge a complaint directly to the Court, after which the Court will direct the Superintendent of Police to investigate the matter as soon as he or she receives the direction. It also states that if the aggrieved person fears that a police investigation will not be possible, the Court can also direct a judicial probe into the matter.¹³ The minimum penalty for torture is five years of rigorous imprisonment and the maximum is life imprisonment. Life imprisonment is pronounced if a person dies due to torture. The law also provides for the payment of compensation to be paid to the victim or his or her family.¹⁴

However, the Act of 2013 does have several limitations, such as: a definition limited only to physical or mental pain pursuant to obtaining information and confessions; no checks and balances to ensure unbiased investigations; confusion as to where victims can lodge complaints; insufficient compensation and no other forms of redress or rehabilitation; and no time frame within which to lodge and appeal.¹⁵

⁹ CAT, Concluding Observations on Georgia, UN Doc. CAT/C/GEO/CO/3, 25 July 2006, para. 12.

¹⁰ CAT, General Comment No. 3 on the Implementation of Article 14 by States parties, UN Doc. CAT/C/GC/3, 13 December 2012.

¹¹ Section 3 (iv) of the Torture and Custodial Death (Prohibition) Act 2013. Unofficial translation done by the Asian Human Rights Commission.

¹² Ibid. Section 3 (vii).

¹³ Ibid. Section 5.

¹⁴ Ibid. Section 15.

¹⁵ See e.g. BLAST, ‘Review of the Torture and Custodial Death (Prevention) Act 2013’, December 2015, available at:

The Police Headquarters has criticized the law and in 2014 submitted a proposal containing some ‘recommendations’ and ‘suggestions’ to amend the Act. For example, the proposal seeks the repeal of Section 12, which states that ‘no exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other emergency or an order from a superior officer or a public authority will be invoked as a justification of any offence under this Act’. Furthermore, the proposal seeks to drop the RAB, the CID SB and the DB of police from the definition of ‘law enforcement agency’ and thus from the scope of the law.¹⁶

Reports also state that in the proposal for changes, the police mention that the Act of 2013, as it is, ‘might cause impediment to the duties of law enforcement agencies to save lives and property during political instability, arson attacks and subversive activities in hartals (general strikes) and blockade’.¹⁷

Section 4 of the Act of 2013 has also been mentioned in the police proposal. This section lays down that complaints of torture made to the court will be recorded at once. The proposal from the police, wants the statements to be recorded at the police station instead. The police are already extremely reluctant to accept and investigate general diaries and First Information Report regarding acts perpetrated by law enforcement officers, it is highly unlikely that they will actually act upon a statement regarding an incident of torture. In addition, requiring a statement be recorded at the police station increases the risk of reprisals for the victim.

In January 2017 the police repeated their demand that the Act be repealed as “law enforcers will lose their dedication to work if this law remained in force which might hamper security of the State and the people.”¹⁸ Furthermore, the police “would be demoralized and lost the spirit of work”.¹⁹

Section 364 of the Code of Criminal Procedure, 1898 deals with the ways in which the statements made by the accused person must be recorded by the Magistrate or Judge. The section makes it obligatory that the Judge or Magistrate read out the statement made by the accused in his hearing and make sure that he confirms it to be true. The confession also has to be signed by the accused. The section is only applicable when the person examined is the accused. The Code of Criminal Procedure 1898 provides that a confession ‘shall not be made to a police officer’ and that ‘it must be made to a Magistrate.’ It also lays down that ‘the Magistrate must record it in the prescribed format and only when so recorded does it become relevant and admissible in evidence’.²⁰ There is case law to prove that the Magistrate did not follow the abovementioned guidelines, even after the accused person claimed that he had been tortured by the police. For example, in the case of *Hafizuddin v. State*²¹ the Magistrate did not give warnings before recording the confession and there was no time for reflection. The Magistrate also failed to inform the accused that they would not be sent to police custody after making the confessional

[https://www.blast.org.bd/content/publications/Review%20of%20The%20Torture%20&%20Custodial%20Death%20\(Prevention\)%20Act,%202013.pdf](https://www.blast.org.bd/content/publications/Review%20of%20The%20Torture%20&%20Custodial%20Death%20(Prevention)%20Act,%202013.pdf).

¹⁶ See OMCT, ‘Bangladesh: Global anti-torture movement alarmed over possible licence to torture’, 27 March 2015, available at: <http://www.omct.org/statements/bangladesh/2015/03/d23066/>; Asia News, ‘Bangladesh police wants torture ban overturned’, 3 November 2015, available at: <http://www.asianews.it/news-en/Bangladesh-police-wants-torture-ban-overturned-33687.html>.

¹⁷ The Daily Star, Shakhawat Liton, ‘Magistrates Must Act’ 14 November 2016, available at: <http://www.thedailystar.net/frontpage/magistrates-must-act-1314289>.

¹⁸ The Daily Star, Shakhawat Liton, ‘Torture: Is the police above law?’, 29 January 2017, available at: <http://www.thedailystar.net/frontpage/torture-the-police-above-law-1352629>.

¹⁹ Ibid.

²⁰ The form in which the Magistrate records the statement also has in its margins, the guidelines that the Magistrate has to follow when recording a confession – including asking the accused whether he is giving this confession freely and voluntarily.

²¹ *Hafizuddin v. State*, 42 Dhaka Law Reports (1990) High Court Division, page 397. Also see NHRC Report ‘Analysis of Decisions of the Higher Judiciary on Arrest and Detention in Bangladesh’, published in January 2013, available at:

http://nhrc.portal.gov.bd/sites/default/files/files/nhrc.portal.gov.bd/page/348ec5eb_22f8_4754_bb62_6a0d15ba1513/Analysis%20of%20Decisions%20of%20the%20Higher%20Judiciary%20on%20Arrest%20and%20Detention%20in%20Bangladesh.pdf.

statements. It was held that ‘the confessional statements, in such facts and circumstances, are neither voluntary nor true’.²²

b. Court Directives to Prevent Torture in Custody

The Torture and Custodial Death Prevention Act 2013 lays down provisions and guidelines as to how to proceed after a person claims to have been tortured and defines torture and custodial death. However, guidelines to prevent torture from occurring were laid down by the High Court Division of the Supreme Court of Bangladesh in the judgment of a Writ Petition brought by the Bangladesh Legal Aid and Services Trust and several other human rights organisations (*BLAST and Others v. Bangladesh and Others*).²³ The petitioners challenged the practice of remand, the abuse of police powers to arrest without warrant under Section 54 of the Code of Criminal Procedure, 1898 and referred to incidents of gross abuse of power, including allegations of custodial death, torture and inhuman treatment, in remand. The petitioners argued that the Court should enunciate safeguards to prevent or curtail police abuse of power and arbitrary actions by Magistrates, which constitute violations to several fundamental rights guaranteed under Articles 27, 31, 32, 33 and 35 of the Constitution of the People’s Republic of Bangladesh.²⁴

Article 11 of the the Convention against Torture clearly makes it an obligation for State Parties to ‘keep under systematic review interrogation rules, instructions, methods and practices as well as arrangements for the custody and treatment of persons subjected to any form of arrest, detention or imprisonment in any territory under its jurisdiction, with a view to preventing any cases of torture.’ In light of this, and in order to reduce the occurrences of torture and other degrading treatment, the High Court Division of the Supreme Court of Bangladesh, in *BLAST v. Bangladesh*, also ordered the Government to amend the law relating to interrogation of people remanded in custody. The Court also directed that glass-partitioned rooms in jails be constructed for interrogation purposes and until such rooms are constructed, arrestees are to be interrogated at the jail gate in the presence of relatives and lawyers. To date, no such glass-partitioned rooms have been constructed and torture and other degrading forms of treatment are still meted out to an accused in remand. The government has yet to amend Section 167 of the Code of Criminal Procedure²⁵ despite this High Court order to reform the law.

In this landmark ruling, the Court laid down a comprehensive set of recommendations regarding necessary amendments to both sections of the Code of Criminal Procedure, 1898 along with the Penal Code, 1890 and the laws pertaining to evidence and the police, and directed that these should be acted upon within six months. It laid down the following set of guidelines with regard to exercise of powers of arrest and remand:

²² Ibid.

²³ *BLAST and Others v. Bangladesh and Others*. 55 DLR (2003), page 363.

²⁴ Article 27 of the Constitution of the People’s Republic of Bangladesh states that all citizens are equal before the law and are entitled to equal protection of law, while Article 31 deals with right to protection of the law; Article 32 with protection of the right to life and personal liberty; Article 33 with ‘safeguards as to arrest and detention’; and Article 35 guarantees ‘protection in respect of trial and punishment’.

²⁵ Section 167 of the Code of Criminal Procedure: (1) Whenever any person is arrested and detained in custody, and it appears that the investigation cannot be completed within the period of twenty-four hours fixed by section 61, and there are grounds for believing that the accusation or information is well-founded, the officer in charge of the police-station or the police-officer making the investigation if he is not below the rank of sub-inspector shall forthwith transmit to the nearest Judicial Magistrate a copy of the entries in the diary hereinafter prescribed relating to the case, and shall at the same time forward the accused to such Magistrate. (2) The Magistrate to whom an accused person is forwarded under this section may, whether he has or has not jurisdiction to try the case from time to time authorize the detention of the accused in such custody as such Magistrate thinks fit, for a term not exceeding fifteen days in the whole. If he has not jurisdiction to try the case or send it for trial, and considers further detention unnecessary, he may order the accused to be forwarded to a Magistrate having such jurisdiction: Provided that no Magistrate of the third class, and no Magistrate of the second class not specially empowered in this behalf by the Government shall authorize detention in the custody of the police. (3) A Magistrate authorizing under this section detention in the custody of the police shall record his reasons for so doing.

1. No Police officer shall arrest anyone under Section 54 [of the Code of Criminal Procedure 1898] for the purpose of detention under Section 3 of the Special Powers Act, 1974²⁶;
2. A police officer shall disclose his/her identity and show his/her ID Card on demand to the person arrested or those present at the time of arrest;
3. A record of reasons of arrest and other particulars shall be maintained in a separate register till a special diary is prescribed;
4. The concerned officer shall record reasons for marks of injury, if any, on the person arrested and take him/her to nearest hospital or government doctor;
5. The person arrested shall be furnished with reasons of arrest within three hours of bringing him/her to the police station;
6. If the person is not arrested from his/her residence or place of business, the relatives should be informed over the phone or through messenger within one hour of bringing him/her to the police station;
7. The person concerned must be allowed to consult a lawyer of choice or meet nearest relations;
8. While producing the detained person before the Magistrate under Section 61 of the Code of Criminal Procedure, 1898, the police officer must forward reasons in a forwarding letter under Section 167 (1) of the Code of Criminal Procedure as to why the investigation could not be completed within twenty four hours and why she/he considers the accusation and information to be well founded;
9. On perusal of the forwarding letter, if the Magistrate satisfies him/herself that the accusation and information are well founded and materials in the case diary are sufficient for detaining the person in custody, the Magistrate shall pass an order of detention and if not, release him/her forthwith;
10. Where a person is released on the aforesaid grounds, the Magistrate shall proceed under 190(1)(c) of the Code of 1898 against the officer concerned under Section 220 of the Penal Code, 1890;
11. Where the Magistrate orders detention of the person, the officer shall interrogate the accused in a room in a jail until a room with glass wall or grille on one side within sight of lawyer or relations is constructed;
12. In any application for taking an accused in custody for interrogation, reasons should be mentioned as recommended;
13. The Magistrate, while authorizing detention in police custody, shall follow the recommendations laid down in the judgment;
14. The police officer arresting under Section 54, or the investigating officer taking a person to custody or the jailor must inform the nearest Magistrate about the death of any person in custody in compliance with these recommendations given above;
15. The Magistrate shall inquire into the death of any person in police custody or jail as per the recommendations.

²⁶ The Special Powers Act was enacted in 1974. The Act allows for the preventive detention of individuals. Section 3(1) of the Act provides that the government may have a person detained "with a view to preventing him from doing any prejudicial act" (Bangladesh 1974). Section 2(f) of the Act provides the following:

(f) "prejudicial act" means any act which is intended or likely-

- to prejudice the sovereignty or defence of Bangladesh;
- to prejudice the maintenance of friendly relations of Bangladesh with foreign States;
- to prejudice the security of Bangladesh or to endanger public safety or the maintenance of public order;
- to create or excite feelings of enmity or hatred between different communities, classes or sections of people;
- to interfere with or encourage or incite interference with the administration of law or the maintenance of law and order;
- to prejudice the maintenance of supplies and services essential to the community;
- to cause fear or alarm to the public or to any section of the public;
- to prejudice the economic or financial interests of the State.

The directives given by the High Court Division in *BLAST v. Bangladesh* were to be considered binding till the law was amended or a new law enacted to include the fifteen directives. The government appealed against the High Court ruling which was rejected by the Appellate Division of the Supreme Court of Bangladesh. As a result, the High Court directives are still in force.²⁷

However, the government has not implemented the judgment. To date, there is no separate interrogation room for accused and detained persons, and no lawyer or family member is present when an accused is ‘questioned’ in remand. After a study of the fact finding missions carried out by Odhikar, it can be seen in several cases that the police make arrests in plain clothes and when victims ask the reason for the arrest, they are rewarded with kicks, slaps, pushes and verbal abuse. Family members are not allowed to accompany the arrested person to the police station either.²⁸ In addition, the sections in the Code of Criminal Procedures that were declared unconstitutional have still not been amended. *BLAST v. Bangladesh* is often invoked by the defense to protect the accused from certain abuse and even torture. However, this almost always falls on deaf ears and reflects a core implementation challenge of the anti-torture law and the Supreme Courts guidance in *BLAST* versus Bangladesh. A concerted effort across the justice chain would be needed to train officials and the judiciary in line with the Convention against Torture and to review internal systems and guidelines to turn the laws and guidance into reality.

c. Police Regulations and Laws

The Police Act was enacted in 1861 and is still in force. Section 29 of this Act penalizes police officers who are violent towards persons in their custody. The law reads: ‘Every police officer who shall be guilty of any violation of duty or willful breach or neglect of any rule or regulation or lawful order made by competent authority, or who shall withdraw from the duties of his office without permission, or without having given previous notice for the period of two months, or who, being absent on leave, shall fail, without reasonable cause, to report himself for duty on the expiration of such leave, or who shall engage without authority in any employment other than his police duty, or who shall be guilty of cowardice, or who shall offer any unwarrantable personal violence to any person in his custody, shall be liable, on conviction before a Magistrate, to a penalty not exceeding three months’ pay, or to imprisonment with or without hard labour, for a period not exceeding three months, or to both’.²⁹ In case of torture, cruel or inhuman treatment a maximum sentence of three months is very low and hardly commensurates with the gravity of the offence.

Furthermore, each Metropolitan area of Dhaka, Khulna and Chittagong has their own Metropolitan Police Ordinance,³⁰ and the Police Act is not applicable in these areas. According to these Ordinances, it is the duty of every police officer: ‘to take prompt measures to procure necessary help for any person under arrest or in custody who is wounded or sick, and, while guarding or conducting any such person, to have due regard to his condition; to arrange for the proper sustenance and shelter of every person who is under arrest or in custody; in conducting searches, to refrain from needless rudeness and the causing of unnecessary annoyance’.³¹

The Ordinances also state that ‘Any police officer who is guilty of cowardice or of any willful breach of any provision of law or of any rule, regulation or order which it is his duty as such police officer to observe or obey shall be punishable with imprisonment for a term which may extend to six months, or

²⁷ *BLAST and Others v. Bangladesh* case, 2003/Writ Petition No. 3806 of 1998, 55 DLR (2003) 363; available at: <https://www.blast.org.bd/content/judgement/55-DLR-363.pdf>. See also: The Daily Star, ‘SC [Supreme Court] upholds ruling over arrest on suspicion’, 24 May 2016, available at: <http://www.thedailystar.net/country/sc-upholds-ruling-arrest-suspicion-1228552>.

²⁸ Based on information from Odhikar fact-finding missions- ‘Moni Begum, resident of Bishwa Colony area of Chittagong was allegedly tortured in custody of Sitakunda Police’, available at: <http://odhikar.org/wp-content/uploads/2013/03/fact-finding-Torture-Moni-Begum-Sitakunda-2012-eng.pdf>; Odhikar Fact-Finding report ‘Shah Alif Prince was tortured in an unknown location for 44 days’ available at: <http://odhikar.org/wp-content/uploads/2012/02/fact-finding-Torture-Shah-Alif-Prince-Dhaka-2012-eng.pdf>

²⁹ Section 29 of the Police Act 1861.

³⁰ The Dhaka Ordinance is dated 1976; the Khulna Ordinance 1985, the Chittagong Ordinance 1978.

³¹ Common section 16 of the Ordinances.

with fine which may extend to one thousand taka, or with both'.³² Regarding unnecessary harassment, arrest and detention, the Ordinances categorically state that if a police officer 'unnecessarily searches or detains or arrests anyone, he may be punished with up to one year imprisonment, 1,000 taka fine or both; and if a police officer uses any violence to anyone in his custody, or threatens him, the police officer will be punished with up to one year imprisonment, up to 2,000 taka or both'.³³

Because of these vague phrases, minor punishment, and the lack of qualifying violence against detained persons as torture or cruel, inhuman or degrading treatment, the Ordinances and the Police Act are not in full compliance with the Torture and Custodial Death (Prevention) Act 2013 and the Convention against Torture. It is high time this law of 1861 and the Ordinances were amended also to prevent any confusion regarding the application of laws.

V. Historical and political background – root causes of torture in Bangladesh

1. Independence of Bangladesh

The turbulent political history of the region which now includes Bangladesh, and the socio-economic and political reasons that compelled its birth have been a catalyst for the power struggle and confrontational political practices in Bangladesh. In order to understand the predominance of torture and the level of impunity enjoyed by law enforcement agencies in the country, one needs to look back in time and trace the manner in which law enforcement has been utilized for political gains and repression.

The British colonial rule in India had frequently resorted to brute force and violence against the local population. There are records of allegations of various forms of torture by the British East India Company from as early as 1855.³⁴ By the late 1800's, India was home to some of the leading pro-independence movements, the first one being the Sepoy Mutiny in 1857, and their failed declaration of independence. The Indian National Congress, a political party, was later founded in 1885, to discuss an independent India. However, as the leaders of the two major religious communities, namely Hindus and Muslims could not reach a compromise regarding the autonomous nature and sharing of power within the future state, the Muslims of India rallied behind the All India Muslim League which was founded in 1906. On March 23, 1940, Muhammad Ali Jinnah, leader of the Muslim League, agreed with the idea of independence being granted to two separate countries: India (predominantly Hindu) and Pakistan (predominantly Muslim). Pakistan was made up of four provinces in the West (called West Pakistan) and one in the East, which was called East Pakistan, and which is today Bangladesh. East and West Pakistan were separated by more than 1,600 km of Indian soil.

Economic, political and financial development was centered around West Pakistan while the East was neglected. Political tensions heightened in 1970 when the Awami League from East Pakistan won the majority in the National Assembly but was still refused the constitutional right to form a government by the then West Pakistani rulers. This culminated in mass unrest led by student organisations and Awami League activists, which followed by an army crackdown in East Pakistan on March 25, 1971. East Pakistan declared independence on March 26, 1971, and the "liberation war" commenced for Bangladesh. On December 16, 1971, the Pakistani Army surrendered to the combined forces of the freedom fighters and the Indian army which had intervened. Bangladesh, with Dhaka as its capital, became a reality. The first President, and later Prime Minister, of Bangladesh was Sheikh Mujibur Rahman the leader of the Awami League.

³² Section 48 of the Dhaka and section 50 of the Khulna and Chittagong Metropolitan Police Ordinances.

³³ Sections 51-53 of the Dhaka and 54-56 of the Khulna and Chittagong Metropolitan Police Ordinances.

³⁴ Official Report of debates in Parliament, 'Torture in Madras', available at: <http://hansard.millbanksystems.com/lords/1856/apr/14/torture-in-madras>. See also Bhuvania, Anuj. 'Very Wicked Children: Indian Torture and the Madras Torture Commission Report of 1855', available at: http://www.scielo.br/pdf/sur/v6n10/en_a02v6n10.pdf.

2. Instability and Power Struggles between 1972 and 2011

Bangladesh won liberation from Pakistan on December 16, 1971. In 1972, a paramilitary force called the *Jatiyo Rakkhi Bahini* was formed by the new government, and became responsible for its involvement in numerous human rights abuses, including enforced disappearances, extra judicial killings and torture. It also carried out the persecution of opponents of the Awami League, resulting in acts of enforced disappearance and the death of oppositional political activists. Human Rights Watch states that the institutionalised violence committed by the *Jatiyo Rakkhi Bahini* established the culture of impunity with which security forces in Bangladesh continue to abuse human rights.³⁵ The Awami League won the first Parliamentary elections in 1973, amidst protests over results by the opposition parties. The Awami League at that time was the main party, with a broad ability to support and promote the struggle for a new and independent nation. The Constitution which was enacted in 1972,³⁶ underwent its 2nd Amendment on September 22, 1973, and introduced the Emergency provisions and the 4th Amendment on January 25, 1975, which limited the powers of the legislative and judicial systems and transformed the Parliamentary system into a Presidential one. All the existing political parties were then dissolved and almost all newspapers were closed down. Sheikh Mujibur Rahman became the President.

On August 15, 1975, President Sheikh Mujibur Rahman and most of his family members³⁷ were killed in a coup by a group of army officers. A new government, headed by Khandakar Moshtaque Ahmed, a cabinet member of Sheikh Mujibur Rahman, took power. However, after further military coups and counter coups on November 3 and November 7, 1975, Chief Justice Sayem became President, promulgated Martial Law, and named Ziaur Rahman Chief Martial Law Administrator.

In 1977, General Ziaur Rahman founder of the Bangladesh Nationalist Party was elected for a five-year term as President. His government withdrew the restrictions on political parties, allowing the opposition political parties to participate in the February 1979 parliamentary elections. More than 30 parties took part in the parliamentary elections, and the Bangladesh Nationalist Party (BNP) won 207 of the 300 seats. In May 1981, Ziaur Rahman was assassinated in a failed coup in Chittagong.³⁸ Vice-President, Justice Abdus Satter, took over as Acting President, and a presidential election was held where he was elected President.

In March 1982, the then Army Chief of Staff, Lieutenant General H.M. Ershad, took power in a bloodless coup. He dissolved Parliament, declared martial law, suspended the Constitution, and banned all political activities in an attempt to silence dissent. In December 1983, he formally took over the presidency.³⁹

On January 1, 1986, Ershad established the Jatiyo Party in order to transition from martial law administrator to an elected leader. After resigning as the Chief of Army Staff, he won the general elections in May 1986 and was elected President in October in contested elections. Ershad's regime was marked with incidents of human rights violations, including extra judicial killings and torture as well as widespread corruption. He stepped down in December 1990, over growing protests and general strikes against his rule, and handed over power to transitional phase, known as the 'interim government' led by Shahabuddin Ahmed, the Chief Justice of Bangladesh, under whom the 1991 election was organized.⁴⁰

³⁵Human Rights Watch, 'Ignoring Executions and Torture: Impunity for Bangladesh's Security Forces', 2009, available at: <https://www.hrw.org/report/2009/05/18/ignoring-executions-and-torture/impunity-bangladeshs-security-forces>.

³⁶ The Constitution drafting process was carried out largely by the members of the Awami League, who were elected in 1970 to sit as members of the National and Provincial Assembly of Pakistan; and who remained in Bangladesh after its independence. They became the members of the Constituent Assembly through a Presidential Ordinance of 1972.

³⁷ His two daughters, Sheikh Hasina and Sheikh Rehana were abroad at that time. Sheikh Hasina is the current leader of the Awami League and the Prime Minister.

³⁸ His widow, Khaled Zia is the current leader of the Bangladesh Nationalist Party and was Prime Minister of Bangladesh in 1991, 1996 and 2001.

³⁹The Daily Star, SayedBadrulAhsan, 'Forty Years ... and Diverse Governments', 14 March 2011, available at: <http://archive.thedailystar.net/suppliments/2011/anniversary/part1/pg19.htm>.

⁴⁰ The 1991 election actually experienced for the first time the 'caretaker government' system.

On February 27, 1991, the BNP, led by Begum Khaleda Zia, the widow of former President Ziaur Rahman, won the national elections and formed a government. In September 1991, the Constitution was amended, formally creating a parliamentary system and returning the governing power to the office of the Prime Minister. In October 1991, President Abdur Rahman Biswas was elected as the Head of State by the legislature.

In 1994, opposition leaders resigned from Parliament and initiated a joint movement led by the Awami League, Jamaat-e-Islami (JI) and the Jatiyo Party to unseat Khaleda Zia's regime, and to demand that the provision for a neutral, interim caretaker government be incorporated in the Constitution. The President dissolved Parliament in November 1995 and an election was held on February 15, 1996, which was boycotted by the main political parties. According to the Awami League, the 'caretaker' system was the only solution for holding a free and fair general election, as the elections until then, had failed to meet the basic requirements of credibility.

In 1996, the Constitution was amended to insert Article 58B, explicitly setting up the 'caretaker' government, whose main responsibility⁴¹ was to run the state between the electoral period, "from the date on which Parliament is dissolved or stands dissolved" until "a new Prime Minister enters office after the constitution of Parliament". The caretaker's primary function was to create an environment in which a general election could be held "peacefully, fairly and impartially".⁴² Two general elections, in June 1996 and in October 2001, were held under the caretaker system, where the opposition ousted the incumbents.

The 2001 elections saw a turnout of around 75 percent.⁴³ The Bangladesh Nationalist Party came back to power and formed an alliance with the Jamaat-e-Islami. Most international observers considered the results generally acceptable, even though acts of violence and irregularities were reported.⁴⁴ In October 2002, 'Operation Clean Heart' was set up to assist police to arrest criminals. However, it was characterized by excessive use of force, torture and ill treatment in custody and extrajudicial deaths. On March 26, 2004, the government – led by the BNP – established the Rapid Action Battalion, which it justified internationally as a counter-terrorism measure under resolution 1373, and which has gained notoriety for being responsible for the surge in the number of extrajudicial killings and torture in custody. In our missions we often heard allegations that serving in the RAB is subsequently rewarded by being sent to participate in UN Peace Operations abroad. Security forces resorted to mass arrests as a means to suppress demonstrations – carried out by not only political opponents but also by workers – especially in the garment manufacturing industry.⁴⁵

In 2006, the government resigned from power and a caretaker government was formed, headed by President Iajuddin Ahmed, after the Bangladesh Nationalist Party and the Awami League failed to compromise on an incumbent Chief Justice. The Bangladesh Nationalist Party and the Awami League were once again embroiled in political deadlock, which was highlighted with violent confrontations between supporters from both sides. This compelled the declaration of a state of emergency.⁴⁶ On January 11, 2007, the military intervened in order to stop widespread violence.⁴⁷ To justify this

⁴¹ As per chapter II A of the 13th Amendment to the Constitution. This provision was repealed through the 15th Amendment by the government in 2013.

⁴² For the whole of Article 58B see:

https://publicofficialsfinancialdisclosure.worldbank.org/sites/fdl/files/assets/law-library-files/Bangladesh_Constitution_2004_en.pdf

⁴³ See Inter-Parliamentary Union, 'Elections Held in 2001', available at: http://www.ipu.org/parline-e/reports/arc/2023_01.htm.

⁴⁴ See European Union Election Observation Mission Final Report, https://www.ecoi.net/en/file/local/1412745/625_tmpphpGBRYSw.pdf

⁴⁵ See Human Rights Watch, 'World Report 2007', p. 242, available at: <http://pantheon.hrw.org/legacy/wr2k7/wr2007master.pdf>.

⁴⁶ See Bangladesh Development Initiative, 'Democratic Performance in Bangladesh 1991-2006 - A Political Measurement', Journal of Bangladesh Studies Volume 9.2 (2007).

⁴⁷ See European Commission, Press Release Database, 'European Commission Suspends its Election Observation Mission To Bangladesh', 11 January 2007, available at: http://europa.eu/rapid/press-release_IP-07-33_en.htm?locale=en.

intervention, the military leaders invoked Article 58B of the Constitution to set up a military-backed 'caretaker government'. The successive caretaker governments promised to restore democratic rule through free and fair elections by the end of 2008. Due to pressure from the student organisations, civil society and the international community, the 9th Parliamentary Elections were held on December 29, 2008, where the Awami League, led by Sheikh Hasina, came back to power, winning 229 of 300 seats.⁴⁸

3. Political Conflict since 2011 and Human Rights Violations

On June 30, 2011 the Awami League abolished the caretaker government through passage of the 15th amendment of the Constitution which was enacted with no referendum or discussion with opposition political parties. The amendment repeals the provision for an interim caretaker government to step in and organize Parliamentary elections every five years. This was a necessary practice in Bangladesh, a country where politics can take violent turns.

In early 2012, the Bangladesh Nationalist Party gave an ultimatum to the government to reinstate the caretaker system by June 10, 2012 "or face battles in the streets".⁴⁹ At the end of September 2013, a new ultimatum was set to October 25, 2013. Both ultimatums were however disregarded by the authorities. The BNP then led a boycott of the January 5, 2014 general elections, amid growing tensions, violence; repression and the arrests of some leading human rights defenders and allegations of torture, extrajudicial killings and enforced disappearance.

The 2014 Parliamentary elections held on January 5, 2015, were controversial and largely considered to be falling short of international standards. Many of the registered political parties, most notably the opposition party Bangladesh Nationalist Party, boycotted the elections, except the pro-government alliance. The European Union, the United States and the Commonwealth did not send election observers since the elections were not held under conditions reaching fair and free election principles.⁵⁰ In addition, illegal detentions, extrajudicial killings, enforced disappearances, arbitrary arrests, torture and degrading treatment were observed in the months leading to the elections.⁵¹

In its 47 years existence, Bangladesh has been characterized by turmoil and lack of political stability due to democratic deficits and establishment of repressive governments by introducing a single party system or by military takeover. This is one of the root causes for human rights abuses in general and torture and impunity in particular.

4. National Security and Acts of Extremism

Bangladesh has been subjected to several attacks since 9/11, culminating with an attack in Dhaka in July 2016, where 24 were killed and approximately 50 injured. Security forces have allegedly arbitrarily detained and tortured individuals suspected of having been involved in the attack. Violent attacks have also been committed against bloggers, academics, gayrights activists and religious minorities.⁵² Subsequently, law enforcement has conducted raids on 'extremist dens' around the country. During

⁴⁸ See The Independent, 'Hasina wins Bangladesh poll in landslide', 30 December 2008, available at: <https://www.independent.co.uk/news/world/asia/hasina-wins-bangladesh-poll-in-landslide-1217194.html> and Timeline - Sheikh Hasina wins Bangladesh vote in landslide, United Kingdom Reuters, 30 December 2008, available at: <https://uk.reuters.com/article/uk-bangladesh-election-events-timeline-s/timeline-sheikh-hasina-wins-bangladesh-vote-in-landslide-idUKTRE4BT1QH20081230>.

⁴⁹ See The Observatory for the Protection of Human Rights Defenders, 'Bangladesh, Human Rights Defenders Trapped in a Polarised Political Environment', November 2013, p. 11, available at: https://www.fidh.org/IMG/pdf/obs_rapportbangladeshuk-ld.pdf.

⁵⁰ See Reuters, 4 January 2014, <https://www.reuters.com/article/us-bangladesh-election/bangladesh-election-marred-by-opposition-boycott-violence-idUSBREA0301N20140104>.

⁵¹ See Odhikar, 'Annual Human Rights Report' 2014, page 51–55, available at: <http://odhikar.org/annual-human-rights-report-2014-odhikar-report-on-bangladesh/>; Human Rights Watch, 'Bangladesh: Elections Scarred by Violence', Government and Opposition Responsible for Abuses Before, During, After Polls', 29 April 2014, available at: <https://www.hrw.org/news/2014/04/29/bangladesh-elections-scarred-violence>.

⁵² Human Rights Watch Annual Report, Country chapter Bangladesh, 2017, available at: <https://www.hrw.org/world-report/2017/country-chapters/bangladesh>.

2017, at least 33 persons were killed as a result of these search operations.⁵³ In one incident, security forces surrounded a place to carry out an operation based on information about the presence of extremists. During such operation, the surrounded people published a status on facebook from inside the house that they were not ‘extremists’ but Awami League activists and were allegedly victims of conspiracy. Furthermore, there are reports that some of those who were arrested during such operations later died in the custody of law enforcement agencies. As a result, what actually happened or happens in such operations are still unclear.⁵⁴

The Bangladeshi government has enacted laws and policies in view of making the fight against violent extremism more efficient. However, the rules and regulations are often questionably used, and the mere definition of ‘terrorism’ in Bangladeshi law, section 6 of the Anti Terrorism Act 2009 to be precise, is too broad - which has resulted in its arbitrary and abusive implementation. This was also a concern that was recently raised by the Office of the UN High Commissioner for Human Rights during the Universal Periodic Review of Bangladesh in May 2018.⁵⁵

Measures that intended to be exceptional, in particular laws and policies protecting national security and fighting extremism/terrorism, have become a normal part of the legislative framework. This creates confusion as to the rule of law in Bangladesh and the use of the legal framework to counter extremism/terrorism for other purposes, this instills fear in the population since there is an increased risk of being accused of being involved in terrorist attacks.

Consequently, people have lost trust in the government and the criminal justice system. The perception of injustice, serious human rights abuses and mistreatment of certain groups are important drivers of extremism.⁵⁶ There is a common perception within the law enforcement that torture is normal and necessary to abstract confessions from arrestees/detainees. This is particularly common in counter terrorism operations because the need to abstract information is deemed to be pressing (for more information on counter terror operations see part VII.2.c and VI.3 of this report).

It must be noted that there are worrying reports that counter terrorism laws are being abused to make arrests and detentions for offences that can be tried under more applicable criminal laws and that there is a greater likelihood of torture of the detainees suspected of terrorist crimes in remand.⁵⁷

It is evident that the rise of violent extremism must be taken seriously and human rights law itself requires states to take protective measures. Yet, the use of counter terrorism measures for other purposes risks becoming an opportunistic instrumentalization of the context to other ends, greatly damaging and undermining public support to counter-terrorism and counter-extremism.

VI. Trends and Patterns of Torture and Ill-treatment

Torture has far-reaching impacts on the victims, their families and the society as a whole. Beyond the obvious physical and psychological effects such as post-traumatic stress symptoms, victims have “elevated rates of anxiety, depression, and adjustment problems, including outbreaks of anger and

⁵³ See Odhikar Annual Human Rights Report 2017 at pg. 55 – 56, Annual Human Rights Report of 2016 at pg. 23 and Annual Human Rights Report 2015, page 43, available at: www.odhikar.org. See also <https://theconversation.com/threats-of-violent-extremism-in-bangladesh-are-a-symptom-of-deeper-social-and-political-problems-70420>, <https://www.bbc.com/news/world-asia-34517434>

⁵⁴ See: Odhikar Annual Human Rights Report 2017, page 56, available at: http://www.odhikar.org/wp-content/uploads/2018/01/Annual-HR-Report-2017_English.pdf

⁵⁵ UN Human Rights Council, Working Group 30th session 7-18 May, compilation on Bangladesh, A/HRC/WG.6/30/BGD/2, para. 18.

⁵⁶ United Nations Development Programme, Preventing Violent Extremism, through promoting inclusive development, tolerance and respect for diversity, 2016, available at: <http://www.undp.org/content/dam/norway/undp-ogc/documents/Discussion%20Paper%20-%20Preventing%20Violent%20Extremism%20by%20Promoting%20Inclusive%20Development.pdf>.

⁵⁷ See Odhikar Annual Human Rights Report 2017 at pg. 55 – 56, Annual Human Rights Report of 2016 at pg. 23 and Annual Human Rights Report 2015 at pg. 43, at www.odhikar.org. The Special Powers Act 1974 is another example of a law that was enacted for ‘national security’ but has been used to arrest, detain and torture citizens.

violence directed towards family members”.⁵⁸ Deep distrust of others, guilt and shame, the loss of directions and the destruction of all that gave the life meaning are common problems faced by torture survivors.⁵⁹

As a part of a larger research project, the British Journal of Pain was seeking for references to studies of the social and psychological impact of torture in Bangladesh, yet hardly any were found. There was one study carried out in a particular region in Bangladesh in 2009.⁶⁰ Due to the fact that torture victims fear reprisals, most refuse to speak about their experience. As victims refuse to talk about the experience, it can safely be assumed that there is little help offered to them through socio-psychological counseling. Victims lose function of limbs or suffer chronic pain after their experience which may result in loss of employment and financial difficulties in meeting medical and household expenses. This definitely adds to personal frustrations and family problems. However, there are no counseling groups or centres for victims of rape or torture in Bangladesh.

In the experience of the OMCT as a global civil society network, and as reflected by constant reports of the UN Special Rapporteurs, the fight against torture has to commit to a victim centred approach. The recognition of victims needs and their protection in the justice chain as well as the support to victim rehabilitation and the restoration of their lives must therefore be a key element of the local and international anti-torture agenda in Bangladesh.

1. Torture and Other forms of Ill-treatment in Custody and at Arrest

Over the last several years, there have been reports of increased torture and death in police custody.⁶¹ Of the over 300 incidents of alleged torture reported on and/or documented by Odhikar between January 2009 and December 2017, 123 relate to persons tortured to death in custody. The most common forms of torture include keeping the detained standing for long periods of time; beatings with wooden or iron rods on the body or the soles of the feet; suspension from the ceiling by the wrists; or upside down by the ankles; inserting chili powder in eyes, nostrils or open wounds; and pouring water mixed with chili powder up nostrils; electric shocks to fingers, genitals or toes. More extreme forms include using a drill machine on legs and arms, burning with cigarettes, breaking bones, tearing out nails with pliers, inserting needles under nails, and water boarding. Psychological forms of torture include intimidation, mock executions, sleep deprivation, continuous verbal abuse, threats to harm family members, and threats of death in ‘crossfire’ (i.e. staged extrajudicial killings), or keeping the detained in an unsanitary holding cell.⁶²

⁵⁸ Amanda C de C Williams, Jannie van der Merwe, ‘The psychological impact of torture’, British Journal of Pain at <http://journals.sagepub.com/doi/full/10.1177/2049463713483596>.

⁵⁹ Ibid.

⁶⁰ Shr-Jie Wang, Mohammad Akramul Haque, Saber Ud Daula, Shuvo dwip Biswas, Jens Modvig. ‘Household exposure to violence and human rights violations in western Bangladesh (II): history of torture and other traumatic experience of violence and functional assessment of victims’ at: <https://bmcinthealthhumrights.biomedcentral.com/articles/10.1186/1472-698X-9-31>.

⁶¹ Cases and fact-finding missions Odhikar – Mohammad Abdul Halim (38), Organizational Secretary of the *Chakoriya* sub-district unit of the *Jatiyatabadi Jubo Dal* (youth wing of Bangladesh Nationalist Party-BNP) under Cox’s Bazaar District, *died due to torture* on 28 November 2013. ‘Allegations of torture to a school boy after detaining him at Jessore Kotwali Police Station’, Odhikar Fact-Finding mission report, 16 October 2016, available at: http://www.odhikar.org/wp-content/uploads/2016/10/Ainul_Jessore_TLEA_Police_08.06.2016_Eng.pdf.

And e.g. Edston, Eric: ‘Police Torture in Bangladesh- Allegations by Refugees in Sweden’ in *Torture*, Volume 15, November 1, 2005; available at: <https://irct.org/assets/uploads/Police%20torture%20in%20Bangladesh.pdf>.

⁶² See e.g. Saira R Khan, Saira R. ‘A Study of Corruption, Torture and Extrajudicial Killings in Bangladesh’ in Islam, Shariful (Ed.) *Human Rights and Governance in Bangladesh*, Asian Legal Resource Centre, Hong Kong, September 2013; Human Rights Watch ‘Torture in Bangladesh’ at www.hrw.org/reports/2008/bangladesh0208/2.htm; the NHRC, ‘Bangladesh report on CAT compliance’, 2013, p. 43, available at:

http://nhrc.portal.gov.bd/sites/default/files/files/nhrc.portal.gov.bd/page/348ec5eb_22f8_4754_bb62_6a0d15ba1513/Study%20report%20CAT.pdf. Also see Annual Human Rights Report 2015, Odhikar, Page 69-76, available at: http://odhikar.org/wp-content/uploads/2015/12/Annual_Human_Rights_Report_2014_Eng.pdf.

Torture and other cruel, inhuman, and degrading treatment in custody are experienced both in the hands of law enforcement and prison authorities in Bangladesh. Persons in custody of law enforcement may also suffer degrading treatments such as strip-search, sleep deprivation, verbal abuse, lack of food and water, poor sanitation facilities and, in the case of female arrestees, verbal and physical sexual abuse. Furthermore, they often are punched, kicked, slapped and verbally abused at the time of arrest, sometimes in front of family members.⁶³ It is also becoming increasingly common for law enforcement to both handcuff and blindfold an arrestee at the time of arrest; and even keep him/her in this condition while in custody, for long periods of time.⁶⁴

*On June 8, 2016 at around 2:30 pm, sub-inspector Biplob Hossain, the officer in charge of Upashahar Police Outpost, arrested Ainul Haque Rohit (16), a student of Badsha Faisal Islami Institute, from his house, regarding a stolen motorcycle. The theft was recorded on a Closed Circuit Television camera. Rohit's family alleged that Rohit was detained and tortured at Kotowali Police Station until June 9, 2016 and then released on a written bond after a bribe was given to the police. In police custody, Rohit was blindfolded and beaten on his knee, ankle, elbow, and wrist with a wooden rod for about an hour. His hands and legs were then put on the table and the top of the fingers and toes were beaten. They also beat him on the soles of his feet. After that, they took off his vest stuffed it in his mouth and poured water up his nose for 10 minutes. After that he was kept in custody. After 30 hours of detention, on June 9, 2016 at around 8:30 pm, the police took a bribe of 50,000 taka from Rohit's father Kamal Hossain and released Rohit on bond. Rohit's mother, Juli Begum alleged that her son had a mental breakdown because of torture by the police. He had become very afraid to go outside. She could not send him to school because of the police harassment. The family did not report the case due to fear of reprisals.*⁶⁵

One of the most cruel and inhuman forms of treatment in present times is the practice of law enforcement – both the police and the RAB – to shoot in the leg or knee (knee-capping) of arrestees from close range, which can lead to infection and amputation due to delays in treatment or life-long disabilities. According to Odhikar's data, between 2014 and 2016, a reported number of 73 persons were shot in the leg by law enforcement officers, mostly by the police.⁶⁶

On October 16, 2014 at around 7:00 pm, Saju Akhter (39), daughter of Abdus Shukkur and Ashia Khatun of Kottapara Village in Jonarkeuchia Union under Satkania Upazila in Chittagong District, was chatting with neighbours in the courtyard, while her younger brother Osmo Gani, a supporter of Bangladesh Jamaat-e-Islami, was watching television at a tea stall beside the road adjacent to their house. Saju Akhter heard Osman shouting and she and her mother came out of the house and saw some policemen and a few plain clothed men beating Osman Gani while pushing him into a Compressed Natural Gas-run three wheeled vehicle. Saju and her mother stepped forward and grabbed Osman and requested the police not to beat him. At that time a policeman tried to create panic in the area by shooting blanks. About 30 minutes later, without warning another policeman shot Saju Akhter in her left knee and she fell, unconscious. Initially she was taken to a private hospital. From there, doctors referred her to Chittagong Medical College Hospital for better treatment. On October 17, 2014, she was taken to the National Institute of Traumatology and Orthopedic Rehabilitation in Dhaka. In the morning of October 20, 2014, doctors amputated her left leg. On October 21, 2014 at around 9:00 am, Saju was taken to Comilla Central Hospital from the National Institute of Traumatology at Dhaka fearing that police might arrest her. She was given treatment there secretly. On October 16, 2014 (the day when Saju was shot), police filed a case against Saju Akhter under the Penal Code 1860, accusing her of attacking police and obstructing their duty. After 35 days in Comilla

⁶³ See Ain o Salish Kendra organisation (ASK), Adeeba Aziz Khan, 'Right to Freedom from Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment', available at: <http://www.askbd.org/ask/right-freedom-torture/>.

⁶⁴ See fact finding reports on torture and extra judicial killings: 'Khulna city unit ChhatraDalactivistsMahmudulHaqueTitu and Ferdousur Rahman Munna allegedly tortured at Khulna Police Station', available at: <http://odhikar.org/wp-content/uploads/2012/04/fact-finding-torture-Titu-Munna-Khulna-2012-eng.pdf> and 'Police allegedly tortured Mohammad Sekendar Ali, a cattle trader at Rajapur Police Station in Kurigram' Odhikar Fact-Finding mission report, available at: <http://odhikar.org/wp-content/uploads/2013/03/fact-finding-Torture-Mohammad-Sekendar-Ali-Kurigram-2012-eng.pdf>.

⁶⁵ Odhikar, 'Allegation of torture to a school boy after detaining him at Jessore Kotowali Police Station', Fact Finding Report, 16 October 2016, available at: http://odhikar.org/wp-content/uploads/2016/10/Ainul_Jessore_TLEA_Police_08.06.2016_Eng.pdf.

⁶⁶ Documentation of Odhikar. See Odhikar Annual Human Rights Report 2016, available at: www.odhikar.org. See also Human Rights Watch, 'No Right to Live', 29 September 2016, available at: <https://www.hrw.org/report/2016/09/28/no-right-live/kneecapping-and-maiming-detainees-bangladesh-security-forces>.

Central Hospital, Saju Akhter surrendered before the Court in Chittagong on November 27, 2014. The Court, considering her physical condition, granted her bail. On May 31, 2015, the investigating officer of the case, the sub-inspector of Satkani Police Station, Kazi Mohammad Golam Kibria submitted a charge sheet to the court. Currently the case is under trial at the court.⁶⁷

Mohammad Jony Islam (18), a student of class XII at RajshahiIslamia College, who lives in the City Market area near Binodpur Bazaar (beside main gate of Rajshahi University), under Motihar Police Station of Rajshahi City Corporation, was shot in the leg by police. He was supposed to appear for the Higher Secondary School Certificate examination in 2015, but he was unable to do it because police arrested him two months before the exam and shot him in his leg. Jony Islam and his family alleged that Jony was arrested on February 17, 2015 at around 11:30 pm; and on February 18, 2015 at around 2:00 am, the Detective Branch of Police took him to a mango orchard beside north side of Dabtala Bazaar road of Terkhadiya under Motihar Police Station of Rajshahi City Corporation and shot him in his left leg. Police also filed two cases with Rajpara Police Station against him under the Penal Code 1860 and under the Explosive Substance Act 1908. According to the birth certificate of Jony, on the day he was shot in his leg and cases filed against him, he was only 17 years 10 months 7 days old. Police mentioned Jony's age in the First Information Report as 20 years. The doctors of the National Institute of Traumatology and Orthopaedic Rehabilitation, amputated Jony's left leg while he was under treatment there under police supervision. He is now detained in Rajshahi Central Jail.⁶⁸

On March 31, 2016, police shot Md. Afzal Hossain in the leg from close range. Afzal is a journalist affiliated with the human rights organisation, Odhikar and Bhola District correspondent of the private Television channel, NTV. He was observing the local government (Union Council) elections at a polling centre set up in a local primary school. When he found that the candidates of the Awami League were rigging the votes he began filming the ballot box stuffing with his camera. Later as he was compiling all the information for his next media report, violence ensued between the activists of various candidates. Afzal got a phone call from the Police Superintendent of Bhola asking him where he was. After the situation calmed down, with police intervention, a Police Constable named Zulhash attacked Afzal near the polling centre where he was collecting information and shot him in his left leg. He was first taken to Bhola's local hospital. After being transferred from hospital to hospital due to lack of proper treatment and for security reasons, he was finally taken for recuperation to a private hospital in Dhaka.⁶⁹ The OMCT provided financial assistance for his recuperation.

a. Death Due to Torture

It is in the nature of torture being largely exercised outside of the public that it is impossible to have firm statistics about its occurrence. The victims and their families are also reluctant to report cases due to the risks of reprisals. However, Odhikar has managed to collect information on 300 incidents of torture between January 2009 and December 2017. There are several incidents of torture reported to Odhikar that resulted in death of the victim. Out of over 300 incidents of torture Odhikar collected, a total of 123 persons were reported as being tortured to death by law enforcement agencies,⁷⁰ including the RAB, the police, the Army, the Jail Authority, the Border Guard and the Coast Guard. At the outset, it has to be noted that it is impossible to evaluate the representativeness of the incidents of torture collected. These incidents are only the tip of an ice-berg. Yet it is interesting to analyze the cases and present some patterns of the 123 cases of persons being tortured to death.

⁶⁷ Odhikar fact-finding report on kneecapping 'Allegations of police shooting Saju Akhter in the leg in Satkania, Chittagong', 28 March 2016. Also see Human Rights Watch's Report 'No Right to Live' 'Kneecapping' and Maiming of Detainees by Bangladesh Security Forces, available at: https://www.hrw.org/sites/default/files/report_pdf/bangladesh0916_web_0.pdf.

⁶⁸ Odhikar fact-finding report on kneecapping 'Allegations against the police for shooting Mohammad Jony Islam in the leg after arrested in Rajshahi', 7 April 2016. Also see Human Rights Watch's Report 'No Right to Live' 'Kneecapping' and Maiming of Detainees by Bangladesh Security Forces, available at: https://www.hrw.org/sites/default/files/report_pdf/bangladesh0916_web_0.pdf.

⁶⁹ See Odhikar, 'Call for justice after another police shooting of a human rights defender', April 6 2016, available at: <http://odhikar.org/joint-statement-bangladesh-call-for-justice-after-another-police-shooting-of-a-human-rights-defender/> for a report on the 2016 shooting incident of a journalist, Afzal, who is also a human rights defender.

⁷⁰ See annex 'Reported deaths due to torture as compiled by Odhikar – January 2009 – December 2017' for detailed information on the 123 cases.

The data on perpetrators univocally shows that the police or special branches of the police are by a large margin the biggest perpetrators in the 123 incidents of torture that led to death (90 percent). Of the 123 cases, 103 (84 percent) were deaths by torture in custody. In terms of background of the victims: 35 of all the reported torture incidents involved individuals who were alleged or accused criminals. The alleged reasons for apprehension for criminal activity range from suspects of murder, alleged dacoits, suspects of robberies, drug dealers to mugging. Of the 123 incidents, 13 cases of torture that resulted in death were inflicted on people due to their political background. It is also worth noting that 21 were killed and tortured as a result of corruption such as bribery and money extortion. The 11 cases perpetrated by the RAB involved victims who all were tortured and died in custody.

A businessman named Rashel was tortured by the Detective Branch of police at Kaunia' sHaldibari area in Rangpur District. Rashel's younger sister Sohanna claims that on October 28, 2017 around 10:00 pm, a group of DB police led by sub-inspector Shafi arrested Rashel from the Haldibari Bazaar. Around 01:00 am sub-inspector Shafi went to Rashel's home and demanded a 100,000 taka bribe in exchange for Rashel. When the family could not pay sub-inspector Shafi threatened to accuse Rashel and his father of a criminal case. The DB proceeded to torture Rashel and he was later admitted to Rangpur Medical College Hospital. On October 29, 2017, Rashel died in hospital while in treatment.⁷¹

On January 16, 2015, Sechchasebak Dal (volunteer wing of the Bangladesh Nationalist Party) leader, Mohan Bepari Molla died in Dhaka Medical College Hospital during treatment, under the supervision of the jail authority. The brother-in-law of the deceased, Mohammad Alamin claimed that on January 12, 2015, police of Shah Ali Police Station arrested Mohan under a criminal case and beat him in the police van. Mohan was tortured the whole night in the police station. He was sent to jail by the court. As his physical condition did not improve, he was taken to hospital by the jail authority and he died there. The family found bruises on the body of Mohan Bepari Molla after his death. No reactions of the State or prison authority were reported.⁷²

b. Judicial remand

It is important to note that torture is particularly rampant in remand.⁷³ The word remand has become synonymous to torture and now the general population considers it to mean taking a person away to be tortured. Remand is thus feared by the arrestee and his or her family. Several assessed cases reveal that the police asked for money from the victim's family for not torturing the detainee.⁷⁴ Contrary to the Code of Criminal Procedure⁷⁵, a person may typically spend several days, and not just the legally ordained 24 hours, in remand without having been presented before a Magistrate.⁷⁶ Through fact-finding investigations by Odhikar, and other human rights organisations, it has been found that in many cases these provisions in the Criminal Procedure Code are ignored and a person may be in custody for days, undergoing torture or ill treatment.⁷⁷ When the arrestee is taken before the Magistrate, it is common for

⁷¹ Ibid. case number 121.

⁷² Case on file with Odhikar. Also see Odhikar Human Rights Monitoring Report, January 2015 available at: <http://www.odhikar.org/wp-content/uploads/2015/02/Human-rights-monitoring-monthly-report-January-2015-Eng.pdf>.

⁷³ National Human Rights Commission of Bangladesh, 'The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment: A Study on Bangladesh Compliance', March 2013, p. 42, available at: http://nhrc.portal.gov.bd/sites/default/files/files/nhrc.portal.gov.bd/page/348ec5eb_22f8_4754_bb62_6a0d15ba1513/Study%20report%20CAT.pdf.

⁷⁴ This will be discussed further later in the report, see part VI.3.iii.

⁷⁵ The Code of Criminal Procedure, 1898, available at: http://bdlaws.minlaw.gov.bd/pdf_part.php?id=75

⁷⁶ Section 61 of the Code of Criminal Procedure 1898: No police-officer shall detain in custody a person arrested without warrant for a longer period than under all the circumstances of the case is reasonable, and such period shall not, in the absence of a special order of a Magistrate under section 167, exceed twenty-four hours exclusive of the time necessary for the journey from the place of arrest to the Magistrate's Court.

⁷⁷ Odhikar fact-finding report 'Allegation of torturing Touhidul Islam Touhid after detaining him at Lohagara Police Station for two days', available at:

http://odhikar.org/wp-content/uploads/2018/09/Touhidul_TLEA_Police_CTG_23.04.13_Eng.pdf. Also see 'Torture in Lawful Custody: Violation of United Nations Convention against Torture in Criminal Justice System in Bangladesh', available at: https://file.scirp.org/pdf/BLR_2017111716460913.pdf.

the police to seek remand or ask for further detention of the arrestee on the grounds of further questioning.⁷⁸

On February 2, 2014, Mohammad Mohsin (27) of Boraigao village in Chatruda Union, Shibpur sub-district, Narsingdi was arrested by police officers of the Shibpur Police Station, as a suspect in a robbery at the Shibpur Cable Factory, although no names were mentioned in the report filed by the complainant. The police kept him for three days before he died. On the day of Mohsin's arrest, Officer Moniruzzaman of the Police Station, demanded 50,000 taka as bribe from Mohsin's father, Sultan Uddin, in exchange for not torturing Mohsin. Sultan Uddin agreed to give him 40, 000 taka. It was later found that Mohsin died in a room on the first floor of the Police Station on February 3, 2014 at around 6:00 am. After his death, the police told Mohsin's relatives that he was taken to the first floor of the Police Station the previous night for interrogation purposes. After Mohsin's interrogation, one of his hands was handcuffed to a door and when the police officers left, Mohsin wrapped a piece of cloth tightly around his neck and allegedly committed suicide. When the news of Mohsin's death went public, his family members and others went to the Police Station, only to get beaten with sticks by the police. Mohsin's family complained that after Mohsin's death, the police refused to let them see his body. On February 3, 2014 at around 5:00 pm after an autopsy was performed, the body was wrapped in burial sheets and escorted to Mohsin's house by the RAB. Mohsin's family said that the RAB forced them to bury Mohsin's body.⁷⁹

c. III Treatment due to Poor Prison Conditions

There is serious overcrowding in Bangladeshi prisons, they house 79 280 detainees whereas the official capacity is 36 614.⁸⁰ The overcrowding is particularly obvious in Khulna District Jail, which has a number of detainees 6 times the capacity of the prison. The number of detainees staying in the jails are 3.5 times, 2.5 times, 2.5 times, 2.3 times, 2 times and 2 times more than the actual capacity in Feni, Chittagong, Narayanganj, Rajbari, Sylhet, Thakurgaon and Pabna jails respectively.⁸¹

Detainees in jail report poor medical facilities, extremely poor diets, poor sanitation facilities, unchecked diseases and lack of mental stimulation. On top of that, mass arrests and the dysfunctional criminal justice system add to the misery of inmates in jails bursting at the seams.⁸² The conditions in prison is at times life threatening due to the overcrowding.⁸³ The lack of medical facilities is also problematic since tortured detainees need medical care and the fact of not being treated has repeatedly resulted in infections and amputations.

Between January 2009 and December 2017, a reported number of 563 inmates have died in prison, from what the prison authorities vaguely describe as 'illness'. To date there have been very scarce investigations into such deaths, as the families do not file complaints, knowing that it would be an exercise in futility.⁸⁴

2. Torture and Ill-Treatment by the Rapid Action Battalion

The Rapid Action Battalion was created in 2004 by an Amendment to the Armed Police Battalions Ordinance from 1979. The RAB is an 'elite force' made up of the Bangladesh Army, Bangladesh Navy,

⁷⁸ Section 167 of the Code of Criminal Procedure 1898; available at: http://bdlaws.minlaw.gov.bd/sections_detail.php?id=75§ions_id=20861.

⁷⁹ Case on file with Odhikar. Also see Odhikar Human Rights Monitoring Report, February 2014 available at: <http://www.odhikar.org/wp-content/uploads/2014/08/human-rights-monitoring-monthly-report-february-2014-English.pdf>.

⁸⁰ International Center for Prison Studies's World Prison Brief 2017, available at: <http://www.prisonstudies.org/country/bangladesh>.

⁸¹ Odhikar, Human Rights Report 2013, 15 April 2014, paragraph 265 and 266, available at: <http://odhikar.org/human-rights-report-2013-odhikar-report-on-bangladesh/>.

⁸² See Blast, 'Improvement of Real Situation of Overcrowding in Prison' (IRSOP), available at: <http://www.blast.org.bd/whatwedo/ourprojects/irsop>.

⁸³ United Kingdom Home Office, Country Information and Guidance, Bangladesh Prison Conditions, March 2015, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/565483/CIG-Bangladesh-Prison-conditions-v1-March_2015.pdf.

⁸⁴ Odhikar documentation. See Odhikar Annual Human Rights Report 2017, page 45, available at: http://www.odhikar.org/wp-content/uploads/2018/01/Annual-HR-Report-2017_English.pdf.

Bangladesh Air Force, Border Guard Bangladesh and police force, aimed at fighting serious crimes including terrorism, kidnapping and organized crime.⁸⁵ Ever since its creation, incidents of systematic killing, torture, enforced disappearances and other atrocities committed with widespread impunity, have been reported.⁸⁶

There are also reports about RAB being largely responsible for the increasing number of enforced disappearances. In February 2017, the UN Working Group on Enforced or Involuntary Disappearances issued a press release urging the government to immediately stop enforced disappearances and to thoroughly and independently investigate alleged perpetrators.⁸⁷

The reported incidents collected by Odhikar show particularly perfidious methods used to kill and torture as well as to cover-up evidence. The methods include entrapment of victims by pretending to drive them to a place of custody, but then killing them; and even allegations of putting weapons next to a dead victim in order to make the killing look like self-defense. In fact, the RAB typically claims that victims died in a crossfire or gunfight.⁸⁸

The RAB's gruesome methods were recently revealed in a secretly recorded interview with a senior RAB officer, broadcasted by the Swedish National Radio. In this interview the senior officer talks about how the RAB routinely picks up people, kills them and disposes off their bodies. He reports that "we have to make sure no clue is left behind. No ID cards that slip-off. We have to wear gloves; we can't leave footprints behind and have to wear covers on our shoes to prevent that."⁸⁹ The officer goes on explaining how some victims are tortured: the victim is handcuffed and stands stripped naked in a dark room with a lamp in the middle. Bricks are tied to his testicles. Dead bodies are disposed of by throwing into a river with blocks of concrete attached. The fate of the victim is decided by higher-ranking officials.⁹⁰

The only case known to the larger public where RAB officials have been convicted for torture and extrajudicial killings is the Narayanganj case where 26 persons, of whom 16 were former RAB officers were sentenced to death penalty.⁹¹ The conviction of the RAB officers was made possible because one of the victims was a high profile individual, the Panel Mayor of Narayanganj, a member of the political party in power. There was some inter-party animosity and an inquiry committee was set up that made it possible to bypass the legal immunity of the RAB officials. The incident received wide media coverage – allowing for effective journalistic investigation. A summary of the incident is given below:

In April 2014, Panel Mayor of Narayanganj City Corporation, Nazrul Islam and his lawyer Chandan Sarker were abducted by members of a RAB unit upon order by NurHossain who wanted to get rid of his political rival Nazrul Islam. Three days later, their bloated bodies were found floating in the Shitalakkhya River and caused public outrage. The government thus ordered an investigation which eventually led to a decision in 2017 by the

⁸⁵ Rapid Action Battalion, available at: <http://www.rab.gov.bd/english/>.

⁸⁶ BBC News, 16 January 2017, available at: <https://www.bbc.com/news/world-asia-38634227>.

⁸⁷ UN Working Group on Enforced or Involuntary Disappearances, Press Release 24 February 2017, available at: <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21220&LangID=E>.

⁸⁸ See e.g. Odhikar, Annual Human Rights Report 2016, available at: http://odhikar.org/wp-content/uploads/2017/01/AHRR-2016_Eng.pdf. Also see Human Rights Watch's Report on enforced disappearances and extrajudicial killings, available at: <https://www.aljazeera.com/news/2017/07/disappearances-extrajudicial-killings-hrw-170705191258625.html>.

⁸⁹ The Wire, David Bergman, 'Recording of Bangladesh Paramilitary Officer Lifts Lid on Extra-Judicial Killings and Disappearances', 6 April 2017, available at: <https://thewire.in/121675/bangladesh-extra-judicial-killings/>.

⁹⁰ Ibid.

⁹¹ Bdnews24, 'Narayanganj seven-murder sentences at a glance: 26 get death penalty', 16 January 2017, available at: <http://bdnews24.com/bangladesh/2017/01/16/narayanganj-seven-murder-sentences-at-a-glance-26-get-death-penalty>.

Narayanganj District and Sessions Court and found 35 police officers, including members of the RAB, guilty and sentenced 23 of them to death and nine to long-term imprisonment for abduction and killing.⁹²

In another incident, RAB-10 picked up Kawsar and Nahidul on April 5 and April 6, 2011, respectively from the area of Chankarpul in Dhaka. Family members of Rajib and Sajib alleged that RAB personnel tortured them with electric shocks and by piercing the skin under their nails with needles. When they fell seriously sick, the RAB handed them over to Lalbagh police on April 9, 2011, and the police then admitted them to the Dhaka Medical College Hospital for treatment.⁹³

Allegations of torture against Major AZM Sakib Siddiqui, the Head of Bhoirab RAB camp, were made by the family of deceased Mohammad Shahnoor Alam. He was a resident of Nabinagar Upazila in the Brahmanbaria District. On May 20, 2014, the younger brother of the deceased, Mehedi Hassan, organised a press conference at the National Press Club and stated that on April, 29, 2014 at noon, his brother was arrested by members of the RAB-14 from Boghdohor village in the Nabinagar Upazila district. At night he was beaten on different parts of his body, particularly, on his waist, feet and elbows for two and half hours. On April 30, 2014, the RAB forced Abu Taher, a resident of Nabinagar Pashchimpara, to file a case against Mohammad Shahnoor Alam. Later, Shahnoor was sent to jail by the court. Shahnoor was first admitted to Brahmanbaria Sadar Hospital; and later taken to Comilla Medical College Hospital when he became ill. On the evening of May 6, 2014, he died in hospital. Mehedi Hassan alleged that a local businessman, Nazrul, made an 'arrangement' with the officer to kill his brother.⁹⁴ On June 1, 2014, Mehedi Hassan filed a case in the Court accusing Major AZM Sakib Siddique, the Deputy Director, Mohammad Enamul Huq and nine other members of the RAB. On June 4, 2014, the senior Judicial Magistrate of Brahmanbaria District, Nazmun Nahar ordered Rupak Kumar Saha, the officer in charge of Nabinagar Police Station to register the case without ordering an investigation first. On June 5, 2014, Magistrate Nazmun Nahar was withdrawn from the case, or 'closed'⁹⁵, for allegedly issuing an Order to the police to record the complaint, by the Chief Judicial Magistrate Mostak Ahmed Shahdani, from the cognizable court. On June 8, 2014, Magistrate Mohammad Kawsar of Brahmanbaria District and Session Judge Court, amended the previous orders in relation to this case given by Nazmun Nahar; and ordered the officer in Charge of Nabinagar Police Station to investigate.⁹⁶

In light of the above described methods and cases and the fact that members of the RAB are largely granted immunity under the Armed Police Battalion Act, it is clear that RAB is operating outside the law and beyond effective civilian control. RAB has been maintained under various governments as a tool to repress dissent. This is of particular concern since it weakens the ordinary law enforcement structures and endangers the rule of law.

In a climate of political violence, shrinking democratic and contested space, there needs to be a major reform of this system, ensuring full accountability to civilian authorities, including the courts, de-politicizing the force.

Based on Odhikar's data and OMCT's consultations in the country the following categories of torture victims can be identified:

- (i) Opposition politicians and human rights activists who contest the governing party and document human rights abuse. This is the most recognized group, but also one that is increasing. This includes members of the Bangladesh Nationalist Party and the Jamaat-e-Islami, representatives of human rights NGOs, lawyers, journalists and student activists. They are tortured in order to be silenced. This is closely connected with the highly repressive political atmosphere. The situation escalated after the 10th Parliamentary elections in 2014, which was boycotted by the Bangladesh Nationalist

⁹² Bdnews 24, 'Narayanganj seven-murder sentences at a glance: 26 get death penalty', 16 January 2017, available at: <http://bdnews24.com/bangladesh/2017/01/16/narayanganj-seven-murder-sentences-at-a-glance-26-get-death-penalty>.

⁹³ Case on file with Odhikar.

⁹⁴ Odhikar Human Rights Monitoring Report, May 2014, available at: <http://www.odhikar.org/wp-content/uploads/2014/08/human-rights-monitoring-monthly-report-may-2014-English.pdf>.

⁹⁵ Basically this is a term used when a public official is suspended from duty while an investigation takes place into the misdemeanor.

⁹⁶ Odhikar Six-Months Human Rights Monitoring Report, (January-June 2014), page 9, available at: <http://www.odhikar.org/wp-content/uploads/2014/08/human-rights-monitoring-Six-Monthly-report-2014-eng.pdf>.

Party and most of the registered political parties and against which protests were held. The Awami League reacted with massive repression and torture to retain its power. Law enforcement has traditionally been used by the political party in power to crackdown on opposition voices and those accusing the government of human rights abuses. The RAB as well as the erstwhile dissolved Jatiyo Rakkhi Bahini were used by the governments of the time to assist in this.⁹⁷

*In May 2012, Tuhin Sanjid, a reporter of the Bangla language newspaper, Bhorer Dak, was picked up by plainclothes men in a microbus in front of the Bangla Academy and blindfolded. Later, he found himself in a RAB office. A RAB officer showed him a news item published on April 24, 2012 on the disappearance of Bangladesh Nationalist Party leader Ilyas Ali and asked him about the source of the news. When he refused to disclose the source, the RAB tortured him with electric shocks.*⁹⁸

*On January 15, 2017 at noon, Mohammad Abdus Salam Hawlader, of Madhabpur Village in the Patuakhali District, was arrested by the Boga Police Outpost in charge sub-inspector Jasim Uddin Khan, over a land related dispute with Mohammad Bellal Hossain, the Secretary of Adabaria Union unit Jubo League. Abdus Salam Hawlader was taken to the police outpost where police allegedly tortured him and demanded 25,000 taka. His wife Nasima informed Odhikar that after hearing about the arrest of her husband, she along with her daughter Salma and brother-in-law Abul Kalam went to the outpost at around 5:00 pm the same day. There, she witnessed sub-inspector Jasim Uddin and Constable Al Mamun beating her husband while he was handcuffed and tied to a chair. In January 2017, Abdus Salam filed a case at the Senior Judicial Magistrate Court in Patuakhali accusing four persons, including sub-inspector Jasim Uddin.*⁹⁹ *On March 26, 2017, a charge sheet was submitted against three accused persons, including two policemen. A hearing originally scheduled for November 22, 2017 did not take place and the Magistrate referred it to a more competent court.*¹⁰⁰ *The case is currently being tried.*

(ii) Poor and underprivileged groups including farmers, laborers, and petty traders, minorities groups including Hindus, Buddhists and Christians and the ethnic minority peoples of the Chittagong Hill Tracts and the Santal community;

Police of Nalitabari Police Station arrested Azhar a poor farmer, on July 24, 2013, suspecting him to be involved in a murder case. He was taken into remand and kept in Nalitabari Police Station, where he was reportedly given electric shocks. His family alleged that he was tortured to death in police custody.

On June 8, 2014 at around 8.30 pm, sub-inspector Nazmul Hasan arrested Shaheen, a petty trader, and his friends Mukit and Shah Alam from Naiarbari Bridge at Medakul of Gournadi. Sub-inspector Nazmul demanded 75,000 taka for their release. At night Mukit and Shah Alam's family gave the money to the officer. However, Shaheen's family was unable to pay the amount. Police then showed him as arrested in a narcotic case and produced him before the court. Later he was sent to jail. Shaheen was tortured in the police custody before being sent to jail. Later on June 14, 2014, he died in Madaripur Sadar Hospital.

On April 5, 2017, Romel Chakma, an 18-year old resident of Nanarchar in Rangamati Hill District of the Chittagong Hill Tracts, left his home to go to the Naniarchar Bazar to buy groceries for his family. At around 10:00 am, a group of soldiers of the army camp of the 7 East Bengal Regiment of Rangamati Hill District led by Major Tanvir picked Romel up. He was taken to the said army camp where he was brutally tortured and became unconscious. In the evening, the soldiers tried to hand Romel over to the Naniarchar Police, who declined to receive him after observing his critical condition. Later, the soldiers sent Romel to the local Upazila Health Complex Hospital, which declined to treat him. As a result, the army soldiers sent him to the Chittagong Medical College Hospital where he was admitted. The police prevented Romel's relatives from seeing him and monitoring the process of his treatment. Romel's father, Mr. Kanti Chakma, submitted an application to the NHRC on April 6, 2017 seeking immediate intervention for the torture of his son and appropriate punishment for the perpetrators. However, the NHRC failed to assist him. On April 19, 2017, Romel succumbed to his injuries at the Chittagong Medical College Hospital. On 20 April, the police handed Romel's body over to his relatives for the funeral. On the way, at Burighat Bazar boat pier, the army soldiers seized the body from the relatives. Local journalists claim that the body was first kept in the house of a counselor overnight and on the morning of April 21, 2017, moved to a second house. The soldiers allegedly poured petrol on the body and burned it while the area was under military

⁹⁷ See also Human Rights Watch, 'Bangladesh: Elections Scarred by Violence', 29 April 2014, available at: <https://www.hrw.org/news/2014/04/29/bangladesh-elections-scarred-violence>.

⁹⁸ Case on file with Odhikar.

⁹⁹ Odhikar Human Rights Monitoring Report, May 2014, page 13, available at: http://www.odhikar.org/wp-content/uploads/2017/02/HRR_January_2017_English.pdf.

¹⁰⁰ Case on file with Odhikar.

surveillance. According to local journalists, Lt. Col. Md. Baharul Alam, Zone Commander of the Bangladesh Army at Naniarchar Zone, and his colleague Major Tanvir tortured Romel Chakma. No complaint has been registered against the perpetrators.¹⁰¹

(iii) Torture for extortion of money. Detainees are often tortured in order to extract a bribe. The lack of effective investigation and the high levels of corruption in the law enforcement agencies are major reasons for the perpetration of torture.¹⁰²

On July 18, 2017 at around 6:30 pm, Khalishpur police arrested Shah Jalal from the street near Boalkhali of Khulna city when he went out to buy milk powder for his child. He was detained in a cell of the Khalishpur police station. The police demanded 150,000 taka (1860 dollar) bribe, which Shah Jalal's family could not afford. At around 11:30 pm, the police allegedly took him out of the police station and gouged out his eyes by the side of Khulna Bishsho Road. After midnight the police sent him to the Khulna Medical College Hospital while he was seriously bleeding from his eyes. Police claimed that Shah Jalal was caught by local inhabitants when he was snatching a woman's bag. After that he was lynched by members of the angry public, who gouged out his eyes. Later police rescued him. On the other hand, Shah Jalal's wife Rahela Begum said that on July 18, 2017 in the evening, her husband went out of the house to buy powdered milk for their 10-month old baby. She was informed that police arrested him, suspecting him to be a mugger, and took him to Khalishpur Police Station. At around 9:00 pm, Rahela went to the police station with food for Shah Jalal. But police did not allow her to see him. Later the food was given to Shah Jalal in police cell after bribing the police. At around 11:30 pm, the police allegedly took him out of the police station. At that time, as per witnesses, Shah Jalal's eyes were normal. The following morning, his family came to know at the police station that her husband was admitted to Khulna Medical College Hospital. Shah Jalal's father Zakir Hossain said that his son told him that the police had taken him to Khulna Bishsho Road at midnight in a pick-up van. There, the police tied his hands and legs and stabbed his eyes with a screw driver. On July 19, 2017, Shah Jalal was referred to Dhaka Medical College Hospital where a doctor said that his both eyes had been gouged with something sharp and metallic.¹⁰³

On April 18, 2017 a woman entrepreneur named Jibon Ara organised a press conference at Cox's Bazaar Press Club and alleged that sub-inspector Manosh Barua of Cox's Bazaar Police Station had tortured her by giving her electric shocks, after taking her in remand when she refused to pay a bribe of 3 million taka bribe. Jibon Ara said that there had been a dispute over a money transaction between her and a woman from Dhaka named Shima Akhtar to whom Jibon Ara had given 23 million taka for opening a hairdressers shop. Shima used that money to build a house instead. Later, Shima mortgaged her car to Jibon Ara, who would return it after getting paid. Shima then entered into a 1 million taka deal with the officer in charge of Cox's Bazaar Police Station and other officers to attack Jibon Ara in order to get out of paying. On March 2, 2017 at midnight, the police entered Jibon Ara's house to search and made her to sit in a corner in blindfolds. After that a policeman shouted that he had found 'Yaba' (a synthetic drug). Then the police brought Jibon Ara and her husband Ali Ahmed Shaudagar to the police station for keeping 'Yaba' in the house. During the arrest, the police took her bank checkbook, ornaments and the car, but did not mention the car in the seizure list. After keeping them in custody for three days, the police made Jibon Ara the main accused in a drug case. On March 13, 2017, sub-inspector Manosh Barua brought her into

¹⁰¹ Odhikar Human Rights Monitoring Report, April 2017, page 8 available at: <http://www.odhikar.org/wp-content/uploads/2017/05/human-rights-monitoring-report-April-2017-English.pdf> / Also see Asian Human Rights Commission, Urgent Appeal, 'Bangladesh: Ethnic youth tortured to death by Army Officers who burned the body and enjoy impunity', 24 April 2017, available at: <http://www.humanrights.asia/news/urgent-appeals/AHRC-UAC-024-2017/?searchterm=Romel%20Chakma>.

¹⁰² See Transparency International overview of corruption within the justice sector and law enforcement agencies in Bangladesh, 13 February 2013, available at: http://www.transparency.org/whatwedo/answer/overview_of_corruption_within_the_justice_sector_and_law_enforcement_agency; GAN Business anti-corruption portal, Bangladesh Corruption Report, December 2015, available at: <http://www.business-anti-corruption.com/country-profiles/bangladesh>.

¹⁰³ Odhikar interview with Shah Jalal's wife Rahela Begum and his father Zakir Hossain, July 20, 2017. Also see Odhikar Human Rights Monitoring Report, July 2017, page 5, available at: http://www.odhikar.org/wp-content/uploads/2017/08/human-rights-monitoring-report-July-2017_Eng.pdf.

remand and demanded 3 million taka from her relatives. When her relatives refused to pay, sub-inspector Manosh gave her electric shocks in her breasts and genital area. As a result, Jibon Ara lost consciousness. After re-gaining consciousness, Jibon Ara saw blisters on the different parts of her body. She was detained without any treatment for her wounds. When her wounds became infected, the jail authority sent her to Sadar Hospital for treatment.¹⁰⁴

On June 5, 2013, Mohammad Shamim Sharkar (32) and Mohammad Saiful Islam Khan (25) of Hemayetpur, were arrested by police, led by assistant sub-inspector Mohammad Akidul Islam at around 7:30 in the evening for being accused in a motorcycle theft case. Shamim and Saiful were taken to Harindhara Police out-post. On learning of the arrest, Shamim's younger brother Mohammad Biplob Sharkar contacted assistant sub-inspector Akidul Islam over his cell phone. On June 6, 2013, at around 12:30 am, assistant sub-inspector Akidul Islam asked Biplob Sharkar to meet him in front of the Mollah Filling (petrol) Station. There, Akidul Islam informed Biplob that Shamim and Saiful were arrested under a murder case filed in 2002. He demanded 500,000 taka for their release. When Biplob paid 20,000 taka and asked for some time to collect the rest of the money, Shamim and Saiful were tortured in the police outpost. Due to torture, Shamim fell ill and was taken to Sir Salimullah Medical College (Mitford) Hospital at Dhaka in a private car by police. When the medical officers declared Shamim dead, the members of the police left, leaving Shamim's body in front of the hospital. As the emergency department staff of the hospital grew suspicious, they informed the matter to Kotwali Police Station to take necessary action. On June 6, 2013 at around 12:00 noon, Shamim's family claimed his body and after conducting a post mortem, Shamim Sharkar was buried on June 7, 2013, in the morning at Hemayetpur Graveyard in Savar.¹⁰⁵

(iv) Terrorist suspects. Suspicions of terrorism have been used by RAB for instance to apprehend people allegedly connected to violent extremism and use torture to abstract confessions. The July 2016 attack on the Holey Artisan Café, reportedly led to the security forces arbitrarily detaining and killing several suspected militants. Human Rights Watch report that two of the hostages taken during the attack were secretly arrested and detained for over a month. Further, a kitchen assistant who was at first suspected to be one of the attackers, was allegedly tortured to death. In this context, the government announced several raids throughout the country. However, the lack of transparency into these operations makes it difficult if not impossible to reveal details of those killed or arrested.¹⁰⁶

On November 27, 2017, three suspected 'extremists' were found dead at a house, which was cordoned off by RAB in Madhya Char area of Alatuli Union under Chapainabaganj District. This was informed at a press briefing by Mufti Mahmud Khan, Director, Law and Mass Media Wing of RAB. RAB claimed that 'extremists' had exploded bombs in the house. After the explosion, the house caught fire. Later RAB recovered three bodies from there. RAB Director said that the deceased were allegedly active members of the banned 'extremists' outfit Jamaatul Mujahedeen Bangladesh (JMB) and they had a big plan to commit destruction in Rajshahi. RAB detained the owner of the house, Rashiquil Islam; his wife Nazma Begum; and his father-in-law, Mohammad Khurshed for interrogation.¹⁰⁷ The media wing of the RAB informed that three 'extremists' were killed during an operation that commenced at around 2:00 am on January 12, 2018, conducted by RAB in a house named Rubi Vila at Nakhhalpara, Dhaka. RAB claimed that the deceased were members of the outlawed organisation, JMB, as per their intelligence report. Although RAB claimed that the ages of the three were between 25 and 27, later it was found that among the killed 'extremists', one was Robin Mia (17) from Kishoreganj and two others were Mezbahuddin (age not known) and Nafis ul Islam (16).¹⁰⁸ It has been often observed that so-called extremists are killed in 'gunfight' after being arrested by RAB or police. As a result this questions whether such incidents of 'gunfight' are taking place in order to conceal the truth and to save influential persons.

¹⁰⁴ Information received from local HRD in Cox's Bazaar associated with Odhikar, Also see Odhikar's monthly Human Rights Monitoring Report, April 2017, page 7, available at: <http://www.odhikar.org/wp-content/uploads/2017/05/human-rights-monitoring-report-April-2017-English.pdf>.

¹⁰⁵ Odhikar, 'Killing of Mohammad Shamim Sharkar by the police Savar Police Station', Fact Finding Report, 13 August 2013, available at: http://odhikar.org/wp-content/uploads/2013/08/Shamim-Sarkar_TLEA_Police_Savar_05.06.13_Engl.pdf.

¹⁰⁶ Human Rights Watch, Bangladesh, Events of 2016, available at: <https://www.hrw.org/world-report/2017/country-chapters/bangladesh>.

¹⁰⁷ Odhikar's monthly human rights monitoring report of November 2017, page 18, available at: http://odhikar.org/wp-content/uploads/2017/12/human-rights-monitoring-report-November-2017_Eng.pdf.

¹⁰⁸ For details, see Odhikar's monthly human rights monitoring report of January 2018, available at: http://odhikar.org/wp-content/uploads/2018/02/human-rights-monitoring-report-January-2018_Eng.pdf.

(v) Random violence. Odhikar data further reveals that the level of violence and brutality is generally very high in Bangladesh's law enforcement agencies. During routine police operations, such as traffic stops, or identity check the police seemingly randomly use severe violence.

A 'Laguna' (a small public vehicle) driver named Shariful Islam was arrested on April 6, 2017 and allegedly tortured by the police. After that, the police implicated him in a drug case. Shariful Islam's sister, Nadira Akhtar said that Shariful was driving his 'Laguna', taking passengers from the Chittagong Road area to Mograpara intersection. At that time, the officer in charge of Kanchpur Highway Police, Sheikh Shariful Alam signaled him to stop his vehicle. It took him a little time to stop his vehicle because of the sudden signal from the officer. As a result the officer was annoyed and dragged Shariful Islam from the vehicle and beat him. The officer subsequently took him to the Kanchpur Police Outpost and tied his hands and legs. Shariful Islam was detained there for five hours and tortured several times. As a result, he lost consciousness and later was taken to a private hospital and given primary treatment. After that he was brought back to the police outpost and tortured again. Later, police put 200 pieces of 'Yaba' (a banned narcotic) into his pocket and handed him over to the Sonargaon Police. When Shariful Islam's physical condition deteriorated, he was admitted to the Sonargaon Health Complex.¹⁰⁹

VII. Impediment to Accountability and Causes for Impunity

123 of the acts of torture documented by Odhikar led to the death of the victim and hardly any were investigated.¹¹⁰ There is a widespread fear of reprisals when reporting torture so these reported acts are only the tip of the iceberg. The National Human Rights Commission of Bangladesh reported in its annual report that 70% of complaints they receive allege a human rights violation of law enforcement agencies and about half of all complaints they receive raise torture allegations.¹¹¹

In the vast majority of cases there seem to be no investigations into the torture allegations or it was impossible for Odhikar and OMCT to gain any information from the government. Odhikar and OMCT are aware of very few cases in which the Magistrate (the court of first instance) ordered an investigation let alone convictions. Thereby, punishments are typically of disciplinary nature only, meaning that the perpetrator was fined, transferred or suspended. Cases like the already mentioned 'Narayanganj case'¹¹² in which 35 persons, including 26 members of the police and RAB were found guilty and punished are extremely rare. There is thus widespread impunity for acts of torture.¹¹³

Impunity and the minor punishments are also reflected in the NHRC publications that report that "the government rarely charged, convicted, or punished those responsible, and a climate of impunity allowed such abuses by the RAB and police to continue".¹¹⁴ Moreover, reporting about 'success stories', the NHRC refers to a case in which it advised the government to investigate torture of a person detained in police custody. The successful outcome of the case was the suspension of the principal accused from

¹⁰⁹ Odhikar, 'Human Rights Monitoring Report', April 2017, pp. 5–6, available at: <http://www.odhikar.org/wp-content/uploads/2017/05/human-rights-monitoring-report-April-2017-English.pdf>.

¹¹⁰ See Annex for more details on the cases.

¹¹¹ National Human Rights Commission Bangladesh, 'Annual Report 2015', p. 24, available at: http://nhrc.portal.gov.bd/sites/default/files/files/nhrc.portal.gov.bd/annual_reports/5116283f_1970_4f1d_9c37_19602f176436/Annual%20Report%20English-%202015.pdf.

¹¹² Bdnews24, 'Narayanganj seven-murder sentences at a glance: 26 get death penalty', 16 January 2017, available at: <http://bdnews24.com/bangladesh/2017/01/16/narayanganj-seven-murder-sentences-at-a-glance-26-get-death-penalty>.

¹¹³ This is also supported by findings of international bodies, most notably the UN Working Group on Enforced or Involuntary Disappearances that reported about the lack of reaction by the Government of Bangladesh to cases and communications transmitted. Report of the Working Group on Enforced or Involuntary Disappearances, UN Doc. A/HRC/36/39, 31 July 2017, para. 65.

¹¹⁴ National Human Rights Commission of Bangladesh, 'The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment: A Study on Bangladesh Compliance', March 2013, p. 42, available at: http://nhrc.portal.gov.bd/sites/default/files/files/nhrc.portal.gov.bd/page/348ec5eb_22f8_4754_bb62_6a0d15ba1513/Study%20report%20CAT.pdf.

the police force and deduction of salaries for other police officers involved.¹¹⁵ This also shows that there is a complete lack of understanding what accountability for torture means and requires. Transfers and disciplinary charges are the best outcome a torture victim can hope for.

Immunity for law enforcement agencies is not a new practice. Section 197 of the Code of Criminal Procedure states that no court can take cognizance of an offence allegedly perpetrated by a public official (whose removal from government service can only be done by government sanction) unless the government sanctions it. Where the government itself is complicit to torture and extrajudicial killings, it will most likely refuse to sanction a trial where it may be implicated. Furthermore, the Indemnity Act 2003, which was brought into force during the notorious Operation Clean Heart, an anti-crime operation that was launched in 2002, enabled blanket impunity to all actions performed by the army and other security forces between October 2002 and January 2003 including cases of torture and custodial deaths. Apart from the laws, the long running practice of (mis)using law enforcement to crack down on all forms of opposition, has in itself enabled immunity from accountability and prosecution. The Rapid Action Battalion's activities fall under the Armed Police Battalion (Amendment) Act 2003. According to section 6 (b) of this Act, RAB has been entrusted to carry out any kind of investigation under the direct instruction of the government.¹¹⁶ Section 13 of the same law states: "No suit, prosecution or other legal proceedings shall be taken against any member of the Force for anything which is done or intended to be done in good faith under this Ordinance". "Good faith" is a very vague term and can be subject to wide interpretation and ultimately lead to impunity.

Any agenda against torture has to include realistic steps to counter the accountability gap and needs to systematically review and repeal the "good faith" and de facto immunity clauses in relevant security regulations and ordinances.

Public statements as well as private conversations during OMCT and Odhikar missions reveal that the government not only seriously lacks commitment to combat torture but also frequently denies its occurrence. For instance, a Minister in a press conference asked about extra-judicial killings replied that "of course, every human being has the right to live. But, I think a bit of crossfire is needed to uproot terrorism from the country".¹¹⁷

Other government bodies have attempted to repeal the Torture and Custodial Death (Prohibition) Act 2013 or to exempt several law enforcement bodies from the Act's jurisdiction. They argued that "law enforcers will lose their dedication to work if this law remained in force which might hamper security of the State and the people" and the police "would be demoralized."¹¹⁸ Discussions on this Act further revealed the complete lack of understanding of the absolute prohibition of torture. Bangladesh's Prime Minister raised for instance doubts regarding the Supreme Court order allowing Judicial Magistrates to receive cases under the Torture and Custodial Death (Prohibition) Act 2013.¹¹⁹

When reporting to the UN Human Rights Committee, the Minister for Law, Justice and Parliamentary Affairs made clear that human rights would be sacrificed for law and order. Referring to human rights abuse by law enforcement, the government representative said that those allegations had to be

¹¹⁵ National Human Rights Commission of Bangladesh, 'Jamakon took action against torture in police custody' available at:

http://nhrc.portal.gov.bd/sites/default/files/files/nhrc.portal.gov.bd/page/d77503e4_3822_42b5_96f9_ab734f3da6a/Custody%20case.pdf.

¹¹⁶ Section 6A states that 'A Rapid Action Battalion along with other Battalions of the Force shall perform all duties mentioned in section 6, but no Battalion except the Rapid Action Battalion shall perform any duty mentioned in clauses (aa) and (bb) of section 6.' These clauses state that RAB will be employed in gathering intelligence in respect of crime and criminal activities, and in investigating any offence on the direction of the government respectively.

¹¹⁷ Bdnews24, 'A bit of crossfire is needed: Minister', 9 March 2014, available at: <https://bdnews24.com/bangladesh/2014/03/09/a-bit-of-crossfire-is-needed-minister>.

¹¹⁸ The Daily Star, Shakhawat Liton, 'Torture: Is the police above law?', 29 January 2017, available at: <http://www.thedailystar.net/frontpage/torture-the-police-above-law-1352629>.

¹¹⁹ New Age, 'Police want revocation of anti-torture law', 24 January 2017, available at: <http://www.newagebd.net/article/7666/police-want-revocation-of-anti-torture-law>.

considered “in the light of the realities on the ground” such as widespread violence during the 2013 elections orchestrated by the opposition parties as well as terrorist attacks.¹²⁰ Responding to questions on torture, the Minister further said that “the Government had received no reports or complaints of torture in custody and therefore, had not conducted any investigations in that regard”.¹²¹ Yet, the government has a positive obligation to investigate torture cases irrespectively of reports or complaints lodged, according to Article 12 of the Convention Against Torture.

Government officials and members of the judiciary also denied that torture was happening in the country when meeting with OMCT missions. When asked about specific cases in which a court found that torture was inflicted, officials insisted that these were exceptional cases of fallible police officers. Furthermore, members of the legal community voiced concern about the lack of actions taken by Magistrates to enforce the directives given by the High Court Division of the Supreme Court of Bangladesh in the *BLAST v. Bangladesh* case. This is very worrying, the fact that there are extremely few investigations into torture cases reinforces the concern that torture is accepted and viewed as a normal part of law enforcement. The complacency to torture has to be broken to stop the widespread impunity.

1. Structural reasons for the persistence of torture in Bangladesh

This part of the report aims at explaining the underlying reasons for the occurrence and persistence of torture in Bangladesh. Since torture has been institutionalized during decades, it is impossible to single out one root cause and there is an interplay of different factors, aspects and contexts that will be presented in this part.

a. Corruption and Integrity of the Judiciary and Law Enforcement

In some ways torture practiced and unsanctioned in of itself is a form of corruption. It corrupts law enforcement and the judiciary as it creates a culture that accepts the breach of law within law institutions. The CAT considers the rule of law to be the cornerstone for the protection of the rights set forth in the Convention and corruption to be one of the most serious impediments thereof.¹²² Furthermore, corruption seriously affects the functioning of the judiciary and law enforcement and is therefore an impediment to accountability for torture and ill-treatment and access to justice. The CAT has thus repeatedly required States to effectively fight corruption by enacting anti-corruption legislation; promptly and effectively, impartially investigate allegations of corruption and suspend perpetrators from duties while under investigation; and undertake training and capacity-building programmes for judges, prosecutors, the police and other law enforcement officers.¹²³

The link between corruption and torture is clear in Bangladesh.¹²⁴ There are numerous cases where police has sought money in order not to torture a detainee.¹²⁵ Those who have been arrested but are unable to pay have been tortured and implicated in cases under police investigation. Bribes are also demanded for registering or not registering a complaint, for a tailor-made investigation report, for arresting or not arresting a person, and for releasing a detainee from prison. Police further demand

¹²⁰ Human Rights Committee, Summary Record of the 3339th meeting, UN Doc. CCPR/C/SR.3339, 14 March 2017, para. 7.

¹²¹ Human Rights Committee, Summary Record of the 3340th meeting, UN Doc. CCPR/C/SR.3340, 14 March 2017, para. 25.

¹²² See e.g. CAT, Concluding Observations on Cambodia, UN Doc. CAT/C/KHM/CO/2, 20 January 2011, para. 12.

¹²³ See e.g. CAT, Concluding Observations on Kenya, UN Doc. CAT/C/KEN/CO/2, 19 June 2013, para. 16; CAT, Concluding Observations on Cambodia, UN Doc. CAT/C/KHM/CO/2, 20 January 2011, para. 12.

¹²⁴ Saira R Khan, ‘A Study of Corruption, Torture and Extrajudicial Killings in Bangladesh’ in Islam, Shariful (Ed.) Human Rights and Governance in Bangladesh, Asian Legal Resource Centre, Hong Kong, September 2013.

¹²⁵ Odhikar Fact Finding Report/Chhatra Dal leader Junayed Hossain Leon tortured by police in Kapasia, Gazipur/ November 25, 2013./Odhikar Fact Finding Report/Shamim Sharkar tortured by police in Hemayetpur, Savar, Dhaka/5 June 2013. Also see Asian Human Rights Commission, ‘Lust for Power, Death of Dignity’, 2013, p. 4, available at: <http://odhikar.org/wp-content/uploads/2013/12/AHRC-SPR-008-2013-HRRpt-Bangladesh.pdf>.

protection money from street-hawkers, shopkeepers and traders and take ‘collections’ from buses and trucks. Sometimes, if they are unable to pay they too are arrested and tortured or ill-treated by police.¹²⁶ In spite of the fact that more resources were allocated to the Police in 2016-2017, corruption is a major income for the police because they still lack adequate financial resources and are paid low salaries and provided difficult working conditions.¹²⁷

The National Household Survey 2015 conducted by Transparency International Bangladesh found that more than 67% of the questioned households were victims of corruption. Some of the most corrupt sectors were considered to be law enforcement agencies with 74% of households reporting to having been asked for bribes, and the judicial services with 48% of the households being affected.¹²⁸

According to the 2013 Global Corruption Barometer by Transparency International, 64% of those who took part in the survey thought that the police were corrupt or extremely corrupt, and 53% thought the judiciary was corrupt or extremely corrupt. The same survey shows that 72% reported having to pay bribes to the police, while 63% reported paying bribes to the judiciary.¹²⁹ Corruption plays a role in all sectors of society and government service. It has become so common that most people believe in the efficacy of corruption and see it as a normal payment of services. Even a senior Cabinet Minister has justified the taking of ‘speed money’ for services.¹³⁰

Corruption in the judiciary and law enforcement is also a serious impediment to accountability for torture and ill-treatment. Bribes are taken by clerks who register and process a case or are solicited by a lawyer from the defendant or plaintiff and are then passed to the judge to influence the outcome of a case.¹³¹ Transparency International reported that judges take cash, land or other benefits for tailoring their decision.¹³²

In addition, there is a weak institutional separation between the lower courts and the executive government of Bangladesh. Magistrates are vulnerable to government influence as judicial appointments and promotions are overseen by the Ministry of Law.¹³³ When it comes to appointments, it is the political loyalty that is the most important criteria; a person’s professional background has become largely irrelevant.¹³⁴

*On the morning of February 3, 2016, a police patrol team from Shah Ali Police Station in Dhaka went to the Gudaraghat area and demanded extortion money from tea stall owner Babul Matbor. He refused to pay and the police overturned his gas stove, and pushed him onto it. Babul Matbor incurred severe burn injuries and died in the burn unit of Dhaka Medical College Hospital the next day.*¹³⁵

¹²⁶ See also Eurasia Review, Habib Siddiqui, ‘Bangladesh Police: Time for Reform OpEd, 29 February 2016, available at: <http://www.eurasiareview.com/29022016-bangladesh-police-time-for-reform-op-ed/>.

¹²⁷ Ibid.

¹²⁸ Transparency International Bangladesh, ‘Corruption in Service Sectors: National Household Survey 2015, available at: <https://www.ti-bangladesh.org/beta3/index.php/en/activities/4988-corruption-in-service-sectors-national-household-survey-2015>.

¹²⁹ Transparency International, ‘Global Corruption Barometer 2013’, available at: <https://www.transparency.org/gcb2013/country?country=bangladesh>. Bangladesh was not included in the 2016 report.

¹³⁰ The Daily Star, ‘Corruption in Bangladesh: Perception vs. Reality’, 4 February 2017, available at: <http://www.thedailystar.net/op-ed/corruption-bangladesh-perceptions-vs-reality-1355818>.

¹³¹ Fédération Internationale des Ligues des Droits de l’Homme (FIDH) and Odhikar, ‘Bangladesh, Criminal Justice Through the Prism of Capital Punishment and the Fight against Terrorism’, 2010, p. 20, available at: https://www.fidh.org/IMG/pdf/Report_eng.pdf.

¹³² Transparency International, ‘National Integrity System Assessment Bangladesh 2014’, p. 87, available at: https://www.transparency.org/whatwedo/publication/bangladesh_national_integrity_system_assessment_2014

¹³³ FIDH and Odhikar, ‘Bangladesh, Criminal Justice Through the Prism of Capital Punishment and the Fight against Terrorism’, 2010, p. 20, available at: https://www.fidh.org/IMG/pdf/Report_eng.pdf.

¹³⁴ Transparency International, ‘National Integrity System Assessment Bangladesh 2014’, p. 88, available at: https://www.transparency.org/whatwedo/publication/bangladesh_national_integrity_system_assessment_2014.

¹³⁵ Odhikar Human Rights Monitoring Report, February 2016, page 10-11, available at: http://www.odhikar.org/wp-content/uploads/2016/03/Human-rights-monitoring-monthly-report-February-2016_Eng.pdf.

*On January 9, 2016, Golam Rabbani, an officer of the Bangladesh Bank was on his way home from a relative's house when police from Mohammadpur Police Station stopped him and demanded money. When he refused to give them money, they took him to the police station and tortured him.*¹³⁶

*On November 25, 2013 at around 4:00 am, the police of Kapasia Police Station arrested Junayed Hossain Leon, in Pabur village in Gazipur. Leon is the General Secretary of Kapasia Upazila unit Chhatra Dal, the student wing of the Bangladesh Nationalist Party. Apart from politics he was also engaged in a transportation business. Leon's wife Shamima Chowdhury alleged that Leon was brutally tortured in police custody soon after he was arrested by police. After hearing the news of Leon's arrest, she and other family members visited Kapasia Police Station to see Leon. But police standing at the entrance of the police station did not allow them to get in. At around 1:30 in the afternoon, Leon's cousin Arif Sarkar Rubel obtained the permission from the officer in charge, Ahsan Ullah, to see Leon where he informed him that he was beaten by policemen of Kapasia Police Station on his hands, legs and in different parts of his body soon after he was arrested. At around noon, when Leon fell sick, two policemen led by sub-inspector Kutub Uddin took him to Kapasia 50 Bedded Health Complex by a police van. Rubel followed them to the hospital. But sub-inspector Kutub Uddin did not let Rubel go inside the emergency department where Leon had been taken. Rubel noticed that sub-inspector Kutub Uddin was directing two policemen to write in the emergency log entry that Leon got hurt during arrest, while trying to escape. While returning from the hospital, a man saying he was a representative of a police officer called sub-inspector Nazmul, came to Arif Hossain Rubel and offered Leon's release in exchange of 50,000 taka. He said if the family were unable to provide that money, Leon will be charged in different cases under investigation.*¹³⁷

b. Confession as the Gold Standard of Evidence

A large amount of torture inflicted by law enforcement agencies on accused persons is in order to get a confession and to quickly solve a crime. Such concerns have also recently been voiced by the UN Human Rights Committee when it reviewed Bangladesh in April 2017.¹³⁸ Because of corruption, lack of funds and capacity of the police, and because the purpose of prosecution is often to stop critical voices, statements by an accused do not need to be corroborated by investigation and evidence. In addition, the police lack relevant training and modern forensic means to investigate a crime and produce evidence.

*On September 27, 2016, 15-year school boy Sabbir Hosain Shikdear broke down before a High Court Division bench while narrating the repeated torture he was subjected to during three days of confinement at a police station ahead of being jailed for two years on the 'false allegation' that he had given 'death threats' to a ruling party's Member of Parliament (MP) on Facebook. When asked, he said that two policemen awoke him by knocking on the door of his house at 9 pm on September 16, 2016, took him to Sakhipur Police Station where the officer in charge subjected him to torture and demanded to know from him what he had written against the MP. Sabbir informed that after detaining him at the police station for three days, he was blindfolded and produced before the officer in charge in handcuffs who threw him on the ground and beat him and threatened that he would be killed in a 'cross-fire' unless he confessed that he had issued death threats against the MP.*¹³⁹

The criminal justice system in Bangladesh is an adversarial system, where a person is deemed innocent until proven guilty. As per the Evidence Act 1872, a confessional statement must be voluntarily made, to a Magistrate and with none of the investigation officers in the room. It is the duty of the Magistrate to ask the accused whether he is giving his confession voluntarily. Statements made in police custody have no evidentiary value unless backed by proper police investigation and evidence.¹⁴⁰

Article 35 (4) of the Constitution of the People's Republic of Bangladesh talks about self-incrimination. The Article states: 'no person accused of any offence shall be compelled to be a witness against himself'. The main objective of Article 35(4) is to protect an accused person from any compulsion to make self-incriminating statements, including confession. Here, self-incrimination means conveying information

¹³⁶ Odhikar, 'Human Rights Monitoring Report', January 2016, pp. 5–6, available at http://www.odhikar.org/wp-content/uploads/2016/02/Human-rights-monitoring-monthly-report-January-2016_Eng.pdf.

¹³⁷ Odhikar, 'Fact Finding Report/Chhatra Dal leader Junayed Hossain Leon tortured by police in Kapasia, Gazipur' November 25, 2013, available at: http://www.odhikar.org/wp-content/uploads/2018/08/Junayed-Liyon_TLEA_Gazipur_25.11.13_Eng.pdf.

¹³⁸ Human Rights Committee, Concluding Observations on Bangladesh, CCPR/C/BGD/CO/1, 27 April 2017, para. 21.

¹³⁹ Odhikar Human Rights Monitoring Report, page 12, available at <http://www.odhikar.org/wp-content/uploads/2016/10/human-rights-monitoring-monthly-report-Sept-2016-Eng.pdf>.

¹⁴⁰ Sections 31, 24 and 25 of the Evidence Act 1872.

based upon the personal knowledge of the person giving the information. Thus, the laws make it mandatory that a confessional statement must be freely given without any duress or threat or compulsion.

Section 164 of the Code of Criminal Procedure, 1898 lays down the following ground requirements for taking a confession: (1) Any Metropolitan Magistrate, any Magistrate of the first class and any Magistrate of the second class empowered by the Government to do so, may record any statement or confession made to him/her in the course of an investigation or at any time afterwards before the commencement of the inquiry or trial. (2) The statements are recorded and signed in the manner provided in Section 364 of the Code of Criminal Procedure, 1898, and such statements or confessions shall then be forwarded to the Magistrate by whom the case is to be inquired or tried. (3) Before recording the confession, a Magistrate has to explain to the person making it that he/she is not bound to make a confession and that if he/she does so it may be used as evidence against him/her. Furthermore, he/she must question the person making it and determine whether it was made voluntarily before he/she records it. At the end of the record, the Magistrate makes a memorandum at its end stating *inter alia*: ‘I have explained to (name) that he/she is not bound to make a confession and that if he/she does so, any confession he may make may be used as evidence against him/her and I believe that this confession was voluntarily made. It was taken in my presence and hearing, and was read over to the person making it and admitted by him/her to be correct, and it contains a full and true account of the statement made by him/her. (Signed:...).’¹⁴¹

Article 15 of the Convention against Torture requires that any statement made as a result of torture is inadmissible as evidence (so called exclusionary rule) and domestic law needs to explicitly declare this. If courts rely on such evidence, it provides an incentive for law enforcement officials to force confessions. The exclusionary rule has thus an important preventive function. Another preventive function in that regard plays the reverse burden of proof. An alleged victim is only required to demonstrate that the allegation of torture is well-founded. Once this threshold is met, the burden of proof shifts to the government to show that a statement was not made as a result of torture.¹⁴²

The heavy reliance on confessions in the criminal procedure has been criticized by the CAT at a number of occasions. The CAT has required member States to (i) investigate all cases of coerced confession, (ii) to judicially review all cases in which convictions were based solely on confessions obtained through torture, (iii) to ensure inadmissibility in court of confessions obtained as a result of torture, (iv) to provide training to law enforcement officials, judges and lawyers regarding identification and investigation of forced confessions.¹⁴³

The above-mentioned rules are frequently violated as is shown for instance in the case of *Hafizuddin v. State*.¹⁴⁴ The Magistrate of the lower court did not give warnings before recording the confession and time for reflection. He also failed to inform the accused that they would not be sent to police custody after making the confessional statements. The Supreme Court therefore held that ‘the confessional statements, in such facts and circumstances, are neither voluntary nor true’.¹⁴⁵

The number of confessions has increased in criminal proceedings which casts doubt as to whether those confessions were in fact made voluntarily.¹⁴⁶ There is a pattern that is almost always followed by law enforcement agencies when they arrest someone. Firstly, the person is arrested by the law enforcement agency while being kicked, slapped or verbally abused. As per the Code of Criminal Procedure, an

¹⁴¹ The official form on which the confession is to be recorded by the Magistrate.

¹⁴² See e.g. *G.K. v. Switzerland*, Comm. Nr. 219/2002, UN Doc. CAT/C/30/D/219/2002, 15 May 2003, para. 6.10.

¹⁴³ See e.g., CAT Concluding Observations on Cambodia, UN Doc. CAT/C/KHM/CO/2, 20 January 2011, para. 28; Concluding Observations on Afghanistan, UN Doc. CAT/C/AFG/CO/2, 12 June 2017, paras. 27–28.

¹⁴⁴ *Hafizuddin v. State*, 14 (1994) Bangladesh Legal Decisions (High Court Division) 332, yearly compilation of judgements of the Supreme Court of Bangladesh.

¹⁴⁵ *Ibid*, para. 9 pp. 333.

¹⁴⁶ Islam Mahmudul, *Constitutional Law of Bangladesh* (second edition, Dhaka, Mullick Brothers), February 2002), para.2.153, at 220.

arrested person has to be presented before a Magistrate within 24 hours of his/her or her arrest.¹⁴⁷ If the police are unable to complete an investigation within 24 hours of the arrest, or if they have grounds to believe that the information they received is well founded, at the time they bring the accused person, they seek further time from the Magistrate, who will then authorize the detention of the accused in police custody, as a form of remand.¹⁴⁸ The police usually ask the Magistrate to be granted anywhere between 3 to 15 days of remand for ‘questioning’ the arrestee, as per law, the Magistrate cannot order more than 15 days of remand at one go.¹⁴⁹ Remand under section 167 of the Code of Criminal Procedure 1861, is something that all detainees fear as during this time, they are tortured and ill-treated by the law enforcement agency so that they can extract a statement from him or her that may prompt a confession and a quick solution of the crime. It is common for family members during this time, to bribe or offer money to the arresting officers in hopes that the arrestee does not get physically tortured and verbally abused during remand.

There is always the fear of the police seeking a further period of remand if the accused does not confess the first time round; and this also encourages the accused to make an incriminating statement. Even though the confessional statements procured through torture are not admissible in Court, they are accepted by lower courts since they (the lower courts) follow government instructions, disregard the principles developed in *BLAST v. Bangladesh* and the Evidence Act 1872.

In this regard, the case of *Nausher Ali Sardar and Others v. The State*¹⁵⁰ is illustrative. A lower court held that ‘an extra judicial confession’¹⁵¹ can form a basis for conviction if found to be voluntary and true’. Also in the case of *State v. Badsha Molla*,¹⁵² extra judicial confessions were found to be admissible. The Court held: ‘Evidence of an extra judicial confession depends on the veracity of witnesses to whom it was made, and it requires material corroboration by evidence of impeachable character’.¹⁵³

*Mohammad Rezvi Hasan of Alambari village in Chittagong District, was arrested by policemen of Haathazari Police Station in front of the Bashundhara Hotel at Bibirhaat Bazaar on March 26, 2013 at around 5:00 pm. He was allegedly tortured after being detained for nine days in the police station. His family learnt of his arrest from released detainees of Haathazari Police Station, but were not allowed to meet Rezvi. However, Rezvi’s brother saw Rezvi unconscious on the floor in a back room. Rezvi’s family had to pay the Sentry (low-ranking police officer guarding cells) to supply him with food and water when he was detained in custody. On April 4, 2013, he was produced before the court as an accused in a robbery case and another case under the Arms Act, which were filed with Fatikchhari Police Station. On the same day, police brought him back on a five-day remand under a robbery case and a two-day remand under the arms case. They tried to make him confess the offences. During the remand, police accused Rezvi Hasan in another robbery case and another case under the Arms Act and got another four-day remand. Family members of Rezvi alleged that Rezvi was detained for 13 days and tortured throughout the 11-day remand period.*¹⁵⁴

c. Lack of Independent Investigation and Complaint Mechanisms

The Convention against Torture requires Member States to carry out independent and impartial investigations into torture allegations (Article 12) and have an effective complaint system in place (Article 13). The domestic framework lacks such impartial investigation and complaint mechanisms.

With regard to investigation, it is usually a police officer from the same station that investigates allegations against a fellow police officer. According to the Committee against Torture, this is

¹⁴⁷ As per section 61 of the Code of Criminal Procedure.

¹⁴⁸ As per section 167 of the Code of Criminal Procedure.

¹⁴⁹ Ibid.

¹⁵⁰ *Nausher Ali Sardar and Others v. The State*, 39 (1987) Dhaka Law Reports (Appellate Division of the Supreme Court) 194.

¹⁵¹ One made in police custody and not to the Magistrate.

¹⁵² *State v. Badsha Molla*, 9 (1989) Bangladesh Legal Decisions (High Court Division) 257.

¹⁵³ Ibid, para. 21 pp 264.

¹⁵⁴ See Odhikar fact finding report: “Allegations of torture on timber merchant Mohammad Rezvi Hasan after being detained at the police station during remand”, available at: http://odhikar.org/wp-content/uploads/2018/09/Rezvi-Hasan_TLEA_Police_Chittagong_Eng.pdf.

incompatible with the Convention against Torture.¹⁵⁵ Therefore, investigation reports are typically biased. The Torture and Custodial Death (Prevention) Act contains little guidance on investigation. Article 7 provides that (1) the Superintendent of Police, or any officer superior to his rank, shall immediately register a case, record the statement of the complainant, serve a copy of the complaint to the complainant specifying the case number and what action can be taken upon the complaint; and (2) the police shall furnish a report to the Court of Sessions Judges within 24 hours after receipts of the complaint. Article 8 further regulates that an investigation must be completed within 90 working days. According to Article 8, this deadline can be extended for an additional 30 days. In practice, however, the police do not register a case against their own police officers but rather harass and intimidate victims and their families.

Concerning complaint mechanisms, Article 13 of the Convention against Torture states that “Each State Party shall ensure that any individual who alleges he has been subjected to torture in any territory under its jurisdiction has the right to complain to, and to have his case promptly and impartially examined by, its competent authorities”. The Convention against Torture also imposes legal obligations upon judges on how to deal with cases. For instance, judges are obliged to ensure that testimonies and evidence were given freely; that victims and witnesses are treated fairly; and detainees or accused have not been subject to torture or other ill-treatment. If a detainee alleges torture when brought before a judge, she or he has to record the allegation in writing, order a forensic medical examination and take all necessary steps to ensure allegations are fully investigated. This should also be done if there is no express complaint, but the person concerned bears visible signs of physical and mental torture or ill-treatment. Furthermore, it is the primary role of the judiciary to ensure that the laws, both domestic and international, are upheld at all times.¹⁵⁶

In Bangladesh, section 4 of the Torture and Custodial Deaths Prevention Act 2013 provides that a complaint can be lodged with a court that immediately records the complaint and directs the person to be examined by a doctor. This provision allows victims or their families to bypass the police. Section 16 of the Act further regulates that a trial needs to be completed within 180 days, which can be extended by another 30 days. Given that the perpetrator typically is a member of law enforcement, section 4 of this Act is a safer route to initiating action by traumatized victims and their families. However, to invoke such provision, there also needs to be a functional criminal justice system that is not influenced by partisan politics.

In a criminal case, the Magistrate Court is the first court of instance. The Magistrate is the person who orders remands, decides the number of days the accused person is kept in remand and records confessional statements. The Magistrate has the power and legal obligation to ensure that the arrested person is not tortured, or, if there is evidence of torture, to order an investigation into the matter. Unfortunately, this is one power that the magistrate fails to utilise. Quite the contrary, Magistrates send arrestees back to remand, with the knowledge that they will be tortured or abused. Even when arrestees appear before them unable to stand with signs of abuse and torture they are sent back to police custody. This happens in the case of political detainees – and was evident in the case of Mahmudur Rahman, Acting Editor, Daily Amar Desh, who was arrested several times and when brought before a Magistrate at one such occasion in 2013, he had bleeding wounds on his legs and his lawyer complained about torture in remand. Yet, no investigation was ordered.¹⁵⁷

When torture allegations are raised before the Magistrate orders the police agency accused of torture to conduct an investigation into the matter and to report back to the Magistrate. Magistrates typically do not give a timeline. Victims and family reported that the police, having little interest in investigating their own colleagues, instead of carrying out investigations, intimidate victims and pressure them in withdrawing the complaint. Victims also report that they consider themselves lucky to have survived torture and abstain from further pursuing their case. Magistrates do not summon police officers accused

¹⁵⁵ See e.g. CAT, Concluding Observations on Kazakhstan, UN Doc. CAT/C/KAZ/CO/3, 12 December 2014, para. 8.

¹⁵⁶ Conor Foley, *Combating Torture. A Manual for Judges and Prosecutors*, (Human Rights Centre, University of Essex 2003), p. 42.

¹⁵⁷ The daily Ittefaq, 18 April 2013. Odhikar also interviewed Mahmuder Rahman after he was released on bail.

of torture or ask that relevant documents involving the arrest and interrogation of the alleged victim be submitted. Therefore, almost all cases end with the Magistrate ordering an investigation that is never carried out.

The next higher instance after the Magistrate court is the session court. However, cases are rarely appealed before session courts. Because of partisanship, lawyers only appeal against a decision by a Magistrate with strong political support. A lawyer will otherwise generally be unable to successfully present future cases before the same Magistrate or before his colleagues from the same district. Therefore, inactions by Magistrate courts in torture cases are not appealed before session courts.

It is further important to note that it is difficult for a victim to find a lawyer that represents him or her in a torture case. There are only a handful of lawyers who are willing to litigate cases against the police. In addition, many lawyers and Magistrates seem to be unfamiliar with the Torture and Custodial Death (Prevention) Act 2013. It is therefore neither invoked by victims or their representatives nor by the Magistrates *proprio motu*. The same is true for fundamental rights provisions in the Constitution. It is commonly understood that the Supreme Court is the guardian of the Constitution and it is not upon the Magistrate to adjudicate on its basis.

As a consequence, victims do not get justice, compensations are not awarded, and perpetrators are not sentenced.

On October 14, 2014, Abul Kashem, father of Nazrul Islam, filed a case (Petition Case No. 2/2014) with the Noakhali District and Sessions Judge Court, under section 15 of the Torture and Custodial Death (Prevention) Act (2013), against the police, for the attempted murder of his son who had died in an alleged 'crossfire' in Sonapur Union in the Noakhali District. The Court took cognizance of the case and ordered the District Superintendent of Police to take necessary action. Five police officers, including the current officer in charge of the Sonaimuri Police Station, Ashraf Ul Islam; the former officer in charge Abdus Samad, sub-inspector Iqbal Bahar Chowdhury of Sonaimuri Police Station, Noakhali and sub-inspector Mohammad Asad and the officer in charge of Bandar Police Station, Chittagong, were accused in the petition. The lawyer of the complainant, Advocate Mohammad Rabiul Hassan, stated that Nazrul Islam was arrested from the Chittagong Port area on September 16, 2014 in connection to a murder investigation and taken to Sonaimuri Police Station by sub-inspector Iqbal Bahar Chowdhury. That night the police shot him in his left leg in order to forcibly extract a statement. The police left him seriously wounded in the corridor of the Noakhali Medical College Hospital. Later the family of Nazrul Islam admitted him to the same hospital. Nazrul was moved to the National Institute of Traumatology and Orthopaedic Rehabilitation at Dhaka for better treatment, where doctors were required to amputate his left leg. On November 21, 2014 the investigating officer submitted a Final Report (FRT No. 28). On December 24, 2014 Abul Kashem, as the Informant, the informant filed a Naraji (no confidence) petition before the Cognizance Court-1 of Noakhali and subsequently another Naraji petition was filed on January 26, 2015 before the Session Judge, Noakhali. The Session Judge on February 10, 2015 after hearing the petition along with prayer for judicial inquiry rejected the same and accepted the Final Report dated 21.11.2014 and released the accused police officer from the case. On May 21, 2017 Abul Kashem filed a criminal appeal (No. 9906 of 2017) before the High Court Division of the Supreme Court challenging the order of the Session Judge of Noakhali. This case is still pending.¹⁵⁸

d. Reprisals and Lack of Victim and Witness Protection

Article 13 of the Convention against Torture requires Member States to “ensure that the complainant and witnesses are protected against all ill-treatment or intimidation as a consequence of his complaint or any evidence given.” A remedy can only be effective if victims or their family can complain against torture without fear of reprisals. The CAT has thus repeatedly recommended States that legal and administrative steps be taken at every stage of proceedings in order to protect victims and their families

¹⁵⁸ For more information, see Odhikar, ‘Annual Report 2014’, p. 75, available at: <http://odhikar.org/annual-human-rights-report-2014-odhikar-report-on-bangladesh/>.

from torture and other ill-treatment.¹⁵⁹ The CAT further requires States to promptly, impartially and thoroughly investigate, prosecute and punish acts of reprisals.¹⁶⁰

In Bangladesh, there is no victim and witness protection legislation or other measures.

Despite the establishment of a complaint mechanism for torture victims, by the Torture and Custodial Deaths Prevention Act 2013, fear of reprisals, distrust of law enforcement and the fear of harassment of family members of the victim prevent victims from complaining to the court of police; most victims are afraid to report torture or lodge a complaint. They fear further torture, reprisals, other family members being arrested and tortured or other forms of persecution. Furthermore, families are threatened with dire consequences if they lodge a complaint with the Magistrate – which is even more serious if the victim is sent back to the same police station where he or she was tortured. Not uncommonly, statements recorded before a Magistrate are later used to threaten a victim or his or her family.

On the night of 4 January, 2017 sub-inspector Nazmul and assistant sub-inspector Hadibur Rahman of Kotwali Police Station in Jessore, arrested Abu Sayeed (30) and brought him to the police station. They demanded 200,000 taka for his release. When Abu Sayeed refused to pay the extortion money, the police handcuffed and tortured him by suspending him upside down on a bamboo pole suspended between two tables. When Abu Sayeed agreed to give 50,000 taka, they released him.¹⁶¹ On January 8, 2017 a High Court Division Bench of the Supreme Court, comprising of Justice Kazi Reza-ulHuq and Justice Mohammad Ullah, summoned sub-inspector Nazmul and the assistant sub-inspector Hadibur Rahman before the Court on January 25, 2017 in this regard. At the same time, tortured victim Abu Sayeed was also asked to be present in the court. Since Abu Sayeed and his family received threats by the police urging Abu Sayeed not to allege torture, he remained silent about his treatment before court. On January 25, 2017, Abu Sayeed, out of fear for reprisals, gave his statement in favour of the police. A lawyer submitted an affidavit to the court on behalf of Abu Sayeed. The court stated that the affidavit was submitted to save the police.¹⁶²

e. Lack of Redress and Reparation

Article 14 of the Convention against Torture states that victims of torture must be ensured of the right to obtain redress and fair and adequate compensation – including proper and full rehabilitation. If the victim dies as a result of torture, the compensation must be provided to his/her dependents. It further states that if the State Party already has national legal provisions for providing such compensation, than nothing shall affect this right.¹⁶³ According to the General Comment No. 3 – the CAT's interpretation of Article 14 – the right to redress contains restitution, compensation, rehabilitation, satisfaction and the right to the truth as well as guarantees of non-repetition. Thereby, the Convention does not only require legislation providing victims with the right to redress, but that there are effective investigation and complaint mechanisms in place that are able to render enforceable final decisions that lead to adequate redress. It is furthermore important to stress that redress including compensation should not be dependent on the conclusion of criminal proceedings against the alleged perpetrator and civil liability should be available independently of criminal proceedings.¹⁶⁴

When it signed the Convention against Torture, the Government of Bangladesh gave a declaration regarding Article 14, stating: “The Government of the People's Republic of Bangladesh will apply article

¹⁵⁹ See e.g. CAT, Concluding Observations on Congo, UN Doc. CAT/C/COG/CO/1, 28 May 2015, para. 15.

¹⁶⁰ See e.g. CAT, Concluding Observations on Belarus, UN Doc. CAT/C/BLR/CO/4, 7 December 2011, para. 25.

¹⁶¹ The Daily Observer, ‘Cops torture man for extortion in Jessore’, 7 January 2017, available at: <http://www.observerbd.com/details.php?id=52050>.

¹⁶² Odhikar Human Rights Monitoring Report, January 2017, page 13, available at: http://www.odhikar.org/wp-content/uploads/2017/02/HRR_January_2017_English.pdf, The daily Jugantor, 27/01/2017, <http://ejugantor.com/2017/01/26/>.

¹⁶³ Art. 14 of the Convention against Torture: 1. Each State Party shall ensure in its legal system that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation, including the means for as full rehabilitation as possible. In the event of the death of the victim as a result of an act of torture, his dependents shall be entitled to compensation. 2. Nothing in this article shall affect any right of the victim or other persons to compensation which may exist under national law.

¹⁶⁴ CAT, General Comment No. 3, UN Doc. CAT/C/GC/3, 13 December 2012, para. 26.

14 para. 1 in consonance with the existing laws and legislation in the country.” The Convention was ratified by Bangladesh in 1998, when the Constitution of the People’s Republic of Bangladesh was the only law that mentioned the word ‘torture’ – and there was no definition of the crime. The Constitution clearly states, in Article 35 (5) that ‘No person shall be subjected to torture or to cruel, inhuman, or degrading punishment or treatment.’ There is no mention of compensation or redress. As a result, the Declaration made by Bangladesh in 1998, regarding Article 14 of the Convention was tantamount to the government saying that victims of torture would not be able to claim compensation or rehabilitation, as the government would not take on this responsibility.

Section 15 of the 2013 Torture and Custodial Death (Prevention) Act provides both monetary fines to be paid to the Court and compensation to be paid to the victim/family members by the perpetrator of torture. The amount of compensation is much higher if the victim dies as result of the torture. However, it does not mention any provisions for rehabilitation of the victim and who would take on that responsibility. As for now, reparation has scarcely been accorded to torture victims in Bangladesh since there are hardly any torture cases that are investigated.

2. Instable political situation fosters the use of torture

Impunity for torture and other severe human rights abuses are generally high in countries with severe political instability, internal conflicts, which is the case in Bangladesh. The independence and transformation to democracy brought a single party system, several military coups in 1975 and 1982,¹⁶⁵ two caretaker governments,¹⁶⁶ several states of emergency,¹⁶⁷ and power struggles between the two major parties, the Bangladesh Nationalist Party and the Awami League, that alternately governed Bangladesh since 1991. Moreover, allelections (except the elections of 1991) have been accompanied by violent protests, arrests, and extrajudicial killings. While reports of human rights abuses have always been high, 2004 saw a rapid increase in torture and extra-judicial killings. This was mostly connected to the establishment of the Rapid Action Battalion, the elite force comprised of staff from different law enforcing agencies and the Armed Forces, that has become a synonym for torture and extra-judicial killings under various governments. In addition, there are ‘joint forces’ operations made up of the police, RAB and the Boarder Guard Bangladesh. In dire political conflict and crises, the Coast Guard and Ansars¹⁶⁸ are also deployed. Over 22 years, the police (including Detective Branch police) and RAB are alleged to be responsible for most of the cases of torture and ill-treatment.¹⁶⁹

a. Suppression of Opposition and Partisan Law Enforcement

All the governments in Bangladesh have used the police and other law enforcement agencies to control the opposition and gag criticism and dissent. Thereby, law enforcement agencies are known to use torture and inhumane treatment to subdue or unnerve specific groups of individuals, such as politicians,

¹⁶⁵ For more information see eg. Emajuddin Ahamed, ‘The military and democracy in Bangladesh’, The Australian National University E Press, available at <http://press-files.anu.edu.au/downloads/press/p33231/pdf/ch0731.pdf>; the Daily Star, Lawrence Liftschultz, ‘The past is never dead : The long shadow of the August coup 1975’, 15 August 2005, available at : <http://archive.thedailystar.net/2005/08/15/d5081501033.htm>.

¹⁶⁶ For more information see e.g. A.K.M. Masudul Haque, ‘Emergency Powers and Caretaker Government in Bangladesh’, Journal of Australian Law Teachers Association, 2008/9’, pp. 81–94, available at: <http://www.austlii.edu.au/au/journals/JIALawTA/2008/9.pdf>; the Daily Star, Syed Badrul Ahsan, ‘Forty years ... and diverse governments’, 14 March 2011, available at: <http://archive.thedailystar.net/suppliments/2011/anniversary/part1/pg19.htm>.

¹⁶⁷ For more information see e.g. The New York Times, ‘Bangladesh Leader Declares State of Emergency’, 11 January 2007, available at: <http://www.nytimes.com/2007/01/11/world/asia/11cnd-bengla.html>.

¹⁶⁸ The Bangladesh Ansar is a lightly-armed volunteer paramilitary force for the preservation of internal security and law enforcement in Bangladesh.

¹⁶⁹ Human Rights Watch, ‘Bangladesh: Disband Death Squad’, 20 July 2014, available at: <https://www.hrw.org/news/2014/07/20/bangladesh-disband-death-squad>; the Guardian, ‘Bangladesh ‘death squad’ trained by UK police resumes extrajudicial killing’, 26 January 2011, available at: <https://www.theguardian.com/world/2011/jan/26/bangladesh-death-squad-killings-britain>.

journalists, political activists (belonging to the opposition), trade union activists, student activists and even human rights defenders in order to stop them from carrying out their activities.¹⁷⁰ In addition, there are allegations that newspaper offices are monitored, their reports redacted and journalists threatened and tortured for uncovering the shortcomings and flaws of the law enforcement agencies and government actions.

An illustrative example of partisan law enforcement are the events surrounding the public protests and confrontations at the end of 2013. In the months near the end of 2013, public protests and street battles involving the opposition party (Bangladesh Nationalist Party), activists and government security forces escalated and by the time elections were held, political violence is alleged to have caused more than 300 deaths.¹⁷¹ Law enforcement agencies, prior to the elections, arrested BNP leaders on charges of instigating violence during the anti-government rallies. Opposition activists around the country went into hiding and others became victims of enforced disappearance.¹⁷² Moreover, Khaleda Zia, chairperson of the Bangladesh Nationalist Party, was put under de facto house arrest. After the controversial 2014 (10th) Parliamentary elections, law enforcement agencies began to feel that it was them who brought this government to power, not the people. One police officer is reported to have commented “Machher Raja Elish, Desher Raja Poolish” (translated as *Hilsha is the king of fish [in Bangladesh] and the police are the king of the country*).¹⁷³ This led to even further politicization of the power struggle.

While dissenters and those affiliated with or close to the opposition party are pursued, charges against those with political connections to the ruling party are dropped or not even registered, as the case below shows, therefore staying in the tradition of law enforcement being perceived as partisan.

In 2016, the High Court advised the Jhenaidah police to arrest and investigate a leader of the Juba League, the youth wing of the ruling Awami League. He had allegedly stalked a girl and severely injured her father for organizing protests. The court had to issue a directive because the authorities remained inactive and did not record the complaint. It was reported in the news that partisan law enforcement was behind the inaction of the police. Unfortunately, this type of court directive is rare.¹⁷⁴

Partisan law enforcement across different political leadership has made the police unprofessional and unaccountable for their atrocities. It is thus a significant reason for impunity of torture.

In 2009, the International Crisis Group reported ‘the 420 million dollar annual police budget is simply insufficient to meet the policing needs of the country and undermines the force’s ability to perform effectively....many officers are often forced to pay out of pocket to complete even the most routine police function.’¹⁷⁵ Such financial decisions – where the armed forces are given priority in peacetime – is bound to give rise to poor performance, frustration and corruption within law enforcement. The government has since considerably increased the budget of the police. According to the 2016 – 2017 annual budget for Bangladesh, 6.2% of the total 3406.05 billion taka¹⁷⁶ budget has been allocated to

¹⁷⁰ See Saira Rahman Khan, ‘Vested Interest: The Human Rights Practices of Political Parties’, in Special Report: Inexistent Rule of Law in Bangladesh, Asian Human Rights Commission, vol. 13, nos. 2-3, June-September 2014.

¹⁷¹ E International Relations, Jasmin Lorch, ‘Elections in Bangladesh: Political Conflict and the Problem of Credibility’, 2 February 2014, available at: <http://www.e-ir.info/2014/02/02/elections-in-bangladesh-political-conflict-and-the-problem-of-credibility/>.

¹⁷² Odhikar Annual Human Rights Report 2014, page 56-61, available at: http://www.odhikar.org/wp-content/uploads/2015/12/Annual_Human_Rights_Report_2014_Eng.pdf.

¹⁷³ See the Daily Star, Elita Karim ‘Police Brutality on the Loose’, 22 January 2016, available at: <http://www.thedailystar.net/star-weekend/police-brutality-the-loose-205102>.

¹⁷⁴ New Age, ‘Police must cast off partisan cloak’, 24 November 2016, available at: <http://www.newagebd.net/article/3421/police-must-cast-off-partisan-cloak>.

¹⁷⁵ International Crisis Group Asia Report ‘Bangladesh: Getting Police Reform on Track’, 11 December 2009, p. 9, available at: <https://d2071andvip0wj.cloudfront.net/182-bangladesh-getting-police-reform-on-track.pdf>. See also New Age, Habib Siddiqui, ‘Bangladesh Police: time for reform-II’, 11 March 2016, available at: <http://archive.newagebd.net/210358/bangladesh-police-time-for-reform-ii/>.

¹⁷⁶ Approximately 42.58 billion dollar: Ministry of Finance, ‘Budget 2016–2017’ available at: http://www.mof.gov.bd/en/budget/16_17/brief/en/Chart2_E.pdf. Under the proposed annual budget for 2016-17, the Home Ministry will get 2,439.22 million dollar, which is 870.60 million dollar more than the previous fiscal

‘public order and safety’ – which is approximately 5.28 billion dollar – a majority going to the Armed Forces (2.85 billion) while the Border Guard, Police and Coast Guard and ‘other paramilitary forces’ will share the remaining 2.45 billion. Incidentally, a two billion loan will be taken by the government to buy military hardware.¹⁷⁷ According to this budget, the Home Ministry will get 2,439.22 million dollar, which is 870.60 million dollar more than the previous fiscal year's allocation. 551.18 million dollar of this will go to district police force, 462.75 million dollar to the Bangladesh Police Directorate, 246.94 million dollar to metropolitan police, 20.88 million dollar will go to the Criminal Investigation Department and 12.27 dollar will go to the Department of Narcotics Control and 109.43 million dollar to the jail authority. Given the rise in human rights violations perpetrated by the law enforcement from 2015, the increase in budget allocations to law enforcement has little to do with maintaining living salaries and controlling and preventing corruption and harassment and more to do with keeping these sectors satisfactorily equipped with the means to carry out violations.

In our view and the experience of the OMCT around the world, a concerted effort across political divides is needed to overcome this role of law enforcement structures and to transform police and other forces from a law enforcement force to a law enforcement service. Historic precedents for such reform processes across political divides do exist, and have been a success for example in Northern Ireland, and can be provided to guide such a process.

b. Trade-offs Between Government and Rapid Action Battalion

Trade-offs between the government and RAB and the suppression of dissenting voices in order to gain or remain in power in a politically difficult environment are some of the root causes for torture and the ensuing impunity. This has been the case under both Awami League and Bangladesh Nationalist Party-led governments.

Odhikar documented a large number of human rights abuses by the RAB perpetrated in the fourteen years of its existence. The numbers of extrajudicial killings are especially high. Odhikar documented the killing of a total of 938 persons by the RAB till 2017 since its creation in 2004.¹⁷⁸ The RAB justifies the killings by saying the victims died in ‘crossfire’ during armed clashes between the RAB and criminal groups.¹⁷⁹ However, families and witnesses reported that the victims mostly died in custody or during extrajudicial executions. As of today, only the highly publicised case of the disappearances and extrajudicial deaths of seven persons in Narayanganj have been investigated and tried. The most serious punishment for other incidents has been dishonorable discharge.¹⁸⁰

This impunity is believed to be the result of a trade-off between the government and the RAB. Actions by the RAB go unpunished in return for political support. The government delegates vast power without any monitoring in hopes of eliminating ‘crime and counter terrorism’. As mentioned earlier in this report, under Section 13 of the Armed Police Battalion Act (1979) (Amended in 2003), the RAB officers are granted immunity against any suit, prosecution or other legal proceedings for anything done

year's allocation. Of the proposed total allocation for FY 2016-17, Tk 4,357 crore (551.18 million dollar) would go to district police force, Tk 3,658 crore (462.75 million dollar) to Bangladesh Police Directorate, Tk 2,569 crore (324.99 million dollar) to Border Guard Bangladesh, Tk 1,952 crore (246.94 million dollar) to metropolitan police, Tk 1,763 crore (223.03 million dollar) to Home Ministry Secretariat, Tk 1,223 crore (154.72 million dollar) to Ansar, and Tk 1,109 crore (140.30 million dollar) to Coast Guard. From the rest, 20.88 million dollar will go to the Criminal Investigation Department and 12.27 dollar will go to the Department of Narcotics Control and 109.43 million dollar to the jail authority.

¹⁷⁷ Bangladesh Military Forces, ‘5.28 billion dollar allocated for Bangladesh defence and security in FY 2016–17, 31 May 2016, available at: <http://www.bdmilitary.com/bangladesh-defence-procurement/5-28-billion-allocated-for-bangladesh-defence-and-security-in-fy-2016-17/>.

¹⁷⁸ Odhikar documentation available at <http://odhikar.org>.

¹⁷⁹ See e.g. Human Rights Watch, ‘“Crossfire”, Continued Human Rights Abuses by Bangladesh’s Rapid Action Battalion’, 2011, available at: <https://www.hrw.org/report/2011/05/10/crossfire/continued-human-rights-abuses-bangladesh-rapid-action-battalion>.

¹⁸⁰ Human Rights Watch, ‘Ignoring Executions and Torture, Impunity for Bangladesh’s Security Forces’, May 2009, p. 56, available at: <https://www.hrw.org/sites/default/files/reports/bangladesh0509web.pdf>.

or intended to be done in “good faith”. This can be inferred to mean that criminal laws applicable to offences committed by citizens of Bangladesh are not applicable to acts perpetrated by RAB, so long as they are done in ‘good faith’ - a term that is increasingly difficult to disprove by the defense in the corrupt and dysfunctional criminal justice system in Bangladesh.¹⁸¹ The use of such clauses inherently lends to the abuses the OMCT has observed across the region and needs to be reviewed.

On August 18, 2015 at around 4.30 am, Chhatra League¹⁸² leader Arzu Mia (28) was killed in a ‘gunfight’ with a team of Satmasjid Camp RAB-2 at Boraikhali area behind Shikdar Medical College in Dhaka. Arzu had been accused of killing 16-year old Raja Mia, who had been beaten to death. Arzu’s brother Masud Rana alleged that RAB had arrested Arzu in the evening of August 17, 2015, in front of Hazaribagh Park. After 11.00 pm, his mother Joytunnesa and sister Rehana Akhter were picked up by the police of Hazaribagh Police Station. They were kept in police custody all night and only released after their signatures were taken on blank sheets of paper. Arzu’s sister Rehana Akhter said that she and her mother saw Arzu’s motorcycle parked at the police station. They heard the news of Arzu’s death soon after they returned home. On August 19, 2015, a press conference was organised on behalf of Hazaribagh unit Awami League, where it was claimed that Arzu was arrested by the RAB and later killed in a staged ‘gunfight’. Punishment for the RAB members involved was demanded. A ruling party Member of Parliament, Fazle Noor Taposh told the media that RAB killed Arzu after he was arrested; and that the claim of a ‘gunfight’ was just an excuse. On August 23, 2015 Arzu’s brother filed a complaint against the Director of RAB-2, Lt. Col. Masud Rana; Deputy Assistant Director, Shahidur Rahman; Inspector Wahid; and RAB informer Ratan in Metropolitan Magistrate Court. After filing the case, Lt. Col. Masud Rana was transferred to the RAB Headquarters.¹⁸³ On November 14, 2016, Dhaka Metropolitan Court quashed the case against four RAB-2 members including its commanding officer filed on charges of abducting and killing Arzu Mia. Four other accused were cleared from charges by the Magistrate Pranab Kumar.¹⁸⁴

c. Counter Terrorism Operations

Operations carried out in the name of ‘countering violent extremism’ have had lethal effects.¹⁸⁵ Suspected ‘extremists’ are being killed in alleged suicide attacks or in staged ‘gunfights’, crossfires’ or ‘encounters’. After the July 2016 terrorist attack on the Holey Artisan Bakery at Gulshan in Dhaka, many suspected extremists, including women and children, either died in such law enforcement operations, allegedly ‘committed suicide’ or were arrested.¹⁸⁶ There are reports that some of those who were arrested during such operations later died in custody of law enforcement agencies. Since there are almost no investigations carried out after such incidents and even less information provided on such, it remains unclear what actually happened.¹⁸⁷

The legal basis for counter terrorism operations is the Anti-Terrorism Act (ATA) 2009. As stated above, there is no doubt that violent terrorist acts attack the very values of human rights, and that human rights law contains a positive obligation on state to protect the population. The role of human rights law is to ensure that this is done within the rule of law and not outside. It also ensures that there are no over-reactions that can lead to greater support for extremist causes. As described in the section below, the Act contains an overly broad definition of terrorist activities covering, among other things, the threatening of unity, integration and public security by creating panic. Consequently, the Act lends to and has effectively been misused to criminalize popular dissent.

¹⁸¹ The Torture and Custodial Death Prevention Act 2013 does not mention that it has overriding effect. However, acts of torture and ill treatment can never be justified as being done in ‘good faith’, thus members of RAB who torture will not be protected under their exclusive law.

¹⁸² Student wing of the Awami League.

¹⁸³ Odhikar, Human Rights Monitoring Report August 2015, pp. 6–7, available at: <http://odhikar.org/wp-content/uploads/2015/12/human-rights-monitoring-august-Monthly-report-2015-eng.pdf>.

¹⁸⁴ News Bangladesh ‘BCL leader murder case against RAB quashed’, 14 November 2016, available at: <http://www.newsbangladesh.com/english/details/19807>.

¹⁸⁵ The Daily Prothom Alo, 1 April 2017, www.prothom-alo.com/bangladesh/article/1130046/.

¹⁸⁶ Odhikar, Annual Human Rights Report 2017, page. 55–57, available at: http://odhikar.org/wp-content/uploads/2018/01/Annual-HR-Report-2017_English.pdf

¹⁸⁷ The Daily New Age, ‘Extremism tackling narrative warrants transparency’, 29 April 2017, available at: <http://www.newagebd.net/article/14532/extremism-tackling-narrative-warrants-transparency>.

In a four-day crackdown on militants in 2016, the police informed that it had detained a total of 11,684 people, 145 of those being suspected militants.¹⁸⁸ Several others were accused of illegal possessions of weapons or carrying drugs. Media reports claim that some of those detained were forced to pay bribes to secure their release. In one case reported to Human Rights Watch, for instance, police detained a youth, tortured him, and then demanded a 100,000 taka (1,270 dollar) bribe, threatening to otherwise list him as a suspected fundamentalist.¹⁸⁹

It is globally recognized that serious dangers arise when governments deny the human rights of their citizens, gag freedom of speech, expression and association, and do not ensure the rule of law and compliant law enforcement by preventing torture, extra-judicial killings and enforced disappearances and other crimes. The fight against torture risks being weakened by abuse and arbitrariness and it may well trigger support to extremist causes and weaken the states response. Impunity and suppression of critical voices can be a non-negligible factors for the rise of extremism in Bangladesh. A repressive environment creating a sentiment of injustice can ultimately fuel the growth of extremism and political conflicts.¹⁹⁰ Prosecution of extremist suspects without due process can have a similar effect. It can undermine the rule of law, alienate communities, and in the worst case, play into radical discourse which justifies violence.¹⁹¹

As explained in this report, the rule of law institutions have long been used for political ends. A police that is ineffective and corrupt is unable to fight criminality and extremism. The justice system appears partly dysfunctional for ordinary cases. People's distrust in institutions weakens the rule of law which creates further opportunities for extremist groups.

In addition, partisan recruitment and promotions within the police and judiciary have polarized the criminal justice institutions. As a result, partisanship determines the cases that are prosecuted and even informs sentences.

All of these factors fuel political conflict and contribute to rising extremism.

d. Crack Down of Civil Society and the Media

The fight against torture requires an enabling environment, including free media and journalism, human rights defenders and organizations, and a space to act. The visits of the OMCT and information received shows a worrying closing of this space.

Freedom of speech has come under increasing attack in Bangladesh. Media reporting on torture and other forms of abuse by the government face closure and editors are charged and detained. Civil society activists and journalists have faced lawsuits from ruling party supporters for criticizing the government, and contempt of court allegations for criticizing unfair trials. The government increased its attacks on civil society organizations and critics in 2015, and drafted a new law restricting foreign funding to Bangladeshi groups (see 3.d below).

On March 17, 2015, Mizanur Rahman a correspondent of the daily Prothom Alo a newspaper that reports critically about the government, was arrested over an altercation with sub-inspector of Kalaiya Police Outpost,

¹⁸⁸ProthomAlo, 'Over 11,000 detained in 4 days of crackdown', 14 June 2016, available at: <http://en.prothom-alo.com/bangladesh/news/108189/11-thousand-arrested-in-4-days-of-crackdown>.

¹⁸⁹ Human Rights Watch, 'Bangladesh: Halt Mass Arbitrary Arrests', 17 June 2016, available at: <https://www.hrw.org/news/2016/06/17/bangladesh-halt-mass-arbitrary-arrests>. See also the Daily Star, 'Crackdown a money spinner for some cops', 14 June 2016, available at: <http://www.thedailystar.net/frontpage/crackdown-money-spinner-some-cops-1239391>.

¹⁹⁰ International Crisis Group, 'Political Conflict, Extremism and Criminal Justice in Bangladesh', 11 April 2016, available at: <https://www.crisisgroup.org/asia/south-asia/bangladesh/political-conflict-extremism-and-criminal-justice-bangladesh>.

¹⁹¹ The Conversation, 'Threats of violent extremism in Bangladesh are a symptom of deeper social and political problems', 11 January 2017, available at: <http://theconversation.com/threats-of-violent-extremism-in-bangladesh-are-a-symptom-of-deeper-social-and-political-problems-70420>.

*Mohammad Halim Khan. Mizanur was handcuffed and taken to the room of the officer in charge, where he was severely beaten by police until he became unconscious. Mizanur could not walk while he was produced before the court on March 22, 2015. Two policemen physically supported him in the Court.*¹⁹²

Odhikar was regularly harassed and its access to foreign funding has been blocked for more than three and a half years. In August 2013, after Odhikar published a report on extrajudicial killings, the police issued a statement warning that activities that harm the reputation of the security forces would be considered acts of subversion. Criminal charges remain pending against its secretary, Adilur Rahman Khan, and director, ASM Nasiruddin Elan, for allegedly publishing false information.¹⁹³

Ain O Salish Kendra (ASK), a prominent human rights organization, remained under pressure for reporting on enforced disappearances and extrajudicial killings. In May 2014, ASK reported that security forces attempted to abduct its director of investigations, Mohammad Nur Khan.¹⁹⁴

Editors and journalists were sued by government supporters for editorials and content critical of the government and prominent Ministers. In addition, journalists and civil society activists faced contempt charges and trials for criticizing Bangladesh's war crimes tribunal. For instance, David Bergman a British journalist based in Bangladesh was found guilty of contempt for criticizing the tribunal.¹⁹⁵ A group of 49 civil society actors that signed a petition against his conviction were also charged with contempt. Most of them decided to offer unconditional apologies to avoid convictions.¹⁹⁶

*One of the most prominent attacks on freedom of speech and the media is the case of Mahmudur Rahman, acting Editor of the Bangla language newspaper the Daily Amar Desh. On August 19, 2010 the Appellate Division of the Supreme Court sentenced him to six months for Contempt of Court for publishing an April 21, 2010 report on how the government influences the courts. Mahmudur Rahman was arrested on April 11, 2013 from the Amar Desh newspaper office. After that, a team of the Detective Branch of the Police raided the Amar Desh office at the Tejgaon Industrial Area, seized important documents and computers. At around 10:45 pm they sealed the printing press of the Amar Desh office.*¹⁹⁷ *To date, a total of 81 cases have been filed against him across the country, mainly for defamation and sedition. On the basis of three cases pending against Mahmudur Rahman with regard to sedition and under sections 56 and 57 of the Information and Communication Technology Act, 2006 (amended in 2009) he was taken to the Chief Metropolitan Magistrate's Court where police asked for 24 days remand. The Court granted 13 days remand.*¹⁹⁸ *On April 17, 2013 Mahmudur Rahman was brought to the Chief Metropolitan Magistrate Shahidul Islam's court. Mahmudur Rahman's lawyers complained that he was physically tortured inside the cell during remand and there were bleeding wounds on his legs.*¹⁹⁹ *He was granted bail on all the cases. On August 13, 2015 Mahmudur Rahman was sentenced to three years imprisonment and a one 100,000 taka fine, over allegations that he did not respond to a notice given by the Anti-Corruption Commission regarding his property. The Court also gave the verdict of another month of jail if he fails to pay the fine. On February 14, 2016, after getting bail from the Appellate Division and when there was no bar to his release, the Metropolitan Magistrate delayed in sending the Production Warrant Order to the jail and the police of Shahbagh Police Station took this opportunity and showed him as arrested in a case (case no. 50(01/13) filed in 2013 under the Explosives*

¹⁹² Prothom Alo, 'Punishment for torturing journalist Mizan demanded', 25 March 2015, available at: <http://en.prothom-alo.com/bangladesh/news/62039/Punishment-for-torturing-journalist-Mizan-demanded>.

¹⁹³ OMCT, 'Bangladesh: Arbitrary arrest of Mr. Adilur Rahman Khan, Secretary of Odhikar and a member of OMCT General Assembly, 10 August 2013, available at: <http://www.omct.org/human-rights-defenders/urgent-interventions/bangladesh/2013/08/d22343/>; Working Group on Arbitrary Detention, 'Adilur Rahman Khan v. Bangladesh', Opinion No. 37/2013, UN. Doc. A/HRC/WGAD/2013/37, 4 April 2014.

¹⁹⁴ See Lawyers' Rights Watch Canada, 'Bangladesh: Attempted Abduction and Intimidation of Mr. Mohammad Nur Khan', 27 May 2014, available at: <https://www.lrw.org/bangladesh-attempted-abduction-and-intimidation-of-mr-mohammad-nur-khan-report/>.

¹⁹⁵ The Guardian, 'British journalist found guilty of contempt in Bangladesh', 2 December 2014, available at: <https://www.theguardian.com/media/greenslade/2014/dec/02/british-journalist-found-guilty-of-contempt-in-bangladesh>.

¹⁹⁶ Human Rights Watch, 'Bangladesh, World Report 2015', available at: <https://www.hrw.org/world-report/2016/country-chapters/bangladesh>.

¹⁹⁷ Odhikar, Human Rights Monitoring Report, April 2013, page 10-12, available at: <http://odhikar.org/wp-content/uploads/2013/05/human-rights-monitoring-monthly-report-april-2013-eng.pdf>.

¹⁹⁸ Ibid.

¹⁹⁹ Ibid.

Act.²⁰⁰ Mahmudur Rahman was granted bail in this case from the High Court Division and his lawyer also appealed to the Court regarding an Order that his client should not be shown as arrested in any further case. The High Court Division granted this appeal. The Attorney General's office appealed to the Chamber Judge against this Order and the Chamber Judge put a stay on it. As a result, on March 27, 2016 Mahmudur Rahman was again shown as arrested in a case filed with Motijheel Police Station and the latter requested a 10-day remand. On April 5, 2016 police appealed for a 7-day remand before the Court under a case filed with Kotwali Police Station. On April 6, 2016 during the hearing of the case filed at Motijheel Police Station, lawyers of Mahmudur Rahman said that he had been detained in jail on the date he was shown as arrested. The Court, then dismissed the appeal for remand.²⁰¹ On April 12, 2016, the Metropolitan Magistrate of Dhaka rejected the application for remand and ordered the police to question him at the jail gate in four working days.²⁰² On April 16, 2016, senior journalist 80-year-old Shafik Rehman was shown as arrested under a case filed with Paltan Police Station in 2015 regarding a plan to abduct and kill the Prime Minister's son Sajeeb Wazed Joy²⁰³. Mahmudur Rahman was shown as arrested under this case as well. On April 25, 2016 the Dhaka Metropolitan Magistrate, GolamNabi granted a 5-day remand and on April 29, 2016 he was brought to the Detective Branch office, Dhaka from Kashimpur jail in Gazipur for interrogation.²⁰⁴ Mahmudur Rahman was finally released from Kashimpur Central Jail-2 on November 23, 2016 after 1319 days of imprisonment. On November 7, 2016 the High Court Division of the Supreme Court granted his bail in the case regarding allegations of planning to abduct and murder Prime Minister Sheikh Hasina's son Sajeeb Wazed Joy.²⁰⁵

For the OMCT as a global civil society movement and member of the EU Human Rights Defenders Protection mechanism, it is clear that the fight against torture cannot go without the protection of those who document and report torture. Torture allegations and the failure of the state are sensitive issues for a state. But it is an inherent obligation in the UN Convention Against Torture to allow an enabling environment for civil society organisations to document and report torture free from fears of threats and harassment.

3. Enactment of repressive laws

Beyond the structural reasons for the occurrence of torture and the instable political situation that fosters its use, Bangladesh has enacted and misused laws, severely restricting the possibility to voice dissent and fostering the use of torture and ill-treatment. Ever since its independence, Bangladesh has introduced laws that severely suppress activists and NGOs documenting torture or that restrict human rights exposing individuals to torture and ill-treatment. The most restricting laws are explained below.

a. Special Powers Act of 1974

One of the earliest laws restricting human rights to prevail in Bangladesh was the Special Powers Act of 1974, which came through the introduction of the Second Amendment to the Constitution on 22 September 1973. The basic content of the Act lies in section 3, which enables the government to detain any person in custody under the disguise of preventive detention. The Act allows the government to detain a person in order to prevent him or her from a prejudicial act.²⁰⁶ Under section 2, the Act defines a prejudicial act as any deed which is intended or likely to (i) prejudice the sovereignty or defense of Bangladesh; (ii) prejudice the maintenance of friendly relations of Bangladesh with foreign States; (iii)

²⁰⁰ Odhikar, Human Rights Monitoring Report, February 2016, page 4-5, available at: http://odhikar.org/wp-content/uploads/2016/03/Human-rights-monitoring-monthly-report-February-2016_Eng.pdf.

²⁰¹ Odhikar, Human Rights Monitoring Report, April 2016, page 3-5, available at: http://odhikar.org/wp-content/uploads/2016/05/Human-rights-monitoring-monthly-report-April-2016_Eng.pdf.

²⁰² Ibid.

²⁰³ Shafik Rehman, arrested without warrant, is currently free on bail but the Government has seized his (British) passport.

²⁰⁴ Odhikar, Human Rights Monitoring Report, April 2016, page 3-5, available at: http://odhikar.org/wp-content/uploads/2016/05/Human-rights-monitoring-monthly-report-April-2016_Eng.pdf.

²⁰⁵ Odhikar, 'Human Rights Monitoring Report', 1 May 2014, available at: <http://odhikar.org/wp-content/uploads/2014/08/human-rights-monitoring-monthly-report-may-2014-English.pdf>;

Amnesty International, 'Caught between fear and repression: attacks on the freedom of expression in Bangladesh', 2017, p. 31, available at: <https://doc.es.amnesty.org/cgi-bin/ai/BRSCGI.exe/ASA1361142017ENGLISH-min?CMD=VEROBJ&MLKOB=37683615959>.

²⁰⁶ Section 5 of the Special Powers Act 1974.

prejudice the security of Bangladesh or to endanger public safety or maintenance of public order; (iv) create or excite feelings of enmity or hatred between different communities, classes or sections of people; (v) interfere with or encourage or incite interference with the administration of law or maintenance of law and order; (vi) prejudice the maintenance of supplies and services essential to the community; (vii) cause fear or alarm to the public or any section of the public; and (viii) prejudice the economic or financial interests of the State. A large majority of these offences carry the death penalty as the maximum punishment – even the offences of smuggling, dealing in the black market and hoarding that are also covered by the Special Powers Act.²⁰⁷

The Special Powers Act has been widely misused to detain activists and members of political opposition parties and against the people belonging to different ethnic minority groups of the Chittagong Hill Tracts.²⁰⁸ The law does not specify any conditions or time limits for preventive detention. This is not only against Bangladesh's obligations under the Convention against Torture and the ICCPR, it also exposes the detainee to the risk of torture.

It is important to add, that sections 16, 17 and 18 of the Special Powers Act of 1974 were repealed in 1991 by Parliament.²⁰⁹ Yet, they are still applied by the police and courts as documented by the cases described below.

On October 18, 2016, police arrested two local Chhatra Dal activists, Mohammad Shamim Hassan and Mohammad Nur Hossain Talukdar over allegations of posting objectionable comments on Facebook against Prime Minister Sheikh Hasina, at Shoronkhola in Bagerhat District. A case was filed with Shoronkhola Police Station under Sections 16(2)²¹⁰ and 25D²¹¹ of the Special Powers Act, 1974 accusing seven persons, including the President of Shoronkhola Upazila unit Chhatra Dal, Bellal Hossain Milon.²¹²

On December 19, 2016, police filed a case against 15 labour leaders and activists under the Special Powers Act, 1974 with Ashulia Police Station for the allegations of 'conspiracy' or planning criminal activities. Eight of the 15 persons by calling them to the police station for a 'discussion'. Police arrested them under Section 16(2) of the Special Powers Act of 1974, despite this section being repealed. This was noticed by the Court after Khalequzzaman Ripon, Office Secretary of Shomajtantrik Shromik Front, as Petitioner, file a Writ Petition before the High Court Division of the Supreme Court, challenging the legitimacy of the arrest of Ahmed Jibon, the General Secretary of Savar-Ashulia Industrial unit Shromik Front.²¹³

On August 17, 2017, Lalpur Upazila unit Awami League affiliated Chhatra League President Mohammad Sarwar Jahan filed a case with Lalpur Police Station against a youth named Sagor Ahmed (22) for allegedly making derogatory remark about Sheikh Mujibur Rahman, former President and father of the current Prime Minister, Sheikh Hasina on his Facebook account. The officer in charge of Lalpur Police Station, Abu Obayed

²⁰⁷ Sections 25 and 25 B of the Special Powers Act 1974.

²⁰⁸ See Adilur Rahman Khan, 'National Security Laws in Bangladesh', 30 January 2000, available at <http://www.thedailystar.net/news/national-security-laws-in-bangladesh>. Redress, 'Torture in Bangladesh 1971 – 2004, August 2004, available at: http://www.univie.ac.at/bimtor/dateien/bangladesh_redress_2004_report_tortureinbangladesh.pdf.

²⁰⁹ These sections dealt with 'prohibition of prejudicial acts', 'proscription of certain documents' and 'regulation of the publication of certain matters' respectively. The amended version of the Act does not give details of the repealed sections. For an incident of this happening see <https://www.thedailystar.net/frontpage/section-162-special-powers-act-scrapped-yet-used-arrest-1610176>.

²¹⁰ Section 16(2) of the Special Powers Act was omitted through an amendment in 1991, nevertheless police filed a case under this section.

²¹¹ Section 25D: Whoever attempts or conspires or makes preparation to commit or abets any offence punishable under this Act shall be punishable with the punishment provided for the offence.

²¹² Odhikar, Human Rights Monitoring Report, October 2016, page 16, available at: <http://odhikar.org/wp-content/uploads/2016/11/human-rights-monitoring-monthly-report-October-2016-Engl.pdf>; Also see the daily Manabzamin, 19/10/2016, "Derogatory remarks on Facebook, arrested two", available at: <http://www.mzamin.com/article.php?mzamin=36406&cat=9/>.

²¹³ Odhikar, Human Rights Monitoring Report, January 2017, page 17, available at: http://odhikar.org/wp-content/uploads/2017/02/HRR_January_2017_English.pdf.

said that a case was filed against SagorAhmmmed under section 16 of the Special Powers Act, 1974 and accordingly police arrested him.²¹⁴

b. Information and Communication Technology Act of 2006

The Information and Communication Technology Act 2006 has been used to suppress and silence activists, journalists and government critics. The ICT Act was amended twice; the latest amendment was made in 2013 in Section 57 which states that publishing or transmitting in a website in electronic form, of any defamatory or false information, with a view to prejudicing the State or hurting religious sentiments or cause deterioration of law and order, is considered to be a cognizable and non-bailable offence. Punishment for committing this offence has been amended from a maximum of 10 years, with no minimum to a term of a minimum of seven years and maximum of 14 years' imprisonment and a fine of 10 million taka. The Act and its application have also been criticized by the Human Rights Committee who called it "a de facto blasphemy law that limits freedom of opinion and expression using vague and overbroad terminology".²¹⁵

Arrests made under Section 57 have curtailed the freedom of expression with the government using this Act against human rights defenders, journalists, bloggers and people who have alternative opinions. According to Odhikar's documentation, from January 2014 to July 2017, a total of 80 persons were reportedly arrested under section 57 of the ICT Act for allegedly being critical of high government officials and/or their family members.²¹⁶

*On June 24, 25, and 28, 2015 a local daily newspaper 'Sangu' of Chittagong published three reports on the 'KDS Group' Chairman and President of Chittagong Metropolitan Chamber of Commerce, Khalilur Rahman, which apparently tarnished his image. A case was filed under section 57(1) of Information and Communication Technology Act 2006 (amendment 2013) against the newspaper's Editor Kabir Hossain, News Editor Badrul Islam Masud and Chief Reporter Champak Chakraborty, at Bayezid Police Station for publishing the reports. On September 21, 2015 Additional Chief Metropolitan Magistrate Nurul Alam Mohammad Nipu passed the order after rejecting the bail prayer of Kabir Hossain and detained the editor.*²¹⁷

*On December 23, 2016 the Detective Branch of Police arrested Nazmul Huda, Savar correspondent of a private television channel, ETV and the daily Bangladesh Protidin, over allegations of provoking anarchy in the garment manufacturing factory sector at Ashulia in Savar, Dhaka. A case was filed with Ashulia Police Station against him under the Special Powers Act, 1974 and section 57 of the ICT Act for allegedly publishing a false report by opening a fake facebook account.*²¹⁸

c. Anti-Terrorism Act of 2009

The Anti-Terrorism Act of 2009 has a very vague and broad definition of what constitutes a 'terrorist' and 'terrorist activities'. The Act covers, among others, activities that threaten "the unity, integration, public security or sovereignty of Bangladesh by creating panic among the public [...] with a view to compelling the government [...] to do any act or preventing them from doing any act."²¹⁹ This definition goes against accepted international standards, in particularly the Convention against Torture. The CAT has asked States that their domestic legislation do not define terrorism in a way that could leave room

²¹⁴ Odhikar, Human Rights Monitoring Report, August 2017, page 16, available at: http://odhikar.org/wp-content/uploads/2018/01/human-rights-monitoring-report-August-2017_Eng-.pdf.

²¹⁵ Human Rights Committee, Concluding Observations on Bangladesh, UN Doc. CCPR/C/BGD/CO/1, 27 April 2017, para. 27.

²¹⁶ Since this report is being published in 2019, it must be mentioned here that in October 2018 (just before the December 2018 Parliamentary Elections), the Government of Bangladesh passed a new law called the Digital Security Act that is even more repressive than the ICT Act of 2006.

²¹⁷ The Daily Star, 'Editor of CTG Daily Sangu sent to jail', 22 September 2015; available at: <http://www.thedailystar.net/backpage/editor-ctg-daily-sangu-sent-jail-147016>.

²¹⁸ For more information see Odhikar, 'Annual Human Rights Report 2016', p. 22, available at: <http://odhikar.org/annual-human-rights-report-2016/>.

²¹⁹ Article 6 of the Anti-Terrorism Act 2009.

for interpreting the legitimate expression of civil and political rights as terrorist acts.²²⁰ State Parties to the Convention need to ensure that their counter-terrorism and security legislation be in full compliance with the Convention and that adequate and effective legal safeguards are in place.²²¹

Such effective legal safeguards are largely absent in the ATA. For instance, the Act does not contain any provision that specifies the time limit for presenting an arrested person before the Magistrate and the *habeus corpus* regulations under the Criminal Procedure Act do not apply. Furthermore, the ATA was enacted on February 24, 2009²²² and was amended twice. The 2012 amendment introduced the death penalty as the maximum penalty for terrorist activities. The latest amendment was made on 11 June 2013 when the Parliament passed the Anti-Terrorism (Amendment) Bill 2013 which allows the Courts to accept as evidence videos, still photographs and audio clips used on Facebook, Twitter, Skype, and other social media for trials. Under this amendment the police officer concerned will immediately inform the District Magistrates about the occurrence of a crime under this Act and files a case against the person or entity. The amendments were passed with virtually no consultation with civil society organisations and despite strong opposition from the opposition members in the Parliament.²²³

The Act has been abused to repress political opponents, journalists and other dissenting voices.²²⁴ In addition, those arrested under suspicion of committing terrorist activities have been tortured or cruelly treated in police remand.

d. Foreign Donation (Voluntary Activities) Regulation Act of 2016

On 5 October 2016, the National Parliament passed the Foreign Donation (Voluntary Activities) Regulation Act 2016, which, under the prevalent civil and political atmosphere, is extremely repressive and contrary to international law. According to this law, government officials are able to inspect, monitor and evaluate the activities of the voluntary organizations including NGOs. Persons belonging to NGOs who individually or collectively receive foreign funds for implementing projects, can come under constant surveillance under this law, in particular human rights organisations. According to section 3 of this law, “an individual who is undertaking or operating any voluntary activity by receiving foreign donation or contribution, must take approval from the NGO Affairs Bureau.”²²⁵ As per section 10(1), the Bureau under this Act shall have the authority to inspect, monitor and evaluate the voluntary activities of an individual and the NGO and the progress of the NGOs it has approved. It is mentioned in section 14 that if any NGO or individual makes ‘inimical’ and ‘derogatory’ remarks on the Constitution and constitutional bodies or conducts any anti-State activity or involves in terrorism and financing, patronizing or assisting terrorist activities, it shall be considered an offense under this Act. Thereby, the terms ‘inimical’ and ‘derogatory’ are not defined in the law. For committing any offense under section 14, the Bureau may cancel or suspend the registration or close down the NGO. Under the Act, NGOs or affiliated persons can also be punished.²²⁶

²²⁰ CAT, Concluding Observations on Algeria, UN Doc. CAT/C/DZA/CO/3, 26 May 2008, para. 4.

²²¹ CAT, Concluding Observations on Australia, UN Doc. CAT/C/AUS/CO/4-5, 23 December 2014, para. 14.

²²² On February 19, 2009 the Cabinet approved the ATA Bill to be made into law, without any public consultation.

²²³ For more information see Odhikar, ‘Bangladesh: New Amendment to Anti-Terrorism Act gags Freedom of Expression’, 15 June 2013, available at: <http://odhikar.org/joint-statement-by-fidh-and-odhikar-bangladesh-new-amendment-to-anti-terrorism-act-gags-freedom-of-expression/>.

²²⁴ E.g. Mahmudur Rahman, Acting Editor of the Amar Desh newspaper whose case has been described in section VII.2.d. was charged under the Anti-Terrorism Act (2009) for distributing leaflets about Indian hegemony in Bangladesh: Odhikar, Annual Human Rights Report 2010, page 51-53, available at: http://odhikar.org/wp-content/uploads/2012/08/Annual_Human_Rights_Report_2010.pdf.

²²⁵ The NGO Affairs Bureau regulates all the activities of non-government organisations, which must be registered under it. Foreign funds for projects will only be released by the Bangladesh Bank after the Bureau clears the projects. The Bureau is under the direct control of the Prime Minister’s Office.

²²⁶ For more information on the law see e.g. Aljazeera, David Bergman, ‘Concerns raised over new Bangladesh NGO law’, 20 October 2016, available at: <http://www.aljazeera.com/news/2016/10/concerns-raised-bangladesh-ngo-law-161020121856969.html>; Human Rights Watch, ‘Bangladesh: New Law Will Choke Civil Society’, 19 October 2016, available at: <https://www.hrw.org/news/2016/10/19/bangladesh-new-law-will-choke-civil-society>;

The CAT has repeatedly criticized Member States for such restrictive approaches toward the work of individuals and organizations that monitor the human rights situation and receive foreign funding to do so.²²⁷ The CAT has stressed the important role of human rights organizations in a democratic society and found “foreign funding” laws, inspections and monitoring of NGOs in conflict with the Convention.

When reviewing Bangladesh’s compliance with the Covenant on Civil and Political Rights in 2017, the Human Rights Committee raised concerns about the Foreign Donation (Voluntary Activities) Regulation Act and specifically asked the government to ensure that “any legal provisions restricting access to foreign funding does not risk the effective operation of NGOs as a result of overly limited fundraising options, and ensure that NGOs can operate freely and without fear of retribution for exercising their freedom of expression.”²²⁸

It is further worth noting that in 2016, the government has tabled two additional laws criminalizing human rights activities: the Draft Distortion of the History of Bangladesh Liberation War Crimes Act, and the Draft National Broadcasting Act. The former law would allow prosecution of anyone critical towards the government as well as towards the official numbers or data regarding casualties and events during the liberation war.²²⁹ Under the Draft National Broadcasting Act, the government can investigate and punish anyone who broadcasts content that poses a threat to security, territorial integrity, public order, peace or unity of the country. Publications that are vulgar, false or malicious are also criminalized.²³⁰ Such broad terms open doors for misuse and further silence opposition voices.

The laws explained above not only foster torture and ill-treatment, such as the Special Powers Act of 1974 allowing for indefinite periods of preventive detention, they are also an impediment to accountability. The laws directly hinder NGOs, activists, and human rights defenders to document torture and criticize the government and its police and special forces for their serious human rights violations. Repressive laws forced NGOs to close down or stop their activities and silenced government critics. As a result, there are very few activists or NGOs working on torture in the country.

VIII. Conclusion and Recommendations

Torture is a deeply rooted phenomena in Bangladesh. It is used to silence dissenting voices, extract confessions and money and as a tool to uphold law and order – but it is failing its mission. It sets aside the rule of law, empowers important social bonds and strips Bangladeshi society of its humanity. It is practiced in judicial remand, in detention and in prisons. It affects large sectors of the population, including marginalized groups, human rights defenders, members of the opposition, terrorist suspects and ordinary people victim of random violence or extortion.

The reasons for the persistence of torture in Bangladesh are manifold. There is a flagrant lack of accountability for perpetrators of torture; independent investigation and complaint mechanisms and oversight are non-existent or ineffective, and corruption is widespread among the judiciary and law enforcement officials.

One key issue is that confessions are the gold standard of proof, inciting interrogators to engage in the vicious cycle of extracting confessions through torture. In addition, torture and cruel and degrading treatment are used as a tool to intimidate and silence dissident. For fear of further torture, detention,

OMCT, ‘Bangladesh: Parliament adopts NGO Law aimed at eradicating any critical voice’, 6 October 2016, available at: <http://www.omct.org/human-rights-defenders/urgent-interventions/bangladesh/2016/10/d23982/>.

²²⁷ See e.g. CAT, Concluding Observation on the Russian Federation, UN Doc. CAT/C/RUS/CO/5, 11 December 2012, para. 12.

²²⁸ Human Rights Committee, Concluding Observations on Bangladesh, UN Doc. CCPR/C/BGD/CO/1, 27 April 2017, para. 27.

²²⁹ For more information see e.g. David Bergman, The New York Times, ‘The Politics of Bangladesh’s Genocide Debate’, 5 April 2016, available at: https://www.nytimes.com/2016/04/06/opinion/the-politics-of-bangladeshs-genocide-debate.html?_r=0.

²³⁰ For more information see e.g. The Daily Star, ‘Draft Broadcast Act: Bangladesh broadcaster risk jail, fine if they violate rules’, 21 April 2016, available at: <http://www.thedailystar.net/frontpage/broadcasters-risk-jail-fine-if-they-violate-rules-1211977>.

disappearance or harassment, victims do not dare to complain to police or courts. They are caught in a cycle of fear.

The few cases that are brought to the attention of the authorities do not result in investigations, despite the fact that the government has a positive obligation to open investigations when the occurrence of torture is exposed – irrespective of whether or not a formal complaint has been lodged by a victim.

Since scarcely any cases of torture are investigated, even fewer are accorded redress and reparation. There is a lack of recognition of the victims at all levels; in terms of protecting them in the criminal justice system, preventing their re-traumatization and creating and providing access to social, medical or legal assistance to enable them to rebuild their lives.

The national legal framework and its implementation do not live up to international standards of human rights and the rule of law, and there is a lack of political will to address the situation – as the failure to submit the initial report to the UN Committee Against Torture shows.

The instable political situation aggravates the possibility to effectively eradicate torture. The violent repression and crackdowns on civil society and the opposition make it difficult to voice dissent.

Against this complicated backdrop, the eradication of torture in Bangladesh should be envisaged through the following ten step anti-torture and rule of law agenda. For the reform to be effective and efficient, these measures should be adopted holistically.

a. Ten step anti-torture and rule of law agenda for Bangladesh

1 - The government should **officially recognize torture** as a widespread and systemic issue in Bangladesh, its far-reaching effects on the society, and its illegality both in national and international law – this should be done through an official statement/communiqué by the highest political level.

2 – The government should make a thorough audit of the dysfunctionality of the rule of law in Bangladesh in general and the occurrence of torture in particular, mapping institutional issues with a focus on the judiciary and law enforcement agencies. This should be done by **setting up a joint national/international committee to assess systemic failures** in the law enforcement and judiciary system and to subsequently issue recommendations on how to eradicate torture in Bangladesh. The committee should be composed of highly qualified members of high moral character, impartiality and integrity and it should be gender balanced.

3 – The government should take the following measures to start **turning the Bangladeshi police force into a police service** for the Bangladeshi people:

- Introduce changes in law and subsequently in practice of corroborating the proof of confessions with other investigatory means and evidences - reducing the status of confession as the gold standard of evidence;
- Effectively implement legislation specifying police functions and powers, the legislation should be translated into practical instructions to the police;
- A specific user-friendly instruction card detailing guidelines for arrest, remand, and detention according to the decision of *BLAST v. Bangladesh* should be distributed to all police officers. It should be mandatory for them to carry the card and follow the instructions at all times while being on duty;
- Establish a civilian police oversight mechanism– identifying, punishing and ensuring accountability, this involves feedback for future structural improvements. It should also be possible to make complaints directly to the police;
- Repeal the “good faith” clause in the Armed Police Battalion (Amendment) Act 2003 that is a de facto immunity clause;

- Amend the Police Act and Metropolitan Police Ordinances to make them compliant with the Torture and Custodial Death (Prevention) Act 2013 and the Convention against Torture.
- Establish an internal accountability mechanism monitoring the efficiency of the chain of command, including a reporting and disciplinary system to ensure that no member of the police enjoy impunity or immunity;
- Make sure that all allegations of torture and excessive use of force are investigated and that the alleged perpetrators are immediately suspended from duty;
- Provide adequate equipment for police investigation, such as modern forensic means;
- Provide training in human rights and the use of force and firearms at the police academy but also throughout the police officers' careers;
- Ensure that police officers are provided with adequate remuneration;
- Establish a working culture of transparency and trust in the police service;

4 – The State should **depoliticize the Judiciary**, by:

- Ensuring that the appointment of judges at all court levels is independent and that the selection and appointment process is decided taking into account inputs from representatives of the legal profession, the judiciary, legislature and executive branches and lay persons; the process must be transparent and open to scrutiny by the public. The undue influence of the Ministry of Justice in the appointment of judges should be countered;
- Pass a law for the appointment of Judges at the Supreme Court level, containing criteria and uneligibility and other checks and balances.
- Investigations should automatically be opened by the Magistrates when there is a complaint or suspicion of torture, even in the absence of a formal complaint, and carried out promptly, impartially and effectively;
- Ensure that Magistrates record torture allegations duly, order forensic medical examination, take all necessary steps to ensure that allegations are fully investigated, and protect detainees and accused from torture by not sending them back to the police station where they were allegedly tortured as a first step. If this procedure is not followed, the Magistrate in question should be subject to investigation;
- Selection and appointment of all personnel serving in the judiciary should respect the principle of non-discrimination, ensure gender balance, require adequate educational and professional background and respect of ethical duties of the specific profession; Adequate training should be offered to the personnel of the judiciary, in particular on the Torture and Custodial Death (Prevention) Act and the international standards in relation to the prohibition of torture;
- The personnel of the judiciary should be protected from intimidation, harassment and improper interference;
- The posting, promotion and transfer of judges and prosecutors should be based on objective factors;
The judiciary should be monitored by an oversight mechanism based on law, complaints shall be processed promptly and fairly. All disciplinary actions should be foreseen in and conducted according to established standards of judicial conduct;
- Judges and prosecutors should receive adequate remuneration and guaranteed tenure until retirement or expire of the term of office;
- Provisions applied, and actions undertaken to protect security and fight violent extremism must at all times respect national and international human rights standards; Abolish the death penalty.

5 – Improve the **capacity of the National Human Rights Commission (NHRC)**

- The mandate of the National Human Rights Commission should be broadened to encompass alleged human rights violations involving State actors such as the police, the military and the security forces;
- The selection committee for choosing commissioners of the NHRC should be changed and reflect the plurality of society according to the Paris principles. The NHRC should be composed of representatives of non-governmental organizations, trends in philosophical or religious thought, universities and qualified experts and parliament. The government representatives participating should only serve in an advisory capacity;
- The financial and human resources of the NHRC should be increased;
- The NHRC should improve the transparency in their communications to the public, in particular on the outcomes of torture complaints;
- Foster a working culture cognizant of the effects of torture and the lack of rule of law on the citizens and the society at large.

6 – Ensure adequate redress and reparation for victims of torture

- Adopt a victim centered approach in the fight against torture by recognizing of victims needs and their protection in the justice chain.
- Establish an international independent commission of inquiry to investigate all cases of torture, disappearances, custodial deaths and extrajudicial killings; the commission should be mandated to recommend cases for prosecution;
- Ensure that the victims are granted restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition, according to the principles outlined in CAT General Comment 3 and the UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law;
- The torture victims' participation in any proceedings related to the abuse should be guaranteed;
- Torture victims' possibilities to present complaints should be facilitated by providing free legal aid or other assistance needed;
- Victims should play a key part in the design and implementation of all redress measures;
- All investigations pertaining to torture and sexual violence should be gender-sensitive and take due consideration to the particular vulnerabilities of these crimes;
- The State should provide legislative and factual protection to victims, their families and witnesses from reprisals, intimidation and retaliation.

7–Engage in fighting corruption in Bangladesh with a specific focus on law enforcement and the judiciary:

- Conduct a mapping of loop-holes in Bagladeshi legislation encouraging corrupt practices and map informal practices of corruption in the law enforcement and the judiciary – such as extortion, active and passive bribery – and propose and enact revised legislation accordingly. A specific part of the mapping should concentrate on corruption in Magistrate courts;
- Draw up an anti-corruption strategy on the basis of the mapping's findings with an attached monitoring system that should be conducted periodically, civil society should be engaged in the monitoring;
- Enable the National Human Rights Commission to review complaints of corruption, including anonymous complaints, ensure the speedy follow-up of the complaints;
- Draw up codes of ethics for the law enforcement and the judiciary, in full cooperation with representatives of the respective profession;
- Ensure the free access to information about corruption in Bangladesh, including all the above-mentioned documents (anti-corruption legislation, mapping of corruption, anti-corruption strategy, NHRC's work on anti-corruption and codes of ethics).

8–Ensure detainees' rights in detention and police remand

- Enforce the strict respect of the lawful 24 hours remand prior to the presentation in front of the Magistrate and ensure the respect of access to counsel;
- Ensure that the detainees' families are informed about the time and place of arrest and detention within one hour and eradicate the use of secret detention;
- Amend the Code of Criminal Procedure and the Penal Code as laid down in the *BLAST v. Bangladesh* ruling, and enforce the BLAST safeguards securing detainees' rights during arrest, remand and detention;
- The National Human Rights Commission should conduct unannounced monitoring visits to all places of detention, including remand, together with experts and civil society representatives;
- Work to counter the overcrowding, unsanitary conditions, extortion of inmates and to improve medical facilities in detention centers in Bangladesh;
- Detention centers should dispose of an internal complaint mechanism;
- Ratify the Optional Protocol to the Convention against Torture.

9–Create an enabling environment for citizens and civil society in Bangladesh to foster a constructive public dialogue about torture and rule of law, through, but not limited to:

- Repeal the following laws: the Digital Security Act 2018, Foreign Donation (Voluntary Activities) Regulation Act 2016, the Information and Communication Technology Act 2006, Special Powers Act of 1974, and the Anti-Terrorism Act of 2009;
- Encourage civil society and media participation in monitoring torture and rule of law in Bangladesh;
- Ensure that elections are held in a free and fair manner, under a non-partisan caretaker government and allow independent international monitoring missions to observe the electoral process.

10–Bangladesh should re-commit to its international obligations:

- Submit the overdue report to the Committee against Torture and ratify the Optional Protocol to the Convention against Torture;
- Recognize the competence of the Committee Against Torture to receive and consider individual complaints of torture or other breaches of obligations under the convention.
- Implement the recommendations of the UN Human Rights Committee and the Universal Periodic Review;
- Respect and disseminate information about the UN Manual on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions (the Minnesota Protocol); the UN Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Protocol); the UN Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules); The UN Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules).

b. Recommendations to the international community

To counter the systemic use of torture in Bangladesh, the international community should:

- Publicly acknowledge the systemic occurrence of torture in Bangladesh;
- Vet all Bangladeshi military and police personnel applying to UN peacekeeping missions making sure that they have not been involved in any human right violation;
- Support civil society in Bangladesh in their fight against torture and impunity.
- Continue to regularly address and highlight the human rights violations and concerns, including torture and impunity, through international mechanisms, including the Universal Periodic Review.

- Relevant UN Special Procedures mandate holders must monitor and report to the UN Human Rights Council on the human rights situation of Bangladesh – as should the office of the High Commissioner for Human Rights.

IX. Appendice

“Reported deaths due to torture as compiled by Odhikar¹”

2009-2017

YEAR	CASE NUMBER	NAME AND AGE OF VICTIM	OCCUPATION /PROFESSION OF VICTIM (INC. ANY POLITICAL AFFILIATION)	LOCATION OF INCIDENT	PERPETRA TOR	DESCRIPTION	DATE	
							OF INCIDENT	WHEN PUBLISHED (WITH SOURCE)
2009 January	1	Nowab Ali	Labourer	Sarail, Brahmanbaria	Police	Police claimed that he jumped into the river in fear and his body was recovered after two days; but his family claimed that he was tortured to death and thrown in the river.	11.01.09	Amar Desh 15.01.2009, Odhikar’s Fact-finding
	2	Habibur Rahman (18)	A petty trader	Chandgaon, Chittagong	Police	He was severely beaten in police custody and sent to court. When he fell ill in the court custody cell, he was taken to the hospital where the doctor declared him dead.	28.01.09	Manabzamin 29.01.2009, Odhikar Fact-finding
	3	Shagor	A youth	Bhoirob, Kishoreganj	Police	He was tortured severely under custody of Bhoirob Railway Station by OC Shohidullah.	29.01.09	Ittefaq 06.02.2009
2009 March	4	Mobarok Hossain (36)	BDR Lance Nayek of 14 Rifles Battalion	RAB custody, Dhaka	RAB	He was working in Cox’s Bazar at the 14 BDR Battalion. He came to Dhaka to join BDR week. After the BDR mutiny he fled from the BDR headquarters and on 1 March, he came for reporting. He was brought to RAB custody for interrogation. His family claimed that he was tortured in RAB custody which caused his death. In the inquest report it was said that Mobarak’s hands and body were bruised.	22.03.09	Amader Samoy 23.03.2009 Fact finding report of Odhikar
2009 April	5	Dulal Sarder (38)	Inhabitant of Shahjadpur Upazila	Reshombari, Sirajganj	Police	His family claimed that police forcibly took him from the hospital and tortured him.	20.04.09	Shamakal, 22.04.2009
	6	Kazi Saidur Rahman	Habilder, 13 Rifles Battallion	Pilkhana, BDR HQ, Dhaka	BDR	It is stated that he was in the Pilkhana BDR Headquarters and died there. Marks of injuries were found on different parts of his body.	16.04.09	Jugantor, 17.04.2009

¹ The information contained in this table is based on incidents of torture that Odhikar investigated after getting reports from its local level human rights defenders. It is also based on reports of torture from 12 daily newspapers, which were cross-checked and verified with Odhikar’s local level human rights defenders in the areas where the reported incidents occurred.

2009 May	7	Mohiuddin (46)	Habilder, 28 Rifles battallion	Dhaka Medical College Hospital, Dhaka	BDR	BDR authority said that he committed suicide. However his family claimed that he was tortured to death while in BDR custody.	05.05.09	Prothom Alo, 06.05.2009
	8	Zakir Hossain Bhuiyan	Habilder Assistant of the 19th Battalion	Shainik Lines in Feni	BDR	BDR authority said that he committed suicide; however, his family claimed that he was tortured to death while in BDR custody.	26.05.09	Naya Diganta, 27.05.2009
2009 June	9	Hamid	Farmer	Nilphamary	Police	He was kicked and punched to death by ASI Harun Ur Rashid of DSB Police and two others. The locals grabbed him and handed him over to the OC of Dimla Police Station. They tortured him for money. ASI Harun was suspended.	16.06.09	Naya Diganta 17.06.2009
	10	Mozammel Hossain (35)	Alleged Criminal	Bogra	Police	He was an accused of murder and was arrested on 06.06.09. He was found hanged in the bathroom of the police cell. His family claimed that he died due to torture.	16.06.09	Naya Diganta 17.06.2009
2009 September	11	Arabinda Mandol (45)	BNP leader	Rupsha, Khulna	Police	He was allegedly beaten to death though police claimed that he died of cardiac arrest while fleeing his home to escape arrest.	18.09.09	The Daily Star 19.09.2009
	12	Amzad Hossain	Havilder of 19 Rifles Battallion of Comilla	Comilla	BDR	BDR Authority claimed he died due to brain hemorrhage, however a relative of Amzad Hossain said that he was interrogated after BDR mutiny and tortured severely.	22.09.09	JaiJai Din, 24.09.2009
	13	Aslam Byapari (35)	An under-trial prisoner at Faridpur Jail	Faridpur	Jail Authority	According to Aslam's mother, he was tortured to death in jail while the jail authority claimed that he was moved to hospital when he felt heart problems and died there.	25.09.09	Prothom Alo 26.09.2009
	14	Abul Kalam Azad alias Rana (40)	C & F Agent	Uttara, Dhaka	RAB	Kalam's wife alleged that he was beaten to death in RAB custody while RAB stated that he fell ill after arrest and was moved to a hospital from where he was shifted to another hospital when his condition worsened and was declared dead by the doctor.	25.09.09	Jugantor 26.09.2009
	15	Obaidullah	Accused	Godagari, Rajshahi	Police	He was arrested as an accused in a case filed in connection with the death of a CID constable, who was injured in an altercation over land and later died in hospital. Obaidullah's family alleged that he was tortured in custody, which caused his death.	25.09.09	Manab Zamin 27.09.2009
2009 October	16	Lilu Mia	Allged Dacoit	Habigonj	Police	After arrest he was interrogated at the jail gate on 10 October and died. His family claimed he died due to torture. Bruises and clotted blood were found on his body.	10.10.09	Manabzamin, 12.10.2009
	17	Babul Mia	Alleged drug dealer	Noakhali	Police	Police said that he died as a result of drinking excessive amounts of alcohol. However, his wife claimed that he was tortured to death by police.	17.10.09	Jai Jai Din, 19.10.2009
2009 November	18	Nuruzzaman	An accused with warrant	Pirgachha police station, Rangpur	Police	It was reported that he was arrested by Sub Inspector Nazrul of Pirgaccha Police Station and brought to the police station where he was brutally tortured. He died within half an hour after he was brought to the police station.	05.11.09	Jugantor, 06.11.2009

	19	Saidul alias Saidul Sarder (23)	Alleged Criminal	Mohammadpur police station	RAB	Saidul's family claimed that he was arrested and beaten severely by RAB and RAB broke his legs and took him to an unknown place and gunned him down. However, police said he was injured in crossfire with RAB and brought to the hospital where he died.	02.11.09	Jajjaidin, 06.11.2009
	20	Zakir (30)	A young man	Patharghata, Borguna	Coast Guard	He was beaten to death by the coast guard.	06.11.09	Naya Diganta, 08.11.2009
	21	Ilias Hossain Mamun (38)	Member of Purbo Bangladesh Communist Party (Jonojuddho)	Gangni, Meherpur Kushtia	Police	Police claim he was killed in a shoot out. However, at a press conference on 15 November, his family stated that the police detained him for 11 days and demanded money from them. They believe he was killed because they could not pay.	15.11.09	The Daily Star 16.11.09
2009 December	22	Rezaul Karim (45)	Havilder of Pilkhana 44 Rifles Battalion	Dhaka	BDR	The victim told his nephew before his death that during interrogation he was severely tortured.	11.12.09	New Age, 12.12.09
2010 January	23	Aminul Islam Mintu	President, Ramna unit of JASAS, a cultural associate body of BNP	Ramna, Dhaka	Police	He was allegedly arrested on January 25, 2010 and died on January 28, three days after he was arrested from torture in custody.	28.01.10	Amar Desh 29.01.2010
2010 February	24	Mohiuddin Arif (29)	An employee of Apollo Hospital	Dhaka	RAB	An employee of Apollo Hospital, who was detained in prison as a suspect in two robberies, was allegedly tortured to death by RAB. However, RAB denied the allegation of torturing Mohiuddin Arif. Executive Magistrate in the investigative report said that marks of torture were found on different parts of his body.	03.02.10	The Daily Star, 05.02.2010
	25	Manik Mia alias Lutfor (38)	A youth	Keraniganj model police Station	Police	He was allegedly tortured to death in custody but police said he committed suicide. A murder case was filed against the Officer-in-Charge Asaduzzama, SI Zahidur Rahman and Assistant Sub Inspector Harun- Ur Rashid.	08.02.10	The Daily Star, 09.02.2010
2010 May	26	Mujibur Rahman	A youth	Ganikandi village of Kanaighat of Sylhet	Police	Mujibur's mother said that he was tortured to death while in custody.	11.05.10	New Age, 12.10.2010
	27	Md. Manik (32)	Night guard	Kotowali, Chittagong	Police	His sister Jotsna Begum claimed that he died due to torture by Police.	11.05.10	Amar Desh 12.05.2010

	28	Rabiul Islam Khokon	Alleged dacoit	Chatkhil, Noakhali	Police	Rabiul allegedly died from torture. The Sub Inspector was sent to jail in this connection. A Suo Moto rule was issued by the High Court seeking why the police would not be punished as per the Penal Code (Jugantor, 5.8.10).There was an unnecessary delay in submitting the charge sheet against the accused by Investigation officer ASI Mizanur Rahman.	13.05.10	Shamakal, 14.05.2010/ Odhikar Fact Finding
	29	Shamsu Mia (47)	Driver	Jatrabari, Dhaka	Police	He was arrested on May 09 and his family claimed that he was severely tortured by police, sent to jail and later died in the hospital.	17.05.10	Prothom Alo, 19.05.2010
	30	Abul Kalam Azad (44)	A businessman	Dhaka	RAB	Family claimed he was picked up by RAB-1 and tortured to death and also RAB told them not to disclose this incident. RAB said he died of a 'heart attack'.	24.05.10	Amar Desh, 26.05.2010
2010 June	31	Babul Gazi (40)	Driver of an auto rikshaw	Moghbazar, Dhaka	Police	The police said he ran from police custody and fell on the street and died, but his family alleged that RAB seized two auto-rickshaws from Babul and demanded 200,000 taka but he could only pay 70,000 Taka and refused to give the rest of the money, whereupon he was beaten to death.	29.06.10	The Daily Star, 30.06.2010
2010 July	32	Majibar Hossain (45)	Transport worker	Darussalam police custody, Dhaka	Police	According to the family of the deceased, when he was returning home with his 11-year-old son Iqbal, four policemen, including two sub inspectors, handcuffed him and took him on a boat. They also tied his throat with a rope and beat him with rifle butts in front of his son. His body was later found floating in the river.	01.07.10	The Daily Star, 03.07.2010; Prothom Alo, 03.07.2010
	33	Nurul Haq (45)	Rikshawpuller	Nabinagar, Brahmanbaria	Police	His family alleged that he was taken into police custody and beaten severely which caused his death in the hospital, within 24 hours of his arrest.	11.07.10	Manabzamin, 12.07.2010
	34	Shahadat Hossain	Mason	Sherpur	Police	His family alleged that he was picked up by police and tortured to death while under their custody.	22.07.10	Naya Diganta, 24.07.2010
2010 August	35	Mokhlesur Rahhman	Sweeper	Gosairhat, Shariatpur	Police	Police claimed that Mokhlesur Rahman committed suicide, but his family alleged that he was tortured to death in police custody. NHRC issued a letter to the DC of Shariatpur to explain the reason behind the death.	31.08.10	The Daily Star, 02.09.2010
2010 September	36	Dipak Das (45)	Drug dealer	Narayangonj District Jail	Police	Dipak's wife said that as he was unable to pay the bribe of 30,000 Taka, he was tortured to death. However, the Officer-in-Charge of Araihasar Police Station denied the allegation of torture.	25.09.10	Prothom Alo, 28.09.2010
	37	Mohammad Idris (35)	Rikshawpuller	Chittagong Central Jail	Police	His mother alleged that he was killed for stealing an energy-saving lightbulb. The police denied causing his death.	25.09.10	New Age, 28.09.2010
2010 November	38	Imran Hossain Bappi	A detainee in police custody	Kotwali Police Station, Jessore	Police	Police claimed that Bappi committed suicide; however his father alleged that the police beat him to death.	20.11.10	New Age, 22.11.2010
	39	Nazmul Gazi	A plaintiff of a case related to war crimes on 1971	Satkhira Police Station	Police	As Nazmul Gazi filed a case against the war criminals Maulana Abdul Khalek of Jamaat and nine others, he was confined in the lock up by police following the order of Officer in Charge (OC) Shahajahan Ali Khan and severely tortured. Nazmul Gazi's father was killed by Khalek and his gang in the liberation war 1971.	24.11.10	Samakal, 26.11.2010

	40	Sharif (40)	A textile mill worker	Narsingdi	Police	Police said a lynch mob killed him, however his father claimed that he was arrested by police and beaten to death in police lock up.	9.11.10	New Age, 15.11.10
	41	Siraj Mia	Youth	Narsingdi	Police	He was allegedly tortured to death by police.	30.11.10	Jugantor, 01.12.2010
	42	Sagor (17)	A detainee in police custody	Jatrabari Police Station, Dhaka	Police	Sagor's brother Nurul Islam said that the police had picked up Sagor, along with four others, during the pre-hartal mass arrest. The police tortured Sagor in remand as his family failed to pay 50,000 Taka to SI Shahin. His family claimed that severe torture in custody caused his death.	25.11.10	The Daily Star03.12.2010
2010 December	43	Azizul	A youth	Damurhuda, Chuadanga	Police	His wife claimed that the police arrested Azizul on 14.12.2010 for allegedly stealing rice. The police freed him on the 15 th after severe torture. Azizul was taken to the hospital and died on the18 th . His wife claimed that her husband died due to torture by the police and marks of injuries were found on his body.	18.12.10	Manabzamin 19.12.2010
2011 February	44	Md.Hasan Ali (40)	Kidnapper	Faridpur Police Station, Pabna	Police	On 01.02.11 Hasan kidnapped a 5-year child and demanded ransom money from the child's father, however locals caught Hasan and handed him over to the police. Hasan was later found dead on the night of 14.2.11. SP Jahangir Hossain said they were unsure of how Hasan died. He also said a rope was found nearby, which indicated he may have strangled himself. Hasan's father Ansar Ali claimed that the police tortured his son to death. He said his son's health was in good condition when the police took him to the station. Duty officer SI Md Akhter Hossain and constable Golam Mostafa were temporaryily suspended.	14.2.11	Daily Star and Kaler Kantho 16.02.11 Follow up: Daily Star 22.02.2011
2011 March	45	Rekha Begum (25)	Convicted prisoner	Lalmonirhat District Jail	Jail Authority	The victim's family alleged that Rekha was tortured to death by the jail authorities. Jailer Nazrul Islam claimed that she had died of a heart attack in the jail hospital.	11.03.11	Daily Star 12.03.2011
	46	Faisal Ahmed alias Roni (40)	Mugger	Dhanmondi, Dhaka	Police	Faisal was arrested on suspicion of being a mugger. It is alleged that he died due to torture in police custody. Refuting the allegation, police said Faisal succumbed to his injuries from a mob beating during the arrest from Dhanmondi area. The hospital morgue sources said the body bore several marks of injury.	16.03.11	Daily Star and New Age 17.03.2011
	47	Faruk Miah (32)	Undertrial Prisoner	Narayanganj District Jail	Police	District Jail Super said police arrested Faruk in a drug case on March 22, 2011. The court sent him to jail on March 25 when he was produced before it after two days of remand in custody. Faruk's wife Selina Begum claimed that her husband died due to torture when the police took him on remand. Jailer Dewan Tarikul Islam said Faruk was rushed to the hospital as he felt severe pain in his chest. On his arrival, the attending doctor declared him dead.	26.03.11	Prothom Alo 27.03.11 and Daily Star 28.03.2011
2011 April	48	Moniruzzaman Rubel (27)	Medicine trader	Tangail Sadar Model Police Station	Police	Rubel died in police custody, allegedly due to heavy beatings during interrogation. SI Mosharaf Hossain and ASI Sajahan Miah were arrested	21.04.11	Daily Star 22.04.2011 New Age 23.04.2011
	49	Shafiqul Islam Raja (22)	An employee of a cloth store	DMCH, Dhaka	Police	Raja died in jail custody during treatment at Dhaka Medical College Hospital. Raja's family members alleged that he died due to torture in police custody. His family said Raja had a feud over land with his maternal uncles. They bribed the police to detain Raja. Family members also claimed that the police picked him up before filing a case and then showed him arrested in a pending murder case.	23.04.11	Daily Star and Prothom Alo 24.04.2011

2011 May	50	Akida Khatun alias Begum (40)	Drug dealer	Monirampur Police Station, Jessore	Police	Police arrested Begum on 2 May 2011. Her mother claimed that the police tortured her and forcibly put some drugs into her mouth. Later police admitted her to Jessore hospital, where she died on May 3rd.	03.05.11	Samakal 4.5.11 / Fact Finding report of Odhikar
	51	Nayeem Mia (18)	Mugger	Sibpur Police Station, Narshingdi	Police	The police claim that Nayeem died due to a mob beating but Nayeem's brother says otherwise and that his brother died in police custody from torture.	08.05.11	Kaler Kantho 09.05.2011 / Odhikar Fact Finding
	52	Abdullah Al Mamun (30)	Veterinary surgeon	Dhaka	Police	On 28.5.11, Mamun's family alleged that Mamun had been tortured to death in DB police custody as the body had multiple marks of injury. Family members of the victim alleged that the Mamun's father-in-law's family used the DB police to kill him. The DB police said Mamun had been arrested for possession of drugs, following information gathered by the DB branch and claimed that Mamun had committed suicide.	27.05.11	New Age, Prothom Alo, and Daily Star 28.05.11 and 29.05.11
	53	Md. Hamid Ali Khorshed (35)	Under trial prisoner	Naokhali District Jail	Police	Police arrested Hamid on 18 May 2011, as there was allegation of drug and theft cases against him. The court sent him to jail on May 19 May. Jailer of Naokhali jail, Mahabubul Alam, said, Hamid was rushed to the hospital as he felt sick on 26 May, where the attending doctor declared him dead. Hamid's family claimed that Hamid died due to torture by the police. The police denied the allegation.	26.05.11	Nayadiganto 29.05.2011 and Jajai Din 28.05.2011
2011 August	54	Lutfur Rahman Ripon (32)	Plaintiff of dacoit case	Rangpur	Police	Lutfur's family claimed that he died due to torture in police custody. His wife said that on 14.8.11 at about 10 pm, SI Ahsan Habib called Lutfur as he was missing late at night. On 15.8.11, Lutfur's dead body was found hanging from an electric pole.	14.08.11	Naya Diganta 16.08.2011
	55	Advocate MU Ahmed	Former Deputy Attorney General	Ramna DB office, Dhaka	Police	MU Ahmed died on 26.8.11, sixteen days after he suffered a heart attack in police custody. His wife Selina said DB police arrested him on 11.08.2011 for allegations of assaulting the police and obstructing them from discharging their duties at the Supreme Court premises on August 2 and 4, 2011. Selina claimed that DB police tortured him and tied him up with a rope and later gave him electric shocks. MU Ahmed's wife lodged a complaint with the Ramna Police Station.	11.08.11-26.08.11	Amar Desh 12.08.2011 and Daily Star 27.08.2011
2011 September	56	Manwar Hossain Monir (28)	Member Secretary of the Sylhet city unit Jatiya Juba Sanghati (JP-Manzu)	Sylhet	RAB	Monir's family alleged that Monir was tortured to death by the RAB. He succumbed to his injuries while undergoing treatment in police custody at Sylhet MAG Osmani Medical College Hospital. RAB denied the allegation.	24.09.11	Daily Star and Prothom Alo 25.09.2011
	57	Nazrul Islam Panchayet (50)	A man	Bagerhat	Police	Nazrul's family claim that his younger brother Sofrul Islam's wife Safayera Begum lodged a complaint with Rampal Police Station against Sofrul and that the police went to his house on 24.9.11. Unable to find Sofrul at home, the police took Nazrul to the police station and beat him there severely. Denying allegations of torturing Nazrul, the OC Shahidul Islam said, Nazrul Islam was injured in road accident and local people took him to Jhanjhan Health Complex.	24.09.11	Daily Star and Prothom Alo 26.09.2011

	58	Zakir Hossain Poran (33)	Prisoner	Naokhali District Jail	Jail Authority	The police arrested Zakir on 07.09.2011 and a mobile court sentenced him to seven days imprisonment. Zakir's family claimed that Zakir was tortured to death by jail police.	26.09.11	Amar Desh 28.09.2011
2011 November	59	Md. Roman (27)	Shopkeeper	Keraniganj, Dhaka	Police	Roman's wife claimed that DB police took him from his shop on 29 October 2011 and beat him. DB police demanded 5,00,000 Taka as extortion money. Roman's father claimed that DB police tortured his son to death.	05.11.11	Kaler Kantho and Samakal 10.11.2011
2011 December	60	Diplal Robi Das (45)	Detainee	Tahirpur Police Station, Sunamganj	Police	Diplal's family claimed that he was tortured to death in the police custody while police said that he committed suicide.	29.11.11	Daily Star 01.12.2011
2012 February	61	Ibrahim Hossain (35)	Convicted prisoner	Natore District Jail	Jail Authority	Ibrahim's father Abdur Rahman alleged that his son might have died of torture in the jail as he saw some blood on his head and in his nose. Refuting the allegation, Jail Superintendent of Natore said Ibrahim felt severe chest pain on 18.2.12. He was taken to Natore Sadar Hospital where his situation deteriorated. He was shifted to Rajshahi Medical College and Hospital, where duty doctors declared him dead.	18.02.12	Daily Star 22.02.2012 and Kaler Kantho 20.02.2012
	62	Faruk Hossain alias Kamal (37)	Businessman	Kafrul, Dhaka	Police	Faruk's sister said some plainclothed police led by SI Nuruzzaman arrested him from a tea stall in front of his house on 19.2.12. He was later sent to Dhaka Central Jail. She alleged that Faruk died due to torture in the custody of Kafrul Police Station.	28.02.12	Amar Desh and Samakal 29.02.2012
2012 March	63	Abdur Rahim Sheikh (50)	Fish Trader	Badarganj Police Station, Rangpur	Police	Abdur Rahim Sheikh was arrested on drug related charges on the 29th of February. He was produced before the mobile Court on 1.3.2012 in the upazila and the court sentenced him to one year in jail. He was taken to Rangpur Medical College and Hospital as he fell sick on 02.03.2012. His family alleged that he died from the torture he received in custody at the police station.	02.03.12	New Age 04.03.2012
2012 April	64	Shahed Miah (30)	Businessman	Bramanbariya	BGB	Shahed was tortured by the BGB (Border Guard Bangladesh). The BGB had taken him to the Transit camp and beaten him. As a result, he suffered for 4 months and then died on 30.04.2012.	30.04.12	Manabjamin 01.05.2012
2012 June	65	Abdul Malik (26)	A youth	Jokiganj Police Station, Sylhet	Police	Abdul Malik was tortured in Jokiganj Police Station on the night of June 12, 2012. On June 13, 2012 he was produced before the Court under section 54 of the Cr. PC. On June 18, 2012. The Court granted bail and he was rreleased. Later he became very sick due to torture. He died on June 23, 2012. A case was filed in the Court, as police did not record the case in the Police Station. Ittefaq, 28.06.2012.	23.06.12	Manab Zamin and Ittefaq 25.06.2012
2012 August	66	Mohammad Bhikhu (27)	Youth	Chapainawabganj Sadar Police Station	Police	An accused of a drug case died at Adhunik Sadar Hospital in Chapainababganj on August 25, 2012. Golam Mortuza, the Officer in-Charge (OC) of Sadar Police Station said a police team arrested Bhikhu from the PTI area on charges of taking drugs on August 24, 2012 at around 8.00 pm. His family alleged that Bhikhu was tortured at Chapainawabganj Sadar Police Station and as a result he died.	25.08.12	Daily Star 26.08.2012

2012 December	67	Ershad Ali (32)	Activist of BNP	Joypurhat Jail Hospital	Police	On November 12, 2012 police of Joypurhat Sadar Police Station arrested Ershad without any case. The Police demanded 10,000 Taka from Ershad and tortured him. He was pressed to the wall and as a result he felt chest pain and was also beaten on his legs and abdomen. He died at the Joypurhat Jail Hospital.	10.12.12	Jaijaidin 11.12.2012 and Odhikar
2013 February	68	Abdul Khaliq (36)	Vegetable trader	Sylhet M A G Osmani Medical College Hospital	Police	Abdul Khaliq was allegedly tortured to death by the Detective Branch of Police. The police arrested him with 10 bottles of Phensydil (a contraband cough syrup) in front of Hotel Samon at Kasttoghor. After his arrest, police took him to the Ibne Sina Hospital. 30 minutes later, police took Abdul Khaliq to the Sylhet M A G Osmani Medical College Hospital, where the doctors declared him dead.	19.02.13	Odhikar 25.02.2013 and New Age 23.02.2013
2013 May	69	Iqbal Hossain alias Maruf (25)	Petty Trader	RAB-12 Office, Kushtia	RAB	Company Commander Mosaddek Ibne Mujib along with his force raided a graveyard and arrested Iqbal Hossain for disorderly conduct. RAB officials took him to the RAB camp where they interrogated him and finally took him to Sadar Hospital Kushtia, where the duty doctors declared him dead. The Doctor also mentioned that there were several wounds on his body. His family claimed that RAB officials tortured him to death.	02.05.13	Prothom-alo and Samakal 04.05.2013
	70	Nazimuddin	Secretary of Youth Wing of BNP	Arsadnagar, Tongi, Dhaka	Police	On May 21, 2013 Tongi Police ran an arrest operation. During that operation the police beat Nazimuddin and threw him from the police van, whereupon he died.	21.05.13	Inqulab 24.05.2013
	71	Shamim Reza	Businessman	OC ArupTarafdar' s quarter, Sonargaon, Narayanganj	Police	Shamim Reza was arrested based on allegations for the involvement in a murder case. He was kept on the rooftop of the police residential quarter and tortured by the OC (Investigation) Arup Tarafdar and OC Atiqur Islam of Sonargaon Police Station. His family claimed that Shamim was tortured to death as the family failed to pay the money demanded by the police. Narayanganj ASP and two other police officers were withdrawn on May 26, 2013	22.05.13	Prothom-alo and Odhikar fact finding 24.05.2013
2013 June	72	Shamim Sarker (30)	Land Broker	Tannery Industry Police Barracks, Hemayetpur, Savar. Dhaka	Police	Police from Savar Police Station arrested Shamim and took him to the Tannery Industry Police Barracks. Sub-Inspector Imdad and ASI Akidul demand 500,000 taka from him. The police tortured him and when he died they took his body to the Mitford Hospital and left it there.	05.06.13	Jugantor 07.06.2013
	73	Waris Ali (45)	Fisherman	Chhatak Police Station, Sylhet.	Police	Ansar members (local police) of Chhatak Paper Mills caught Waris Ali red handedly stealing fish from a pond at the mill. After beating him they handed him over to police. Police took Waris in a critical condition to Osmani Medical College, where the duty doctors declared him dead.	11.06.13	Daily Star / Ittefaq 14.06.2013
	74	Hasmot Ali Bhutto (35)	Not reported	Rajshahi Central Jail	Police	SI Selim from Bagha Police Station arrested Hasmot Ali for taking drugs and tortured him at the police station. When he was sent to jail, he fell ill and died. When his body was returned to his family, they saw several marks of injuries on his body.	30.06.13	Naya Diganta 05.07.2013

2013 September	75	Saiful Islam Mithu (30)	Final year student of Accountings at Tejgaon College	Shahjahanpur Police Station, Dhaka	Police	Police detained Saiful Ahmed Mithu on September 4, 2013 and took him to the Shahjahanpur Police Station. His family claimed that he was tortured there and died. However, the Police claimed that he died from a stroke at Dhaka medical College Hospital.	04.09.13	Kaler Kantha 06.09.2013
	76	Mohammad Boshir	Not reported	Munshiganj Sadar Police Station	Police	Sub-Inspector Selim of Munshiganj Sadar Police Station tortured Boshir and as a result he died.	06.09.13	Ittefaq 07.09.2013
2013 October	77	Azhar Uddin (55)	Farmer	Nalitabari Police Station, Sherpur	Police	Police of Nalitabari Police Station arrested Azhar on July 24, suspecting him to be involved in a murder case. He was taken into remand and kept in Nalitabari Police Station, where he was reportedly given electric shocks. His family alleged that he was tortured to death in police custody.	12.10.13	Inqilab 19.10.2013 and Fact Finding Report of Odhikar
2013 November	78	Zakir Sadik (22)	Not reported	Doulotpur Police Station, Kushtia	Police	ASI Masudur Rahman, Officer in charge of Tekala Police Camp under Doulotpur Police Station of Kushtia, arrested Zakir Sadik from his home and took him to the Doulotpur Police Station on 13 November 2013. At about 11:00 pm on that same day, his family was informed that he had died. The family claimed that Zakir Sadik died in police custody as a result of torture.	13.11.13	Human Rights Defender of Odhikar from Kushtia November 2013
2014 February	79	Mohsin Miah	Alleged Robber	Shibpur Police Station, Norsingdi	Police	Mohsin's father and mother said that Mohsin was taken to Shibpur Police Station and police demanded 40 thousand taka. As they were unable to pay, the police killed him. After Mohsin was killed the police tried to make it look like a case of suicide.	03.02.14	Kaler Kantha 04.02.2014
	80	Jony	Youth	Pallabi Police Station, Mirpur, Dhaka	Police	Police arrested Jony, Rocky, Faisal, Rajon and Titu from a marriage party. The police took them to Pallabi Police Station where SI Zahid and other policemen beat Jony, Rocky and Faisal. Rajon and Titu were later released. As the level of torture increased Jony died the next morning. Rocky and Faisal were sent to hospital.	09.02.14	Ittefaq 10.02.2014 and Manabzamin 13.02.2014
2014 March	81	Shah Alam	Journalist of Aparadh Daman Newspaper	Uttara West Police Station, Uttara, Dhaka	Police	There was a conflict between journalist Shah Alam and Basir Uddin, who was a Lecturer of Trust College, Uttara. The police of Uttara Police Station arranged a meeting between them to solve the problem on the request of Basir Uddin. Shah Alam was forced to come to the police station. His body was later found in the police station complex. The police claimed that he had committed suicide, but the deceased's family alleged that he was tortured to death by police. The family also claimed that they saw some marks of injury on Alam's hands post mortem.	02.03.14	Amader Somoy 04.03.2014
2014 May	82	Abul Kashem	Not reported	Kutubdia Police Station, Cox's Bazar	Police	Police of Kutubdia Police Station, Cox's Bazar arrested Abul Kashem from his home on May 14, 2014 and took him into custody. His body was found on May 15, 2014 in the same room. His family and local journalists said that he had died as a result of torture. They saw bruises all over his body. The police claimed that Abul Kashem committed suicide.	15.05.14	Inqilab 16.05.2014 and Osman Jahanrig, HRD, Chittagong
	83	Sahinur Alam	Not reported	RAB-14 camp, Bhairab, Kishoreganj	RAB	On April 29, 2014 RAB members arrested Sahinur Alam from his home and took him to the RAB camp. RAB officers tortured him and handed him over to Nabinagar Police Station of Brahmanbaria on April 30, 2014. He was sent to jail from there, where he fell ill and died on May 4, 2014. Family members alleged that he was tortured when he was in the RAB camp.	04.05.14	Prothom Alo 08.05.2014

	84	Ruhul Amin	Weilder	Boalia Model Police Station	Police	On May 16, 2014, plainclothes police led by SI Bajro Gopal arrested Rubel with 250 grams of Ganja. Police claim he hung himself from the ventilation fan in the bathroom of the police station. However, his family claim the police tortured him to death.	16.05.14	Odhikar fact-finding report and interview of his brother.
2014 June	85	Jahirul Islam	Alleged Criminal	Panchagar	BGB	Jahirul Islam was detained by the Border Guard Bangladesh on June 14 and beaten badly by them. He was then presented before a mobile court, which sentenced him to one year of prison. He was sent to jail on the same day, where his condition worsened. He was taken to hospital where he was declared dead on arrival.	14.06.14	Naya Diganta 19.6.14
	86	Md. Rokon Uzzaman	Businessman	Pachlais Police Station, Chittagong	Police	Several police officers from Pachlais and Baklia Police Stations arrested Rokon from his home and took him to Pachlais Police Station. Later he died in the police station. Rokon's wife Shimu Akhtar alleged that the police intentionally killed him. Shimu filed a case accusing several police officers from two of the police stations.	18.06.14	Inqilab 26.06.2014
	87	Shaheen Mollah (22)	Petty Entrepreneur	Dasar Police Station, Kalkini, Madaripur	Police	On June 8, 2014 around 8.30 pm, SI Nazmul Hasan arrested Shaheen and his friends Mukit and Shah Alam from Naiarbari Bridge at Medakul of Gournadi. SI Nazmul demanded 75,000 Taka to release the three men. At night Mukit and Shah Alam's family gave the money to the officer. However, Shaheen's family was unable to pay the amount and arrested him for a narcotics case and he was brought before court. He was sentenced to jail and tortured in the police custody. Later on June 14, 2014 he died at Madaripur Sadar Hospital.	08.06.14-14.06.14	Prothom Alo 16.06.2014
2014 July	88	Mahbubur Rahman Sujon (35)	Garment waste trader	Mirpur Police Station	Police	A youth died in police custody at the Mirpur Police Station on July 13, 2014, hours after he was detained by police. Family members alleged he was tortured. The body was sent to the Dhaka Medical College and Hospital mortuary for postmortem. The Officer-in-Charge of Mirpur Police Station, Salahuddin said Sujon was a listed criminal. However, the deceased's brother Shameem said Sujon was an apparel trader and was not involved in any criminal activities. He said that a sub-inspector, Zahid, had been demanding extortion money from Sujon and threatened to kill him.	13.07.14	New Age 14.07.2014
2014 August	89	Timir Baran Chakma alias Duranto Chakma (52)	Leader of Parbatta Jonoshonghoti Samity (MN Larma)	Army Custody, Khagrachhari Hill District	Army	Parbatta Jonoshonghoti Samity (MN Larma) leader Timir Baran Chakma alias Duranto Chakma (52) died during medical treatment while in the custody of the Army in Matiranga Hospital. On the evening of August 9, the Army carried out an operation in Indumoni area under Guiyamara Upazila in Khagrachhari Hill District and arrested Duranto Chakma with other persons. Sudhakar Tripura, of the Parbatta Gonoshonghoti Samity (MN Larma) alleged that Duranta Chakma died due to torture. Meanwhile, the army stated that Duranta Chakma had an asthma attack and he was admitted to Matiranga Hospital where he died.	09.08.14-10.08.14	CHT News 18/08/2014
2014 September	90	Yusuf Ali	Alleged criminal	Chapainababganj Police Station	Police	On September 9, 2014 a youth named Yusuf Ali died in the custody of Chapainababganj Police Station. The police arrested him with five bottles of Phensidyl on September 8, from Bottola Haat of the Municipal area. The mother of the deceased, Amena Begum, claimed that Yusuf died due to torture by the police after he was arrested. Due to severe beatings Yusuf became seriously ill and on September 9, he died in Chapainababganj Sadar Hospital. She claimed that there were marks of injuries on Yusuf's body.	09.09.14	Human Rights Defender associated with Odhikar from Chapainababganj

2014 December	91	Mohammad Iqbal Hossain Bhuiyan (30)	Activist of voluntary wing of Awami League	Protapganj Bazaar, Bancharampur, Rangpur	Police	Police arrested Iqbal Hossain Bhuiyan from Protapganj Bazaar at around 5.30 pm, on December 25, 2014. On that day at around 8.00 pm, he died at Bancharampur Health Complex. Iqbal's family alleged that he died due to torture.	25.12.14	Jugantor 30.12.2014
2015 January	92	Mohan Bepari Molla	Under trial Prisoner	Dhaka Medical College Hospital	Police	On January 16, 2015 Sechchasebak Dal leader, Mohan Bepari Molla died in Dhaka Medical College Hospital during treatment, under the supervision of the jail authority. His brother-in-law, Mohammad Alamin claimed that on January 12, 2015 police of Shah Ali Police Station arrested Mohan under a criminal case and beat him in the police van. Mohan was tortured the whole night in the police station. He was sent to jail by the court. As his physical condition did not improve, he was taken to hospital by the jail authority and he died there.	16.01.15	Jugantor, 17/01/2015
2015 March	93	Jahangir Hossain	Youth	Chakbazaar Thana lock-up	Police	On March 19, 2015 Jahangir was arrested by police from Chakbazaar of Old Dhaka as a suspect of a dacoity case. Police produced him in court and sought remand. Police claimed that Jahangir committed suicide by hanging himself on March 20, 2015 during remand. However, his family alleged that he died due to torture. There were marks of injuries on his body. They claimed that the police beat Jahangir to death.	19.03.15	Manabzamin 22.03.2015
2015 May	94	Rezaul Karim (55)	An alleged criminal	Pabna Sadar Police Station, Pabna	Police	Rezaul was arrested on May 14, 2015 at around 11.30 am and beaten with a metal chain by the Detective Branch of Police. He died after being taken to hospital.	14.05.15	Naya Diganta 15.05.2015
	95	Imam Hossain (43)	An alleged criminal	Boalkhali Police Station	Police	The police arrested him on May 6, 2015 from Purba Shakpura village, Boalkhali. On May 7, he became ill and was taken to the Upazila Govt Hospital. From there he was referred to Chittagong Medical College Hospital. However, on May 11, 2015 he died in the hospital. The deceased's family alleged that he died due to torture.	11.05.15	Jugantor 12.05.2015
2015 June	96	Mosleuddin (60)	General Secretary of Motijheel Thana unit BNP	Jail	Police	On July 5, 2015 an under-trial prisoner, Mosleuddin, General Secretary of Motijheel Thana unit BNP and former Ward Commissioner, died in Dhaka Medical College Hospital while under treatment. The elder brother of the deceased, Hazi Masud, said that on June 1, 2015 a group of plain clothes police arrested Mosleuddin and allegedly tortured him in remand; and he died as a result.	01.06.15	Naya Diganta, 06/07/2015
2015 August	97	Abdul Kader (65)	A under trial prisoner	Dhaka	RAB	On June 7, 2015 members of RAB-3 detained Abdul Kader. They beat him and took him to an Eidgah field (large area where Eid congregations are held). On August 23, 2015 he died in Dhaka Central Jail. Kader's family alleged that he died in jail due to RAB torture.	23.08.15	Manabzamin 24.08.2015
2015 October	98	Omar Siraj (32)	Assistant director of UGC	Custody of RAB-4	RAB	He was arrested by RAB on September 18, 2015 from the University Grants Commission office at Agargaon, Dhaka for leaking the questions of medical college and university admission tests. Later he was taken to custody for interrogation. On October 1, 2015 he fell sick and was taken to the National Heart Disease Institute. On that day, he died in the hospital. His family alleged that he died due to torture.	01.10.15	The Daily Star 02.10.2016

	99	Enamul Haque	Unreported	Police camp of Jessore	Police	Jessore Police picked up Enamul Haque and Mahmud Hasan from their house at Ichali village, Sadar Upazila, Jessore on October 9,2015. Later, Enamul's dead body was found on the Jhenaidah Barobazaar railway line. Enamul's family alleged that he died due to torture by police.	09.10.15	Jugantor 11.10.2015
2016 January	100	Mohammad Mintu (27)	An alleged mugger	Khulna Sadar Police Station	Police	On January 3, 2016 police arrested Mintu in front of the Khulna Shopping Complex. The police recovered a motorcycle that was stolen from him from the Khulna Sonali Bank Corporation. The family alleged that he was tortured to death in the police compound.	03.01.16	Manabzamin 05.01.2016
	101	Shahabul Islam	Farmer	Satkhira Police Station, Satkhira	Police	His brother Mohammad Ali said that on January 16, 2016 at around 1:30 am, SI Abul Kalam arrested Shahabul from his house and beat him. He was beaten again at the bus terminal at Choykuro intersection. At one point, SI Abul Kalam took 9,000 Tk from Mohammad Ali. L Shahabul was later taken to Satkhira Police Station. From there he was taken to Court and was granted one day of remand. He was then sent to jail. On February 24, 2016 he died in Dhaka Medical College Hospital.	16.01.16	Naya Diganta 27.02.2016
2016 February	102	Babul Matubbar	Tea vendor	Gudaraghat area, Mirpur, Shah Ali Police Station, Dhaka	Police	On February 3, 2016 at around 9:30 pm, a patrol team of Shah Ali Police Station, along with their informer Delwar went to Gudaraghat area and demanded extortion form the tea stall owner Babul Matubbar. As Babul Matubbar did not give the money, the police hit the kerosene stove with stick and the police informer Delwar pushed Babul onto the stove. Babul caught on fire and the police left the scene leaving Babul in serious condition. Babul's relatives took him to Dhaka Medical College Hospital, where he died on February 4. Assistant Sub-Inspections Mominur Rahman Khan, Sreedham Chandra Hawlader, Niazuddin Molla, Debendra Nath and Constable Jasimuddin were temporarily suspended.	04.02.16	Jugantor 05.02.2016 & Jugantor 08.02.2016
	103	Anwar Hossain Mahbub	Activist of BNP	Dhaka Central Jail, Dhaka	Police	On February 16, 2016 Anwar Hossain Mahbub (45), Joint Secretary of Dhaka South City Corporation's ward 23 unit BNP, who was detained in jail, died in Dhaka Medical College Hospital. His relatives claimed that Anwar was severely tortured by police during remand after being arrested under a politically motivated case on January 15, 2016.	16.02.16	Jugantor 17.02.2016
2016 May	104	Din Islam	Not Reported	Narsingdi Sadar Hospital, Narsingdi	Police	The family alleged that the DB police arrested Din Islam from his house and took him away. At the time, the police asked for 500,000 taka and told the family members to come to the DB office. They were however not allowed into the office. Later they were informed that Din Islam died at Narsingdhi Sadar Hospital on May 19, 2016.	19.05.16	Prothom Alo 20.05.2016
	105	Abul Hashem	Accused of a case	Sorishabari Police Station, Jamalpur	Police	Abul Hashem was accused of a murder case. He allegedly killed his wife over dowry demands. On May 29, 2016 the police arrested him from Gulshan area of Dhaka and took him to Sorishabari Police Station. The next day at around 4.30am he died. Police claimed that he committed suicide whereas the family members alleged that he died from torture.	30.05.16	Prothom Alo 31.05.2016
2016 June	106	Pranto Chandra Dey	Youth	Mymensingh Police Station, Mymensingh	Police	A youth died in police custody on the night of June 24, 2016, around four hours after he had been allegedly detained with 15 Yaba tablets in Mymensingh. The Officer-in-Charge of Mymensingh Police Station, Kamrul Islam, claimed that he died after suffering a heart attack. However, Pranto's family alleged that he was innocent and might have been tortured to death.	24.06.16	The Daily Star 26.06.2016

2016 July	107	Abdul Karim (35)	An under trial prisoner	Munshiganj District Jail	Police	Abdul Karim, an under trial prisoner of Munshiganj District Jail died at Dhaka Medical College Hospital on July 22, 2016. The family of the deceased alleged that he was tortured by a Sub-Inspector of Munshiganj Sadar Police Station. Meanwhile, the Jailer said that Karim was sent to Dhaka Medical College Hospital for treatment from Munshiganj Jail on July 21, 2016 due to severe chest pain. He claimed that when Karim was sent to jail from the police station on July 11, he was already physically unwell.	22.07.16	The Daily Star 23.07.2016
2016 August	108	Nurunnabi	Not reported	Balahati village, Mahiganj, Rangpur	Police	On August 19, 2016 at midnight, a group of police led by the two Sub-Inspectors of Kotwali Police Station, Tareq and Tofazzal raided Golzar's house at Birbhodra Balahati village of Mahiganj in Rangpur town and arrested him for stealing a motorbike. Two police officers later demanded a one hundred and twenty thousand taka bribe from Golzar's family. This was unacceptable to Golzar's elder brother Nurunnabi and he got into an altercation with the police in this regard. This enraged the police and they apprehended Nurunnabi and also demanded money for him. He was severely beaten by the police, as he was unable to pay. Nurunnabi fell to the ground and died on the spot.	19.08.16	Jugantor 21.08.2016
2016 December	109	Sohel Rana (30)	An alleged criminal	Melandah Police Station, Jamalpur	Police	Sohel Rana (30) died in custody of Melandah police in Jamalpur a few hours after his arrest from his house at Paharipatol village in Melandah upazila on December 18, 2016. He was a suspected drug peddler and was arrested with 25 pieces of contraband Yaba tablets and five grams of heroin by Melandah police on December 18, 2016. Soheli Rana fell sick after complaining of severe chest pain while in custody. He was sent to Jamalpur General Hospital around 8.45 but the Resident Medical Officer declared him dead. The victim's family members allege that police tortured Soheli to death while he was under their custody.	18.12.16	Manabzamin 20.12.2016, New Age 20.12.2016
	110	Kashem Khalifa	Farmer	Madrassapara, Kushtia	Police	On December 25, 2016 around 4.00 pm, a group of police went to Kashem Khalifa's house at Madrassa para, Kushtia. They dragged Kashem from the house to the vehicle and beat him. The female family members tried to stop the police but the police then assaulted them. The police tortured Kashem. The family alleged that the police killed him in exchange for money from neighbor Angel, with whom he had a dispute.	25.12.16	Jugantor 26.12.2016
2017 March	111	Nurul Amin (55)	Not reported	Feni Model Police Station, Feni	Police	A 55-year old man died allegedly after being tortured and given electric shocks in police custody in Feni. The police refuted the allegation raised by the victim's family, claiming that Nurul Amin had suffered a stroke. Feni Model Police Station Officer-in-Charge Rashed Khan Chowdhury claimed that they had arrested Amin as a criminal from the town's Pagla Mia Road on March 23, 2017. Later at night he suffered a stroke and was taken to a local hospital, the OC said, adding that Amin was finally taken to Chittagong Medical College Hospital for better treatment where he died on March 24, 2017. Amin's son Nurul Afsar Manik alleged that his father had been beaten up and then electrocuted at the police station. He said that a local filed the case in which the police had shown him arrested over previous enmity. He further alleged that the complainant bribed the police to arrest and torture Nurul.	24.03.17	Dhaka Tribune 26.03.2017
2017 April	112	Romel Chakma	General Secretary of Naniarchar unit Pahari Chhatra Parishad in Rangamati	Rangamati Hill District, Rangamati, Chittagong	Army	There was an allegation that a college student had died due to torture by the military in Rangamati Hill District. The victims' family alleged that on April 5, 2017 members of the Army took Romel Chakma to their camp. Romel Chakma was a Higher Secondary School Certificate (HSC) examinee of Naniyarchar Degree College and was also General Secretary of Naniarchar unit Pahari Chhatra Parishad in Rangamati. Later, Romel was handed over to police. On April 19, 2017 Romel died in Chittagong Medical College Hospital. On April 21, the Army allegedly cremated his body without following any religious custom.	19.04.2017	New Age [24-04-2017]

2017 May	113	Nazrul Islam Babu	Not Reported	Jaintapur Police Station, Sylhet, Sylhet	Police	Nazrul Islam Babu, 32, a mid level employee of Jaintapur Upazila Administration office and son of late freedom fighter Abdul Zalil of village Kohaigar was found dead in a detention cell hours after he was arrested in a torture case as claimed by the police on May 20, 2017. The family allege that he was tortured to death by police.	20.05.2017	New Age [21-05-2017]
2017 June	114	Joban Ali	Convicted criminal	Sorishabari Police Station, Jamalpur, Dhaka	Police	On June 29, 2017 police arrested Joban Ali and his wife Maleka Begum, son Arif aged 10, daughter China Khatun aged 12 from Sorishabari railway station. They were then taken to the Sorishabari Police Station. The family members allege that Joban Ali died due to torture.	29.06.2017	Nayadiganta [30-06-2017]
2017 July	115	Mahfuzur Rahman	An accused	Nachole Police Station of Chapainawabganj	Police	On July 19, 2017 a girl named Nahida died after an operation due to stomach pain at Jononi Clinic in Nachole Upazila under Chapainabaganj District. On the same night, Nahida's father Nasiruddin filed a case against Mahfuzur Rahman, who conducted the operation although he was not qualified to do so. Police arrested Mahfuzur Rahman and took him into remand. On July 26, police informed that Mahfuzur Rahman committed suicide by hanging himself in the toilet of the police station cell. However, Mahfuzur Rahman's family alleged that he died due to torture in police custody because he did not give the one hundred thousand taka bribe to police. Mahfuzur Rahman's brothers Mohammad Julhas and Mohammad Shahin Alam said that after taking his brother into remand Nachole police demanded one hundred thousand taka to their family. They could only give 20 thousand taka to police. At around 10:00 am on July 26, they saw Mahfuzur in good health in the lock-up. At around 2:00 pm, the police informed them that Mahfuzur committed suicide. The deceased's family claimed that the police staged the entire incident, tortured Mahfuzur and hung his body in the toilet.	26/07/2017	The daily Jugantor, 29/07/2017; www.jugantor.com/news/2017/07/29/143676/
2017 August	116	Masudul Haque Pintu (50)	BNP Leader	Bogra	Police	The deceased's family claimed that police tortured to death a union parishad-level BNP leader in Bogra on August 22, 2017 following a family feud over who had the right to fish in a local pond. Masudul Haque Pintu, 50, was the president of BNP's Ashekpur UP unit in Shahjahanpur upazila of Bogra. Family members alleged that the Kaigari police outpost in-charge, Inspector Anisur Rahman, and three other officers picked up Pintu from his home without an arrest warrant in the afternoon of August 22. "The police pulled out my father from the bathroom and hit him with their rifle butt on his head, chest, neck and other places before taking him away on a CNG-run auto rickshaw," said Pintu's daughter, Meherunnesa. She said that her family members rushed to the police station, but her father was not there. "Police informed us that he had died at the hospital". Pintu had been the prime accused in a case filed by his uncle, Ihsan Haji, and cousins over a brawl, which started over who had the right to net fish in a local pond. "Our rivals – Ihsa, Razzak, Sagar, Tayeb Ali, Wahed, Jani and Shahidul [Pintu's cousin] bribed police to beat my brother to death," claimed Jhintu. According to the family, Pintu was severely tortured with rifle butts while in custody and later succumbed to his injuries at Shahid Ziaur Rahman Medical College Hospital. Abdul Hannan, a doctor at the hospital, said four policemen from Kaigari camp admitted Pintu at around 3:50pm on August 22. "There were no injury marks in Pintu's body when he was brought to the hospital," Dr Hannan said. "Later, he was transferred to the CCU of cardiology department." CCU doctor Ashikur Rahman told the Dhaka Tribune that Pintu died of cardiac arrest around 5:30pm. "No police member was present at that time," he said. Inspector Anisur Rahman maintained that Pintu had died of heart failure. "He had a cardiac arrest in Ranirhat area on our way to police station after the detention and he died in the hospital," he said. Bogra Circle's Additional Police Superintendent Sonaton Chakraborty and Shahjahanpur police station officer-in-charge Zia Latiful Islam both supported Inspector Anisur's description of events.	22/08/17	The Dhaka Tribune 25/08/17 http://www.dhaka.tribune.com/bangladesh/nation/2017/08/24/family-claims-bogra-bnp-leader-tortured-death-police-custody

2017 September	117	Mojaharul Islam Jies (35)	Farmer	Naogaon	RAB-05	Mojaharul Islam died in the custody of RAB, hours after members of the elite force arrested him at Naogaon. He was declared dead at Rajshahi Medical College Hospital at 4:37am, said the hospital and police officials. Executive Magistrate Rohima Sultana Bushra prepared an inquest report at RMCH morgue mentioning marks of injuries on parts of his body. Even though swollen marks of hits were seen on the back of his head, forehead, throat, both hands, legs, left waist, and on his back, no specific opinion could be given regarding his death, read the inquest report. The family member of Mojaharul Islam told reporters there that Mojahar was tortured to death. They claimed that they had heard about Mojahar's arrest at 7:30pm on Friday and that Rab members at Singa "I was at the village mosque for Esha prayer when my mother informed me that some 20 people were beating up my brother," Azaharul, elder brother of the deceased, said. From Singa Hat, Rab members took Mojahar to his home and confined him to his room. "We family members and other villagers were hearing him scream as the Rab members were beating him up in the room," he said, adding that the Rab men kept them outside. He said Rab members beat him up with iron rods and sticks, which they gathered from the house. At 10:30pm, two Rab members took Mojahar out of the room. "He was all bloody and unable to walk," Azahar said. They then took him away on a motorcycle but returned at 1:30am yesterday. "At that time Mojahar was unconscious," he said, adding that Rab members changed his clothes and left for Rajshahi. Lt Col Mahbubul Alam, director of Rab-5 in Rajshahi, denied victim's family members' allegations that Mojahar was tortured. He claimed that the victim had sustained some injuries while trying to flee. He said a Rab team of Joypurhat Camp, acting on an intelligence report, arrested Mojahar at an orchard near Shingi Hat of Manda around 10:30pm on Friday and seized eight bullets from his possession. The team took him to some spots for retrieving firearms but found nothing. He was being taken to Rajshahi when Mojahar complained of not feeling well, said the Rab-5 director. "Moments later, he became unconscious and Rab members rushed him to RMCH," claimed the Rajshahi zonal Rab chief. He said Mojahar was addicted to heroin and was involved in illegal arms trade. Officer-in-Charge Anisur Rahman of Manda Police Station said Mojahar was not accused in any criminal case filed with his station.	9/9/2017	10.9.17 Daily Star and Prothom Alo
	118	Maulana Saidur Rahman	Superintendent of Hothatganj Madrassa, Kolaroa	Satkhira Sadar Police Station, Satkhira	S I Asaduzzaman and his force of Satkhira Sadar Police	Maulana Saidur was tortured to death by members of Satkhira Sadar Police on 16.9.17. SI Asaduzzaman and his team from the Satkhira Sadar Police Station arrested Saidur from his home on Thursday night around 1am. The police claimed that he was arrested for two sabotage cases. The police later brought him to Kathonda Bazar and beat him. His nephew Muttasim Billah asked for his release for 5,000 Taka and left the uncle, but the police demanded one lakh taka. Saidur was brought to Satkhira Police Station, as he was unable to pay this money. The police also tortured him brutally there. After taking him to Court, the authorities refused to accept Saidur after seeing the conditions he was in. The police took him back to Satkhira hospital and after recovering from his illness, the police brought Saidur to the Court again around 5pm. In the afternoon, the Court sent Saidur to Satkhira jail. Superintendent of Satkhira Prison said that when he fell ill that night he was taken to the prison hospital and transferred to Satkhira Sadar Hospital at midnight and was treated. Dr. Farhad Jamil, residential medical officer of Satkhira Hospital said, 'after being brought to the hospital, he was treated. He died in the early morning. The post mortem will be investigated. He also said that the marks of torture on the body of the madrassa teacher Moulana Saidur were found. When asked about the case, SI Asaduzzaman said, 'I did not torture him , but I arrested him. I did not even want to bribe him. He was injured in a motorcycle accident. After the arrest, he was sent to the Court after treatment in the hospital. I have no further information about his death '. A case was filed accusing six police members before the cognisance court of Habibullah Mahmud. The cognisance court accepted the case and passed an order submitting the investigation report in the next 30 days to PBI. Ref: Jugantor 20.9.17	15/9/2017	17/9/17 Jugantor

2017 October	119	Bishwa Chandra Dey (20)	Carpenter	Sherpur	Members of Nalitabari Police Station	On October 1, S I Suman of Nalitabari Police Station detained Bishwa with 60gram Ganja and took him to the police station. During that time, they beat him mercilessly, leaving him critically injured. However, the police released him. He later succumbed to his injuries around 2:00am. Bishwa's sister Sheuly Dey alleged that he was killed by police torture.	1/10/2017	3/10/17 Manabzamin and Jugantor
	120	Majom Ali (40)	Cattle trader	Panchgarh	Members of BGB of Boroshoshi BOP	Majom Ali's family alleged that members of BGB picked him up, tortured him and as a result he died. Soleman Ali, the younger brother of Majom, claims that members of BGB mercilessly beat his brother. They demanded one cow as ransom, which was given by Majom Ali's family and he was able to return home. However, he succumbed to his injuries. Robiul Islam, UP member of 6 no. Ward of Boroshoshi union, claims that BGB members tortured Majom in front of him.	6/10/2017	8/10/17 Manabzamin and Nayadiganta
	121	Rashel (25)	Businessman	Kaunia's Haldibari area under Rangpur	DB Police	A businessman named Rashel (25) was allegedly tortured to death by the Detective Branch (DB) of Police for 100,000 Taka at Kaunia's Haldibari area under Rangpur District. Reshel's younger sister Sohana alleged that on October 28, 2017 at around 10:00 pm, a group of DB police led by Sub Inspector Shafi arrested her brother from Haldibari Bazaar. Later at around 1:00 am, SI Shafi went to their home and demanded a 100,000 Taka bribe for releasing Rashel. When they said that they did not have the capacity to pay this amount SI Shafi threatened her father and brother to be accused in criminal case. DB police later inflicted torture on his bother. Due to torture in custody, DB police admitted Rashel to Rangpur Medical College Hospital. On October 29, her brother died in hospital while he was under treatment.	29/10/2017	30/10/17 Nayadiganta
2017 November	122	Shah Alam (65)	Owner of FM Leather Complex	Hazaribagh Police Station, Dhaka	Hazaribagh Police Station	Shah Alam died in police custody after he was picked up with his two sons and two nephews from their home in Hazaribagh over a robbery case filed by one of their neighbours. He fell sick during a court hearing and was first taken to the nearby National Medical College Hospital, but doctors referred him to DMCH as his condition deteriorated. The DMCH doctors declared him dead. Hazaribagh police officer in charge, Mir Alimuzzaman, claimed Shah Alam was made an accused (framed?) in a robbery case filed by his neighbour Abdur Rahman. Alimuzzaman claimed they were not arrested	19/11/2017	22/11/17 New Age
2017 December	123	Sirajul Islam (22)	Not reported	Barisal	Barisal Kotwali Police	Sirajul Islam was accused of raping and causing the death of a young woman. He was arrested by SI Mohammad Abdul Ohab on 4 th December from Mathbaria, Pirajpur and then taken to Barisal Kotwali Police Station. The next day, he was presented before the Magistrates Court where he confessed to the rape and murder. The Court sent him to Barisal Central Jail, where he fell seriously ill on the 8 th of December. At 8:00pm, he was taken to Sher-e-Bangla Medical College Hospital, where he died the next day. His medical report showed that he died of heart failure after being physically tortured.	-	11/12/2017 Nayadiganta