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Country Information and Guidance

Bangladesh: Prison Conditions

March 2015

Preface

This document provides guidance to Home Office decision makers on handling claims made by nationals/residents of – as well as country of origin information (COI) about – Bangladesh. This includes whether claims are likely to justify the granting of asylum, humanitarian protection or discretionary leave and whether – in the event of a claim being refused – it is likely to be certifiable as ‘clearly unfounded’ under s94 of the Nationality, Immigration and Asylum Act 2002.

Decision makers must consider claims on an individual basis, taking into account the case specific facts and all relevant evidence, including: the guidance contained with this document; the available COI; any applicable caselaw; and the Home Office casework guidance in relation to relevant policies.

Country Information

The COI within this document has been compiled from a wide range of external information sources (usually) published in English. Consideration has been given to the relevance, reliability, accuracy, objectivity, currency, transparency and traceability of the information and wherever possible attempts have been made to corroborate the information used across independent sources, to ensure accuracy. All sources cited have been referenced in footnotes. It has been researched and presented with reference to the [Common EU \[European Union\] Guidelines for Processing Country of Origin Information \(COI\)](#), dated April 2008, and the [European Asylum Support Office’s research guidelines, Country of Origin Information report methodology](#), dated July 2012.

Feedback

Our goal is to continuously improve the guidance and information we provide. Therefore, if you would like to comment on this document, please [e-mail us](#).

Independent Advisory Group on Country Information

The Independent Advisory Group on Country Information (IAGCI) was set up in March 2009 by the Independent Chief Inspector of Borders and Immigration to make recommendations to him about the content of the Home Office’s COI material. The IAGCI welcomes feedback on the Home Office’s COI material. Information about the IAGCI’s work and a list of the COI documents which have been reviewed by the IAGCI can be found on the Independent Chief Inspector’s website at <http://icinspector.independent.gov.uk/country-information-reviews/>

It is not the function of the IAGCI to endorse any Home Office material, procedures or policy.

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Section 1: Guidance

Updated: 06 March 2015

1.1 Basis of Claim

- 1.1.1 Fear of being imprisoned on return to Bangladesh and that prison conditions in Bangladesh are so poor as to amount to torture or inhuman or degrading treatment or punishment.
- 1.1.2 This guidance is concerned solely with whether prison conditions are such that they breach Article 3 of ECHR and warrant a grant of humanitarian protection. Prison conditions which are systematically inhuman and life-threatening are always contrary to Article 3 ECHR. However, even if those conditions are not severe enough to meet that threshold, Article 3 may be breached if, because of a person's individual specific circumstances, detention would amount to inhuman or degrading treatment or punishment.
- 1.1.3 If the prison sentence or the prison regime, irrespective of its severity, is discriminatory or being disproportionately applied for reasons of race, religion, nationality, membership of a particular social group or political opinion, the imprisonment may amount to persecution and the person may qualify as a refugee.

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1.2 Summary of Issues

- Is the person's account a credible one?
- Is the person at real risk of being imprisoned?
- Are prison conditions in Bangladesh so severe that prisoners suffer treatment contrary to Article 3 ECHR?

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1.3 Consideration of Issues

Is the person's account a credible one?

- 1.3.1 Decision makers must consider whether the material facts relating to the person's account of their fear of being imprisoned upon return is reasonably detailed, internally consistent (e.g. oral testimony, written statements) as well as being externally credible (i.e. consistent with generally known facts and the [country information](#)). Decision makers should take into account the possible underlying factors as to why a person may be inconsistent or unable to provide details of material facts.
- 1.3.2 For further information and guidance see [Country Information and Guidance. Bangladesh: Background information, including actors of protection and internal relocation](#), and section 5 of the Asylum Instruction: [Assessing credibility and refugee status](#)

Is the person at real risk of being imprisoned?

- 1.3.3 Decision makers must establish the likelihood that the person will be imprisoned on return including if necessary whether the alleged offence constitutes an offence under Bangladesh law and, if so, is one which is likely to be punishable by a term of imprisonment (see the [Bangladesh Penal Code 1860](#) for prescribed penalties for criminal offences).

- 1.3.4 If so, decision makers must also consider whether the law is discriminatory or being disproportionately applied.

Are prison conditions in Bangladesh so severe that prisoners suffer treatment contrary to Article 3 ECHR?

- 1.3.5 Prison conditions in Bangladesh are harsh and at times life threatening due to overcrowding, lack of medical facilities and lack of proper sanitation contributing to custodial deaths. The Country Guidance case of SH (prison conditions) Bangladesh CG [2008] (13 October 2008) found 'Prison conditions in Bangladesh, at least for ordinary prisoners, do not violate Article 3 ECHR. This conclusion does not mean that an individual who faces prison on return to Bangladesh can never succeed in showing a violation of Article 3 in the particular circumstances of his case. The individual facts of each case should be considered to determine whether detention will cause a particular individual in his particular circumstances to suffer treatment contrary to Article 3.' (See country information on Prison conditions).
- 1.3.6 Decision makers must therefore carefully consider the individual factors of each case. The relevant factors include:
- the reason for detention;
 - the likely length of detention;
 - the likely type of detention facility;
 - the person's age, gender, socio-economic status and state of health; and
 - whether they have family or friends to support them and, for example provide food, etc.

For further information and guidance see Prison conditions in Country Information section and the Asylum Instructions on Assessing credibility and refugee status and Humanitarian Protection

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1.4 Policy Summary

- **Prison conditions in Bangladesh are harsh and at times life threatening due to overcrowding, inadequate facilities, and lack of proper sanitation.**
- **There is recent reporting of torture and ill-treatment being committed against ordinary and political prisoners. Conditions may reach the Article 3 ECHR threshold in individual cases, depending on the particular circumstances of the person concerned. Where treatment does reach the Article 3 ECHR threshold, a grant of Humanitarian Protection (HP) will normally be appropriate, unless the treatment is discriminatory or disproportionately applied for a Convention reason, where a grant of asylum may be appropriate..**
- **Consideration must be given to whether any exclusions apply.**
- **Where a claim falls to be refused, it is unlikely to be certifiable as 'clearly unfounded' under section 94 of the Nationality, Immigration and Asylum Act 2002.**

See also the Asylum Instruction(s) on Non-Suspensive Appeals: Certification Under Section 94 of the NIA Act 2002, Humanitarian Protection and Discretionary Leave

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Section 2: Information

Updated: 23 February 2015

For information on the judicial system, see Country Information and Guidance: [Bangladesh – Background information including actors of protection and internal relocation](#).

2.1 Prison conditions

Overcrowding

- 2.1.1 The International Centre for Prison Studies (ICPS) recorded in its World Prison Brief that, as at 20 January 2015, the total prison population of Bangladesh stood at 69,852 in the country's 68 prison establishments, which had an official capacity of 34,167, resulting in an occupancy level of 204.4 per cent. ICPS noted that pre-trial detainees/remand prisoners comprised 69 per cent of the prison population in March 2014; female prisoners made up 3.4 per cent of the prison population in March 2014 and minors (under the age of 18) accounted for 0.4 per cent in September 2008.¹
- 2.1.2 The NGO Odhikar stated in its 2013 Human Rights report that:
'Odhikar conducted a research into the condition of 10 jails of Bangladesh [...] in 2012 and 2013 [...] Overcrowding and the health and sanitation problems that come with it, remains the most important internal factors. The number of detainees in most Bangladeshi prisons grossly outnumbers the actual capacity of the prison. This 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. This overcrowding impacts on other human rights issues, like the prisons' unhealthy environment, lack of medical facilities and inadequate aeration.'²
- 2.1.3 The US Department of State reported in its 2013 Country Report on Human Rights Practices (USSD report 2013) that 'Prison conditions remained harsh and at times life threatening due to overcrowding, inadequate facilities, and lack of proper sanitation. Odhikar stated that these conditions contributed to custodial deaths.'³

Physical conditions

- 2.1.4 The USSD report 2013 stated:
'Due to overcrowding, prisoners slept in shifts and did not have adequate toilet facilities. All prisoners have the right to medical care and water. Human rights organizations and the media stated that some prisoners did not enjoy these rights. Water available in prisons was comparable with water available in the rest of the country, which was often not potable.
'Conditions in prisons and often within the same prison complex varied widely because authorities lodged some prisoners in areas subject to high temperatures, poor ventilation, and overcrowding. The law allows persons with certain educational and

¹ International Centre for Prison Studies (ICPS) based at the University of Essex, World Prison Brief – Bangladesh: undated <http://www.prisonstudies.org/country/bangladesh>, date accessed 17 February 2015

² Odhikar, Human Rights Report 2013, 15 April 2014, paragraph 265 and 266, <http://odhikar.org/human-rights-report-2013-odhikar-report-on-bangladesh/>, date accessed 16 January 2015

³ US Department of State, Country Report on Human Rights Practices for 2013 – Bangladesh, 27 February 2014, Section 1c, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2013&dliid=220388>, date accessed 16 January 2015

social standing to serve their jail sentences in “divisional” custody, which features better conditions, including increased family visitation rights and access to household staff.’⁴

2.1.5 Odhikar reported in its 2013 Human Rights report that:

‘Despite the fact that the Prisons Act, 1894 has specific provisions binding medical officers or their subordinate to give treatment without delay, there are not enough doctors in the prisons of Bangladesh. According to section 94 of the Jail Code, there should be separate hospitals for the male and female prisoners which is not always followed in the prisons of Bangladesh. On the other hand, section 129 of the Jail Code illustrates that there should be enough space for sleeping for the prisoners but gross overcrowding makes this impossible... The food supply is also inadequate and sub standard. According to the Jail Code, every prisoner is entitled to 116 grams of bread; 291 grams of rice; 233.28 grams of vegetable; 145.48 grams of pulse; 14.58 grams of date-palm; 36.45 grams of meat or fish every day. The research made by Odhikar’s team underlines that food provided in jail is often less than the amount described in the Government rule. As a result, inmates suffer from malnutrition and become victims of infectious disease. Without proper treatment, proper food and decent living conditions, prisoners fall ill and weak, while those who can afford to pay, enjoy basic services.’⁵

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Women and children

2.1.6 The USSD report 2013 noted:

‘While the law requires holding juveniles separately from adults, many juveniles were incarcerated with adults. Children were sometimes imprisoned (occasionally with their mothers) despite laws and court decisions prohibiting the imprisonment of minors.

‘Authorities routinely housed female prisoners separately from men. Although the law prohibits women in “safe custody” (usually victims of rape, trafficking, and domestic violence) from being housed with criminals, officials did not always provide separate facilities.’⁶

2.1.7 With regards to women in detention, the UN Special Rapporteur on violence against women reported on 1 April 2014:

‘During the visit to the women’s ward in the Dhaka Central Jail, the Special Rapporteur noted shortcomings in the conditions of detention, especially with regard to detainees’ access to health care and hygiene. She was informed that incarcerated women did not have adequate legal representation or contact with their families. The lack of privacy resulting from the overcrowded facilities, and also the overt scrutiny by the authorities, make it difficult to hold confidential meetings, including during the visit of the Special Rapporteur. Nevertheless, she heard various testimonies from women, including those on death row. In the latter category, the interviews reflect incarceration for crimes that do not amount to “the most serious crimes” under applicable international standards. They also revealed deficiencies in the safeguards guaranteeing protection of the rights of those facing the death penalty.’⁷

⁴ US Department of State, Country Report on Human Rights Practices for 2013 – Bangladesh, 27 February 2014, Section 1c, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2013&dliid=220388>, date accessed 16 January 2015

⁵ Odhikar, Human Rights Report 2013, 15 April 2014, paragraph 266, <http://odhikar.org/human-rights-report-2013-odhikar-report-on-bangladesh/>, date accessed 16 January 2015

⁶ US Department of State, Country Report on Human Rights Practices for 2013 – Bangladesh, 27 February 2014, Section 1c, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2013&dliid=220388>, date accessed 16 January 2015

⁷ UN Human Rights Council, Report of the Special Rapporteur on violence against women, its causes and consequences, Addendum : Mission to Bangladesh (20–29 May 2013) , 1 April 2014, A/HRC/26/38/Add.2, paragraph 19, available at: <http://www.refworld.org/docid/539831154.html>, date accessed 20 January 2015

- 2.1.8 Citing information provided by Bangladesh's Ministry of Women and Children Affairs (MWCA), the UN Committee on the Rights of the Child (UNCRC) reported on 17 December 2014 that:

'The draft Children Act, 2012 has proposed to use detention of children coming in conflict with the law as a measure of last resort. A national task force has been working to ensure that children do not go to adult prison and those who are already there are released without delay. As of May 2012, a total of 53 children under 18 years of age were in various prisons of the country, of them 5 were girls. As of May 2012, there were a total of 447 children including 42 girls in three Kishore Unnayan Kendra (previously known as Juvenile Correction Centers) of the country. According to the draft law, diversionary measures can be taken at any stage of legal proceedings. Victim offender mediation and family-group conference can be organized as restorative justice measures as per the draft law.'⁸

- 2.1.9 Citing the MWCA, the UNCRC added:

'The death penalty and life imprisonment with possibility of release for children have been prohibited in the draft law [Children Act 2012]. Alternative sanctions such as probation for good conduct, and release at the care of fit persons have been introduced. Although the death penalty and life imprisonment without possibility of release can be imposed on children between 16 and 18 years as the definition of child according to the existing law is any person below the age of 16, no child below the age of 18 years has so far been executed.'⁹ (See also [Death penalty](#))

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Deaths in prisons

For information on the prevalence of torture against people in police detention, please consult the Country Information and Guidance: [Bangladesh: Background information, including actors of protection and internal relocation](#)

- 2.1.10 Odhikar reported that 59 prisoners died in jail in 2013, compared to 63 in 2012 and 105 in 2011. According to reports regarding the deaths in 2013, 54 died due to illness; three allegedly committed suicide and two were died for other reasons [sic].¹⁰

In July 2014 Odhikar reported that between January and June 2014 '26 persons reportedly died in jail. Among them 23 persons died allegedly due to 'illnesses', three persons allegedly committed suicide'.¹¹

- 2.1.11 According to the human rights organisation Ain o Salish Kendra (ASK), there were 44 deaths in custody between January and 30 September 2014.¹² ASK did not provide an analysis of the causes of deaths or say how the mortality rate compared with that of the Bangladeshi population in general.

⁸ Ministry of Women and Children Affairs Bangladesh: Consideration of reports submitted by States parties under article 44 of the Convention; Fifth periodic reports of States parties due in 2012; Bangladesh [23 October 2012] [CRC/C/BGD/5], 17 December 2014, paragraph 324, (published by CRC, available at [ecoi.net](http://www.ecoi.net)) http://www.ecoi.net/file_upload/1930_1419956333_crc-c-bgd-5-6115-e.doc, date accessed 13 February 2015

⁹ Ministry of Women and Children Affairs Bangladesh: Consideration of reports submitted by States parties under article 44 of the Convention; Fifth periodic reports of States parties due in 2012; Bangladesh [23 October 2012] [CRC/C/BGD/5], 17 December 2014, paragraph 325, (published by CRC, available at [ecoi.net](http://www.ecoi.net)) http://www.ecoi.net/file_upload/1930_1419956333_crc-c-bgd-5-6115-e.doc, date accessed 13 February 2015

¹⁰ Odhikar, Human Rights Report 2013, 15 April 2014, paragraph 266, <http://odhikar.org/human-rights-report-2013-odhikar-report-on-bangladesh/>, date accessed 16 January 2015

¹¹ Odhikar, Six-Months Human Rights monitoring Report: January 1 – June 30, 2014, 1 July 2014, Death in Jail, paragraph 23, http://www.omct.org/files/2014/07/22773/hr_report_jan_june_2014_en.pdf, date accessed 17 February 2014

¹² Ain o Salish Kendra (ASK), Incidents of Death in Jail Custody Between January and 30 September 2014, 13 October 2014, <http://www.askbd.org/ask/2014/10/13/incidents-death-jail-custody-third-quarter-2014/>, date accessed 16 January 2015

Prison monitoring

2.1.12 The USSD report 2013 observed that:

‘Prison recordkeeping was adequate. Prison officials allowed prisoners to submit uncensored complaints and occasionally investigated such complaints. Authorities did not use alternatives to sentencing for nonviolent offenders, and prison ombudsmen were not available to prisoners. Authorities permitted religious observance for prisoners.

‘The government did not permit prison visits by the International Committee of the Red Cross or any other independent human rights monitors. The government allowed the Bangladesh Red Crescent Society to visit foreign detainees. Government-appointed committees composed of prominent private citizens in each prison locality monitored prisons monthly but did not publicly release their findings. District judges occasionally visited prisons.’¹³

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2.2 Death penalty

2.2.1 The NGO Hands Off Cain, which campaigns for the end of the death penalty worldwide, noted that, according to the Ministry of Home Affairs, there were 1,071 prisoners on death row as of 8 June 2014. Hands Off Cain reported:

‘Bangladesh applies the death penalty for such crimes as murder, sedition, offenses related to possession and drug trafficking, treason, espionage, military crimes ... In March 1998 the Bangladesh Cabinet has approved the death penalty for crimes against women and children including trafficking, rape and murder ... On 19 February 2009, the government approved [the Anti-Terrorism Ordinance of 2008] which provides the death sentence or life imprisonment or maximum 20 years and a minimum of 3 years rigorous imprisonment ...

‘On March 2, 2010, the judges of the High Court... declared unconstitutional legislation in the country that provides for the mandatory death penalty...

On 26 December 2011, the cabinet approved the final draft of the Anti-terrorism (amendment) Act, 2011 with a provision for the death penalty for getting involved in, supporting or financing militancy and terrorist activities in the country...

‘On December 20, 2012, Bangladesh voted against the Resolution on a Moratorium on the Use of the Death Penalty at the UN General Assembly.’¹⁴

Hands off Cain lists instances where the death penalty has been imposed in Bangladesh in 2015 and to date (17 February) this has been done three times.¹⁵

2.2.2 Amnesty International reported that in 2013 ‘The scope of the death penalty was reportedly expanded on 16 June, when the Parliament adopted the Children Act 2013 allowing for the death penalty to be imposed against adults using children to carry out

¹³ US Department of State, Country Report on Human Rights Practices for 2013 – Bangladesh, 27 February 2014, Section 1c, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2013&dliid=220388>, date accessed 16 January 2015

¹⁴ Hands Off Cain, Bangladesh (2014), <http://www.handsoffcain.info/bancadati/schedastato.php?idcontinente=23&nome=bangladesh>, date accessed 19 January 2015

¹⁵ Hands Off Cain, Bangladesh (2014), <http://www.handsoffcain.info/bancadati/schedastato.php?idcontinente=23&nome=bangladesh>, date accessed 19 January 2015

terrorist activities, as defined under the Anti-Terrorism Act 2009.’¹⁶ The same report added that ‘Bangladesh carried out two executions and imposed at least 220 death sentences. Of the death sentences, 152 were handed down in a single case related to a 2009 mutiny, following which the accused were allegedly tortured during their pre-trial detention. At least 1,100 people were reported to be on death row at the end of the year.’¹⁷

- 2.2.3 The International Crimes Tribunal, a national court set up in Bangladesh in 2009 to try people accused of killings and human rights violations during the 1971 Independence War, sentenced ten people to death. Amnesty International reported that ‘One of the convicted prisoners, Abdul Quader Mollah, was executed [in December 2013] after a judicial process that denied the prisoner the right to appeal his death sentence. He had been sentenced to life imprisonment, but on appeal the Supreme Court increased it to the death sentence.’¹⁸

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¹⁶ Amnesty International, Death Sentences and Executions in 2013, March 2014, Regional Overviews, Asia-Pacific, page 19, <http://www.amnesty.org/en/library/asset/ACT50/001/2014/en/652ac5b3-3979-43e2-b1a1-6c4919e7a518/act500012014en.pdf>, date accessed 20 January 2015

¹⁷ Amnesty International, Death Sentences and Executions in 2013, March 2014, Regional overviews, Asia-Pacific, page 19, <http://www.amnesty.org/en/library/asset/ACT50/001/2014/en/652ac5b3-3979-43e2-b1a1-6c4919e7a518/act500012014en.pdf>, date accessed 20 January 2015

¹⁸ Amnesty International, Bangladesh: Execution of opposition leader ‘within days’, 14 November 2014, ASA 13/007/2014, <http://www.amnesty.org/en/library/asset/ASA13/007/2014/en/3c679632-a480-4c44-888e-5739e56db3a3/asa130072014en.html>, date accessed 20 January 2015

Change Record

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