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Home Office

OPERATIONAL GUIDANCE NOTE

BANGLADESH

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1. Introduction

1.1 This document provides Home Office caseworkers with guidance on the nature and handling of the most common types of claims received from nationals/residents of Bangladesh, including whether claims are or are not likely to justify the granting of asylum, humanitarian protection or discretionary leave. Caseworkers must refer to the relevant asylum instructions for further details of the policy on these areas.

1.2 Caseworkers must not base decisions on the country of origin information in this guidance; it is included to provide context only and does not purport to be comprehensive. The conclusions in this guidance are based on the totality of the available evidence, not just the brief extracts contained herein, and caseworkers must likewise take into account all available evidence. It is therefore essential that this guidance is read in conjunction with up to date country of origin information (COI) and any other relevant knowledge.

COI is published by the Country of Origin Information Service (COIS) on Horizon and is available on the internet at:

http://www.ukba.homeoffice.gov.uk/policyandlaw/guidance/coi/

1.3 Claims should be considered on an individual basis, but taking full account of the guidance contained in this document. Where a claim for asylum or humanitarian protection is being considered, caseworkers must also consider any elements of Article 8 of the European Convention on Human Rights (ECHR) in line with the provisions of Appendix FM (Family Life) and paragraphs 276 ADE to 276DH (Private Life) of the Immigration Rules. Where a person is being considered for deportation, caseworkers must consider any elements of Article 8 of the ECHR in line with the provisions of Part 13 of the Immigration Rules. Caseworkers must also consider if the applicant qualifies for discretionary leave in accordance with the published policy.

1.4 If, following consideration, a claim is to be refused, caseworkers should consider whether it can be certified as clearly unfounded under the case by case certification power in section 94(2) of the Nationality Immigration and Asylum Act 2002. A claim will be clearly unfounded if it is so clearly without substance that it is bound to fail.

2 Country Assessment

2.1 Caseworkers should refer to the relevant COIS country of origin information material. An overview of the human rights situation in certain countries can also be found in the Foreign & Commonwealth Office (FCO) Annual Report on Human Rights and Democracy which examines developments in countries where human rights issues are of greatest concern.

2.2 Actors of Protection

2.2.1 Caseworkers must refer to section 7 of the asylum instruction - Considering the asylum claim and assessing credibility. To qualify for asylum, an individual must have a fear of persecution for a Convention reason and be able to demonstrate that their fear of persecution is well founded and that they are unable, or unwilling because of their fear, to seek protection in their country of origin or habitual residence. Caseworkers must take into account whether or not the applicant has sought the protection of the authorities or the organisation controlling all or a substantial part of the state, any outcome of doing so or the reason for not doing so. Effective protection is generally provided when the authorities (or other organisation controlling all or a substantial part of the state) take reasonable steps to prevent the persecution or suffering of serious harm by for example operating an effective legal system for the detection, prosecution and punishment of acts constituting persecution or serious harm, and the applicant has access to such protection.

2.2.2 Police, organised nationally under the Ministry of Home Affairs (MHA), have a mandate to maintain internal security, law and order. The army, organised under the Prime Minister's Office, is responsible for external security but also has some domestic security responsibilities, such as in the Chittagong Hills Tracts (CHT). Civilian authorities maintain effective control over the armed forces and the government has mechanisms to investigate and punish abuse and corruption. However, these mechanisms are not regularly employed in practice. The government has taken steps to improve police professionalism, discipline, training and responsiveness and to reduce corruption. For example, Rapid Action Battalion (RAB) established an internal affairs unit consisting of 20 officers, which investigated 12 cases and took action, including arrest, against three of the accused officers. Police incorporated instruction on the use of force into their

basic training as part of a campaign to implement community-based policing. Despite such efforts, security forces, including RAB, continue, sometimes, to commit abuses with impunity. Security forces sometimes fail to prevent societal violence.[1]

2.2.3 Following a February 2009 mutiny by the paramilitary Bangladesh Rifles (BDR) force, in which some 70 officers and family members were killed, more than 6,000 BDR members have been arrested and at least 60 have died in custody under suspicious circumstances, with some bodies bearing marks of torture and other abuse. The suspects' trials have been flawed by problems including limited access to defence counsel, lack of individualized incriminating evidence and the alleged use of torture to extract confessions. In June 2012, one of several mass trials of BDR members before a military court finished in the conviction of 611 of 621 accused, while a court in July 2012 sentenced 253 of 256 soldiers to various terms of imprisonment. Overall, more than 4,000 have been found guilty and hundreds also face charges under the criminal code that could result in the death penalty.[2]

2.2.4 Plaintiffs rarely accused police in criminal cases due to drawn out trial procedures and fears of retribution. Reluctance to bring charges against police continued to perpetuate a climate of impunity. [3]

2.2.5 The Government has taken some steps to address widespread police corruption. The Inspector General of Police continued to implement a new strategy, partially subsidized by international donors, for training police, addressing corruption and creating a more responsive police force. No assessment of the strategy's effect on corruption within the police force was available.[4] However, official corruption and related impunity remains a problem. Weak regard for the rule of law not only enabled individuals, including government officials, to commit human rights violations with impunity but also prevented citizens from claiming their rights. As in 2011, the government did not take comprehensive measures to investigate and prosecute cases of security force killings.[5]

2.2.6 Bangladesh Police launched its Strategic Plan for 2012-2014 after the completion of a detailed research and consultation process. The Strategic Plan was developed to provide Bangladesh Police with a coherent strategy to build a committed, service-oriented organisation that enforces law, maintains social order and public safety and reduces the fear of crime in society with the active support of the community. The Police Reform Programme (PRP) and the Institute of Business Administration at the University of Dhaka supported the development of the plan.[6]

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[1] US Department of State, Country Report on Human Rights Practices 2012: Bangladesh, 19 April 2013 Section 1 http://www.state.gov/documents/organization/204607.pdf
[2] Freedom House, Freedom in the World 2013 Bangladesh, January 2013 http://www.refworld.org/docid/517104a911.html
[3] US Department of State, Country Report on Human Rights Practices 2012: Bangladesh, 19 April 2013 Section 1 http://www.state.gov/documents/organization/204607.pdf
[4] US Department of State, Country Report on Human Rights Practices 2012: Bangladesh, 19 April 2013 Section 4 http://www.state.gov/documents/organization/204607.pdf
[5] US Department of State, Country Report on Human Rights Practices 2012: Bangladesh, 19 April 2013 Executive Summary http://www.state.gov/documents/organization/204607.pdf
[6] United Nations Development Programme in Bangladesh, Bangladesh Police Strategic Plan 2012-2014 Launched, 19 December 2012 http://www.prp.org.bd/index.php?option=com_content&view=article&id=165:bangladeshpolicestrategicplan2012-2014launched&catid=1:latest-news&Itemid=61

2.2.7 The 2012 PRP report of the Bangladesh MHA notes that inadequate law and order and widespread crime and corruption remain deeply rooted issues in Bangladesh, negatively impacting the safety of citizens. Overall, crime remains under-reported and insufficiently investigated by the police. The court system is slow and the prisons are overcrowded. There is a growing desire from civil society, the media, government ministries and international agencies to establish a more co-ordinated Justice Sector in order to strengthen channels allowing civilians to gain access to the judicial system. In setting out upcoming priorities, the PRP Annual Report 2012 states that priorities for 2013-2014 will include supporting the review process on the draft Police Act, supporting the implementation of the Bangladesh Police Strategic Plan 2012-2014, institutionalising the PRP training programmes and incorporating those programmes into the Bangladesh Police training curricula. In recognition of the possible instability associated with the 2013 election, the PRP will focus on greater awareness of human rights issues and accountability within the Bangladesh Police and continue strengthening police responses to disadvantaged and vulnerable groups through the Model Thana (police station) initiative and newly established Victim Support Centres. Finally, the PRP will continue its efforts to promote proactive, intelligence-led policing to implement crime prevention programmes and to increase the use of forensic evidence in investigations. [7]

2.2.8 Torture and other ill-treatment were widespread, committed with virtual impunity by the police, RAB, the army and intelligence agencies. Methods used were beating, kicking, suspension from the ceiling, food and sleep deprivation and electric shocks. Most detainees were allegedly tortured until they "confessed" to having committed a crime. Police and RAB allegedly distorted records to cover up the torture, including by misrepresenting arrest dates.[8] Suspected extrajudicial killings, disappearances and kidnappings continues, with human rights groups alleging the involvement of the country's security services.[9]

2.2.9 According to Odhikar, a Bangladeshi human rights organisation based in Dhaka, there were 70 extrajudicial killings by law enforcement agencies in 2012 and it is estimated that more than 800 people have been killed by the RAB since its formation in 2004. The Directorate General-Forces Intelligence (DGFI), a military intelligence unit, has been responsible for a number of cases of abuse during interrogations. Although the Awami League (AL) government initially promised a "zero-tolerance" approach on torture and extrajudicial executions, high-level officials routinely excuse or deny the practices and the rate of custodial deaths has increased since the AL took office. Dozens of abductions and disappearances in 2012 were also a growing concern, according to the International Crisis Group and other organisations.[10]

2.2.10 The government did not release statistics on total killings by all security personnel or take comprehensive measures to investigate cases, despite

[7] The Government of the People's Republic of Bangladesh, Ministry of Home Affairs, Police Reform Programme (Phase II), Annual Report 2012, http://www.undp.org/content/dam/undp/documents/projects/BGD/PRP%20Annual%20Report%202012%20Final%2007-03-2012.pdf

[8] Amnesty International Annual Report 2013 Bangladesh, 23 May 2013 http://www.refworld.org/docid/519f51b22a.html

[9] US Department of State, Country Report on Human Rights Practices 2012: Bangladesh, 19 April 2013 http://www.state.gov/documents/organization/204607.pdf

[10] Freedom House, Freedom in the World 2013 – Bangladesh, January 2013 http://www.refworld.org/docid/517104a911.html

statements by high-ranking officials that the government would show “zero tolerance” and fully investigate all extrajudicial killings by security forces. According to the media and local human rights organisations, no case resulted in criminal punishment and, in the few instances in which the government brought charges, those found guilty generally received administrative punishment. Some members of the security forces acted with impunity. In 2011 the government formed an internal inquiries cell within the paramilitary RAB to investigate cases of human rights abuses, but during the year the government did not disclose information on any prosecutions for suspected killings by RAB officers. [11]

2.2.11 Disappearances and kidnappings, some by security services such as RAB and the Criminal Investigative Division, continued during 2012. According to Odhikar, there were 24 disappearances with alleged ties to security workers compared with 30 in 2011. Odhikar claimed that RAB was involved in 10 of these disappearances. The human rights organisation, Ain O-Shalish Kendra (ASK) estimated there were 56 enforced disappearances. [12]

2.2.12 The National Human Rights Commission (NHRC), re-established in 2010, is empowered to investigate and rule on complaints against the armed forces and security services and it can request reports from the government at its own discretion.[13]

2.2.13 The law provides for an independent judiciary, but a longstanding temporary provision of the constitution undermined full judicial independence in practice. According to the provision, the executive branch is in charge of the lower courts, judicial appointments and compensation for judicial officials. Human Rights Watch (HRW) reported that law enforcement and government officials intimidated defence counsel for leaders of the Islamic political party, Jamaat-e-Islami, who were accused of war crimes. Corruption and a substantial backlog of cases hindered the court system and extended continuances effectively prevented many defendants from obtaining fair trials due to witness tampering, victim intimidation and missing evidence. Human rights observers stated that magistrates, attorneys and court officials insisted on bribes from defendants in many cases filed during 2012.[14]

2.2.14 The 2012 Asian Human Rights Commission report notes that Bangladesh's law-enforcement agents have a reputation for abusing authority through coercive means. Policing in the country is an industry that produces victims of torture and fabricates criminal charges against civilians and political opponents. Corruption has replaced the chain of command within the police. The constant failure of the police to investigate crimes is the single largest impediment within the criminal justice system in the country. Impunity provided to the force, against prosecution for corruption and all other crimes these officers commit, is repaid by the force when it undertakes cleanup work for the ruling elite, most often by 'dealing' with political opponents. The disparity between the wealth of some police officers and their actual income is proof to this illegal nexus of corruption and protection

[11]US Department of State, Country Report on Human Rights Practices 2012: Bangladesh, 19 April 2013 Section 1 http://www.state.gov/documents/organization/204607.pdf
[12]US Department of State, Country Report on Human Rights Practices 2012:Bangladesh, 19 April 2013 Section 1 http://www.state.gov/documents/organization/204607.pdf
[13] Freedom House, Freedom in the World 2013 Bangladesh, January 2013 http://www.refworld.org/docid/517104a911.html
[14] US Department of State, Country Report on Human Rights Practices 2012: Bangladesh, 19 April 2013 Section 1. http://www.state.gov/documents/organization/204607.pdf

between the police and politicians in Bangladesh. Ordinary people, for whom the police are the most visible and powerful presence of the state in both the rural and urban setting, pay the police bribes on a daily basis.[15]

2.2.15 The law provides for the right to a fair trial, but the judiciary can not always protect this right due to corruption and weak human and institutional capacities. Prosecutors and judges are underpaid and this means that some are willing to accept bribes to influence the outcome of a case. Individuals and organisations may seek administrative and judicial remedies for human rights violations, however, the civil court system is slow and cumbersome, deterring many from filing complaints.[16]

2.2.16 Politicisation of the judiciary remains an issue, despite a 1999 Supreme Court directive ordering the separation of the judiciary from the executive and efforts by the military-backed caretaker government (CG) to implement it. Political authorities continues to make appointments to the higher judiciary, in some cases demonstrating an overt political bias, leading to protests from the Supreme Court Bar Association. Harassment of witnesses and the dismissal of cases following political pressure is also growing issues of concern.[17]

2.2.17 Odhikar stated in their Human Rights Report 2012, of 12 January 2013 that the backlog of cases had continued rising due to a shortage of judges and courtrooms. According to statistics available to Odhikar, as of January 2012 there were 701,000 civil cases pending in the lower courts, while 374,000 criminal cases were pending in the Sessions Judge's Courts and more than 1,000,000 criminal cases were pending in the Judicial Magistracy.[18]If the applicant's fear is of ill-treatment/persecution by the state authorities, or by agents acting on behalf of the state, then it is improbable that they can apply to those authorities for protection. If the ill-treatment/persecution is at the hands of non-state agents, then the provision of effective state protection is likely to be limited. Each case must be considered on its individual facts and the assessment of whether effective protection is available should be considered in relation to the particular circumstances and profile of the claimant and the latest country of origin information.

2.3 Internal Relocation

2.3.1 Caseworkers must refer to the asylum instruction on Internal Relocation and in the case of a female applicant, the AI on Gender Issues in the Asylum Claim, for guidance on the circumstances in which internal relocation would be a 'reasonable' option, so as to apply the test set out in paragraph 339O of the Immigration Rules. It is important to note that internal relocation can be relevant in both cases of state and non-state agents of persecution, but in the main it is likely to be most relevant in the context of acts of persecution by localised non-state agents. If there is a part of the country of return where the person would not

[15] Asian Human Rights Commission, The State of Human Rights in Bangladesh in 2012, 10 December 2012, The Pillage of the Policing System http://www.humanrights.asia/resources/hrreport/2012/ahrc-spr-003-2012.pdf/at_download/file

[16] US Department of State, Country Report on Human Rights Practices 2012: Bangladesh, 19 April 2013 Section 1 . http://www.state.gov/documents/organization/204607.pdf

[17] Freedom House, Freedom in the World 2013 – Bangladesh, January 2013 http://www.refworld.org/docid/517104a911.html

[18] Odhikar, Annual Report 2012 - 12 January 2013, Paragraph 278 http://odhikar.org/wp-content/uploads/2013/01/report-Annual-Human-Rights-Report-2012-eng.pdf

have a well founded fear of being persecuted and the person can reasonably be expected to stay there, then they will not be eligible for a grant of asylum. Similarly, if there is a part of the country of return where the person would not face a real risk of suffering serious harm and they can reasonably be expected to stay there, then they will not be eligible for humanitarian protection. Both the general circumstances prevailing in that part of the country and the personal circumstances of the person concerned including any gender issues should be taken into account. Caseworkers must refer to the gender issues in the asylum claim where this is applicable. The fact that there may be technical obstacles to return, such as re-documentation problems, does not prevent internal relocation from being applied.

2.3.2 Where a category of applicants' fear is of ill-treatment/persecution by the state authorities, then internal relocation to escape that persecution will not generally be an option. Very careful consideration must be given to whether internal relocation would be a viable way to avoid a real risk of ill-treatment/persecution at the hands of, tolerated by, or with the connivance of, state agents. If an applicant who faces a real risk of ill-treatment/persecution in their home area would be able to relocate to a part of the country where they would not be at real risk, whether from state or non-state actors, and it would not be unreasonable to expect them to do so, then asylum or humanitarian protection should be refused.

2.3.3 The law provides for freedom of movement within the country, foreign travel, emigration and repatriation and the government generally respected these rights in practice, except in two sensitive areas, the CHT and Cox's Bazar. The government does not fully co-operate with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organisations in providing protection and assistance to refugees, asylum seekers, stateless persons and other persons of concern. Passport holders do not require exit permits or visas to leave the country. There are no special controls on women or minorities. Some senior opposition officials reported extensive delays in getting their passports renewed. The international travel ban continued on war crimes suspects from the 1971 liberation war. The country's passports are invalid for travel to Israel.[19]

2.3.4 The Social Institutions and Gender Index reports that "there are no reported legal restrictions on women's freedom of access to public space, however in 2010 the government reported that in practice, women's movement is commonly limited to their homes and local areas due to discriminatory social norms".[20] The International Anglican Women's Network also noted that women's "freedom of movement is usually restrained to the vicinity of their homes and local neighbourhoods. The Islamic practice of purdah may further limit their participation in activities outside the home, such as education, employment and social engagements. The degree of these restrictions depends very much on the traditions of individual families, but many women generally need the permission of their husbands to engage in any such activities".[21] A UN Development Programme Research Paper found that "adult women are legally required to take

[19] US Department of State, Country Report on Human Rights Practices 2012: Bangladesh, 19 April 2013 Section 2 http://www.state.gov/documents/organization/204607.pdf

[20] Organisation for Economic Co-operation and Development, Social Institutions and Gender Index: Bangladesh Profile, November 2011 , Restricted civil liberties http://genderindex.org/country/bangladesh

[21] International Anglican Women's Network, The Church of Bangladesh, undated [Last accessed: 23/08/2013], http://iawn.anglicancommunion.org/world/bangladesh.cfm

the permission of the father, husband or other male head of household for acquiring a passport, applying for a visa, and so on".[22]

2.3.5 Careful consideration must be given to the relevance and reasonableness of internal relocation on a case by case basis taking full account of the individual circumstances of the particular claimant. Case workers need to consider the ability of the persecutor to pursue the claimant in the proposed site of relocation, and whether effective protection is available in that area. Caseworkers will also need to consider the age, gender, health, ethnicity, religion, financial circumstances and support network of the claimant, as well as the security, human rights and socioeconomic conditions in the proposed area of relocation, including the claimant's ability to sustain themselves.

2.4 Country Guidance Caselaw

Supreme Court. RT (Zimbabwe) & others *v* Secretary of State for the Home Department [2012] UKSC 38 (25 July 2012). The Supreme Court ruled that the rationale of the decision in HJ (Iran) applies to cases concerning imputed political opinion. Under both international and European human rights law, the right to freedom of thought, opinion and expression protects non-believers as well as believers and extends to the freedom not to hold and not to express opinions. Refugee law does not require a person to express false support for an oppressive regime, any more than it requires an agnostic to pretend to be a religious believer in order to avoid persecution. Consequently an individual cannot be expected to modify their political beliefs, deny their opinion (or lack thereof) or feign support for a regime in order to avoid persecution.

SA (Divorced woman- illegitimate child) Bangladesh CG [2011] UKUT 00254 (13 July 2011) In this country guidance case the Upper tribunal found that:

(i) There is a high level of domestic violence in Bangladesh. Despite the efforts of the government to improve the situation, due to the disinclination of the police to act upon complaints, women subjected to domestic violence may not be able to obtain an effective measure of state protection by reason of the fact that they are women and may be able to show a risk of serious harm for a Refugee Convention reason. Each case, however, must be determined on its own facts.

(ii) Under Muslim law, as applicable in Bangladesh, the mother, or in her absence her own family members, has the right to custody of an illegitimate child.

(iii) In custody and contact disputes the decisions of the superior courts in Bangladesh indicate a fairly consistent trend to invoke the principle of the welfare of the child as an overriding factor, permitting departure from the applicable personal law but a mother may be disqualified from custody or contact by established allegations of immorality.

(iv) The mother of an illegitimate child may face social prejudice and discrimination if her circumstances and the fact of her having had an illegitimate child become

[22] UNDP, Human Development Research Paper 2009/04: Migration and Gender Empowerment: RecentTrends and Emerging Issues, April 2009, II Leaving home, http://hdr.undp.org/en/reports/global/hdr2009/papers/HDRP_2009_04.pdf

known but she is not likely to be at a real risk of serious harm in urban centres by reason of that fact alone.

(v) The divorced mother of an illegitimate child without family support on return to Bangladesh would be likely to have to endure a significant degree of hardship but she may well be able to obtain employment in the garment trade and obtain some sort of accommodation, albeit of a low standard. Some degree of rudimentary state aid would be available to her and she would be able to enrol her child in a state school. If in need of urgent assistance she would be able to seek temporary accommodation in a woman's shelter. The conditions which she would have to endure in re-establishing herself in Bangladesh would not as a general matter amount to persecution or a breach of her rights under Article 3 of the ECHR. Each case, however, must be decided its own facts having regard to the particular circumstances and disabilities, if any, of the woman and the child concerned. Of course, if such a woman were fleeing persecution in her own home area the test for internal relocation would be that of undue harshness and not a breach of her Article 3 rights.

SH (prison conditions) Bangladesh CG [2008] UKAIT 00076 (13 October 2008). The Tribunal concluded that
1. Prison conditions in Bangladesh, at least for ordinary prisoners; do not violate Article 3 of the ECHR.
2. This conclusion does not mean 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.
3. In view of the significant changes in Bangladesh politics in recent years, the Tribunal removed AA (Bihari-Camps) Bangladesh CG [2002] UKIAT 01995, H (Fair Trial) Bangladesh CG [2002] UKIAT 05410 and GA (Risk-Bihari) Bangladesh CG [2002] UKIAT 05810 from the list of country guidance cases.

3 Main Categories of Claims

3.1 This section sets out the main types of asylum claim, humanitarian protection claim and discretionary leave claim on human rights grounds (whether explicit or implied) made by those entitled to reside in Bangladesh. Where appropriate it provides guidance on whether or not an individual making a claim is likely to face a real risk of persecution, unlawful killing or torture or inhuman or degrading treatment/ punishment. It also provides guidance on whether or not sufficiency of protection is available in cases where the threat comes from a non-state actor; and whether or not internal relocation is an option. The law and policies on persecution, humanitarian protection, sufficiency of protection and internal relocation are set out in the relevant Asylum Instructions, but how these affect particular categories of claim are set out in the instructions below. All Asylum Instructions can be accessed via the Horizon intranet site. The instructions are also published externally on the Home Office internet site at asylum policy instructions.

3.2 Each claim should be assessed to determine whether there is a reasonable likelihood that the applicant would, if returned, face persecution for a Convention reason - for instance. due to their race, religion, nationality, membership of a particular social group or political opinion. The approach set out in the Court of

Appeal's judgment in Karanakaran should be followed when deciding how much weight to be given to the material provided in support of the claim (see the asylum instruction 'Considering the asylum claim and assessing credibility').

3.3 For any asylum cases which involve children either as dependants or as the main applicants, caseworkers must have due regard to section 55 of the Borders, Citizenship and Immigration Act 2009. The Home Office instruction 'Every Child Matters; Change for Children' sets out the key principles to take into account in all the department's activities.

3.4 If the applicant does not qualify for asylum, consideration should be given as to whether a grant of humanitarian protection is appropriate (see asylum instruction on humanitarian protection). Where an application for asylum and humanitarian protection falls to be refused, caseworkers must consider any elements of Article 8 of the ECHR in line with the provisions of Appendix FM (Family Life) and paragraphs 276 ADE to 276DH (Private Life) of the Immigration Rules. They must also consider whether there are any compelling reasons for granting discretionary leave (DL) to the individual concerned (see asylum instruction on Discretionary Leave).

Consideration of Articles 15(a) and (b) of the Directive/Articles 2 and 3 ECHR

3.5 An assessment of protection needs under Article 15(c) of the Directive should only be required if an applicant does not qualify for refugee protection, and is ineligible for subsidiary protection under Articles 15(a) and (b) of the Directive (which broadly reflect Articles 2 and 3 of the ECHR). Caseworkers are reminded that an applicant who fears a return to a situation of generalised violence may be entitled to a grant of asylum where a connection is made to a Refugee Convention reason or to a grant of humanitarian protection because the Article 3 threshold has been met.

Other severe humanitarian conditions and general levels of violence

3.6 There may come a point at which the general conditions in the country – for example, absence of water, food or basic shelter – are unacceptable to the point that return in itself could, in extreme cases, constitute inhuman and degrading treatment. Decision makers need to consider how conditions in the country and locality of return, as evidenced in the available country of origin information, would impact upon the individual if they were returned. Factors to be taken into account would include age, gender, health, effects on children, other family circumstances, and available support structures. It should be noted that if the State is withholding these resources it could constitute persecution for a Convention reason and a breach of Article 3 of the ECHR.

3.7 As a result of the Sufi & Elmi v UK judgment in the European Court of Human Rights (ECtHR), where a humanitarian crisis is predominantly due to the direct and indirect actions of the parties to a conflict, regard should be had to an applicant's ability to provide for his or her most basic needs, such as food, hygiene and shelter and his or her vulnerability to ill-treatment. Applicants meeting either of these tests would qualify for humanitarian protection.

Credibility

3.8 This guidance is not designed to cover issues of credibility. Caseworkers will need to consider credibility issues based on all the information available to them. For guidance on credibility see 'section 4 – Making the Decision in the Asylum Instruction 'Considering the asylum claim and assessing credibility'. Caseworkers must also ensure that each asylum application has been checked against previous UK visa applications. Where an asylum application has been biometrically matched to a previous visa application, details should already be in the Home Office file. In all other cases, the caseworkers should satisfy themselves through CRS database checks that there is no match to a non-biometric visa. Asylum applications matches to visas should be investigated prior to the asylum interview, including obtaining the Visa Application Form (VAF) from the visa post that processed the application.

3.9 Political opponents or those perceived to be in opposition to the government

3.9.1 Some applicants will apply for asylum or make a human rights claim based on ill-treatment amounting to persecution at the hands of the Bangladesh authorities due to their involvement with political organisations or perceived anti-government activities. Claimants may also fear ill-treatment by non state agents, for example members of opposing political parties or opposing factions within their own party.

3.9.2 **Treatment.** Bangladesh is an electoral democracy. The December 2008 parliamentary elections were deemed free and fair by European Union observers and other monitoring groups. An electoral alliance led by the AL won an overwhelming 263 seats (230 for the AL). The BNP took 30 seats, and its ally, the Jamaat-e-Islami (Islamic Party, or JI), took only two. Terms for both the unicameral National Parliament and the largely ceremonial presidency are five years. Under provisions contained in the 15th amendment to the constitution (see also 3.9.8 & 3.9.9), Parliament is composed of 350 members, of whom 300 are directly elected and 50 are women nominated by political parties – based on their share of the elected seats – and then voted on by their fellow lawmakers. The president is elected by Parliament.[23] Abdul Hamid was elected unopposed as Bangladesh's President in April 2013, following the death in March 2013 of President Zillur Rahman after a long illness. Sheikh Hasina became Bangladesh's Prime Minister for the second time in January 2009.[24]

3.9.3 The main opposition parties in Bangladesh are the Bangladesh Nationalist Party (BNP), Islami Oikya Jote (IOJ), Jamaat-i-Islami (JIB) and Jatiya Party (Ershad).[25]

3.9.4 A new, considerably more accurate voter registry and a series of other electoral reforms enacted in 2008 were designed to curtail the widespread bribery, rigging and violence that had characterized past elections. Whilst the December 2008 national voting was relatively clean, more recent local government ballots have been flawed by more extensive violence and intimidation, as well as suspected rigging. The level of political violence remains relatively high and Odhikar registered many deaths and injuries as a result of inter-or intraparty clashes

[23] Freedom House, Freedom in the World 2013 – Bangladesh, January 2013 http://www.refworld.org/docid/517104a911.html
[24] BBC News Bangladesh Country Profile – 24 April 2013 http://www.bbc.co.uk/news/world-south-asia-12650944
[25] IHS Jane's, Jane's Sentinel Security Assessment: Internal Affairs: 12 October 2012, (by subscription) https://janes.ihs.com/CustomPages/Janes/DisplayPage.aspx?DocType=Reference&ItemId=+++1304796#

during 2012. Harassment of the opposition became more widespread in 2012, ranging from charges filed against senior BNP members to limitations placed on political activities, particularly rallies and processions. A number of party activists have also disappeared including BNP politician, Ilias Ali, who went missing in April 2012, with some alleging abduction by security forces and others attributing the case to intraparty politics.[26]

3.9.5 Politically motivated violence remained a problem in 2012. According to Odhikar, 169 persons were killed and 17,161 injured in political violence. In the AL, there were 382 incidents of internal violence and 146 such incidents were also registered in the BNP during 2012. There were 37 persons killed and 4,330 injured in internal conflicts in the AL, while six were killed and 1,619 injured in the BNP's internal conflicts. These incidents were often linked to criminal activities rather than political motives. Incidents of non-lethal, politically motivated violence also occurred. Arbitrary arrests occurred, usually in conjunction with political demonstrations and the government held persons in detention without specific charges, sometimes in an attempt to collect information about other suspects. Following national political demonstrations on 12 March 2012, police arrested more than 3,000 suspected protestors. Odhikar estimated that the total number of arrests for 2012 was 8,675.[27]

3.9.6 The International Crisis Group states that instead of changing the old pattern of politics, the AL government has systematically used parliament, the executive and the Courts to reinforce it, including by filing corruption cases against Khaleda Zia, the BNP chairperson, and employing security agencies to reduce opposition activities. Most worrying, however, is the AL-dominated parliament's adoption of the fifteenth amendment to the constitution, which abandons a provision mandating the formation of a neutral caretaker administration to oversee general elections. The caretaker system was a major practical and psychological barrier to election-rigging by the party in power. Removing it has undermined opposition parties' confidence in the electoral system. The fifteenth amendment carries other dangers as well. For example, anyone who criticises the constitution may now be prosecuted for sedition, new procedures have rendered further amendments virtually impossible and the death penalty is prescribed for plotting to overthrow an elected government which is a thinly veiled warning to the military, which has done so four times in as many decades.[28]

3.9.7 The fifthteenth amendment restored key elements from the original 1972 Constitution by re-introducing secularism and socialism as fundamental principles, causing violent protests led by a coalition of Islamist parties. At the same time, the amendment lifted a restriction on religion-based politics, re-inserted the phrase "in the name of Allah, the Merciful, the Compassionate" before the preamble and designated Bengali as the country's singular ethnic identity. These moves prompted protests from non-Muslims, including the mostly Buddhist people of the Chittagong Hill Tracts.[29]

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[26] Freedom House, Freedom in the World 2013 – Bangladesh, January 2013 http://www.refworld.org/docid/517104a911.html

[27] US Department of State, Country Report on Human Rights Practices 2012: Bangladesh, 19 April 2013 Section 1 http://www.state.gov/documents/organization/204607.pdf

[28] International Crisis Group- Back to the Future – 13 June 2012 http://www.crisisgroup.org/~/media/Files/asia/south-asia/bangladesh/226-bangladesh-back-to-the-future.pdf

[29] International Crisis Group Bangladesh : Back to the Future – 13 June 2012 http://www.crisisgroup.org/~/media/Files/asia/south-asia/bangladesh/226-bangladesh-back-to-the-future.pdf

3.9.8 Odhikar's Human Rights Report 2012 noted that like previous years, in 2012 the present government continued withdrawing cases on the grounds that they were 'politically motivated', despite massive criticism. In the latest instance, the National Committee for Withdrawing Politically Motivated Cases on 19 September 2012 recommended the withdrawal of 10 cases of murder and rape. Reports have it that the district committees for withdrawing such case have not recommended the withdrawal of cases and the public prosecutors concerned have also refused to make such recommendations. The present government has so far recommended the withdrawal of 7,101 cases, branding them 'politically motivated'. The government action in withdrawing 'politically motivated cases' is, indeed, a politically motivated action, as no case against people who are not the men of the ruling alliance (AL) has been withdrawn. It should be noted that between 2001 and 2006, during the tenure of the Four Party Alliance led by the BNP, 5,888 cases were withdrawn under 'political consideration' and several accused persons had been acquitted from 945 'politically motivated' cases. A total of 73,541 accused persons had been acquitted in this process.[30]

3.9.9 Okhikar also reports that the government has abused Section 144 of the Code of Criminal Procedure and systematically and brutally repressed most of the meetings, mobilisation and protests of the political parties opposed to the government, provoking violence and anarchy. Between January and December 2012, police arrested 154 members of Hizb-ut Tahrir, a banned 'Islamic' party, while distributing leaflets and books. Some of them were taken to remand and were tortured in custody. Many of the Hizb-ut Tahrir men were charged under the Anti Terrorism Act 2009 (Amendment) 2012 after their arrest. Confrontations between the ruling Awami League and the opposition Bangladesh Nationalist Party and internal clashes are the main reasons for the continuation of partisan violence. The security force routinely arrest and detain opposition activists on a large scale prior to any political programme announced by the Opposition parties.[31]

3.9.10 The BNP-led opposition continued to intermittently boycott Parliament and rigidly oppose the AL government's initiatives in 2012, resorting once again to the use of general strikes and mass protests. More than 100,000 people participated in one rally in March 2012. A key goal of BNP activism during 2012 was the reinstatement of the caretaker government system for the next elections, which must be held by early 2014. Following a rally in April 2012 that turned violent, 33 senior party leaders were arrested and charged with vandalism and arson. Separately, in another sign of instability, the army alleged in January 2012 that it had foiled an attempted coup by mid-ranking officers with Islamist leanings, aided by retired officers and expatriate Bangladeshis. In November 2012, the war crimes trial of JI member Abul Kalam Azad began in absentia.[32]

3.9.11 The AL's decisions to abandon the caretaker government system swung public support towards the BNP. "It was a gift from Sheikh Hasina", said a BNP leader. The result was a fresh infusion of funds from party backers and the business community. Khaleda Zia, leader of the BNP, used the money to exploit anti-AL sentiment by launching four "road marches" in late 2011 and early 2012,

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[30] Odhikar, Human Rights Report 2012, dated 12 January 2013, paragraph 103 http://odhikar.org/wp-content/uploads/2013/01/report-Annual-Human-Rights-Report-2012-eng.pdf

[31] Odhikar, Human Rights Report 2012, dated 12 January 2013 Paragraphs 54, 69, 115 http://odhikar.org/wp-content/uploads/2013/01/report-Annual-Human-Rights-Report-2012-eng.pdf

[32] Freedom House, Freedom in the World 2013 – Bangladesh, January 2013 http://www.refworld.org/docid/517104a911.html

travelling to over 50 of Bangladesh's 64 districts to rejuvenate party workers and strengthen the organisational structure.[33]

3.9.12 Freedom House reports that the rights of assembly and association were restored in late 2008 with the lifting of emergency regulations. The authorities have sometimes tried to prevent rallies by arresting party activists and protesters are frequently injured and occasionally killed during clashes with police. Nevertheless, demonstrations took place regularly in 2012, including a growing number of nationwide strikes and rallies called by the BNP.[34] According to the 2012 U.S. State Department report, legal experts and human rights activists criticized the use of mobile courts headed by magistrates during nationwide strikes called by the opposition party. Mobile courts immediately prosecuted persons who supported the strikes and rendered verdicts that often included prison terms. Fearing widespread violence, law enforcement agencies arrested 3,215 persons in connection with a large rally organised by the opposition parties on 12 March 2012. Media and human rights observers noted that police arrested some day labourers, rickshaw pullers, hawkers, street vendors and transport workers who were not involved in the rally along with political activists.[35]

3.9.13 Human Rights Watch notes that from February to May 2013, more than 150 people were killed in the violence linked to demonstrations, including at least 15 members of the security forces; at least 2,000 people were injured. Some demonstrations were entirely peaceful; in others protesters threw rocks at or otherwise attacked security forces. In a few cases, officers were beaten to death. In many cases, security forces responded to violence in an appropriate fashion, using non-lethal methods to disperse crowds. Yet in many other cases the police, RAB, and the Border Guard Bangladesh (BGB) responded with excessive force, killing protesters and bystanders. Security forces used rubber bullets and live ammunition improperly or without justification, killing some protesters in chaotic scenes and executing others in cold blood. Many of the dead were shot in the head and chest, indicating that security forces fired directly into crowds. Others were beaten or hacked to death. At least seven children were killed by security forces. In a number of instances after protests, police lodged criminal complaints from members of the public (called "First Information Reports," or FIRs) against hundreds and sometimes thousands of "unknown assailants." Police would then enter the communities where protesters came from, using the FIRs as justification for otherwise arbitrary arrests of scores of individuals, particularly of men thought to be Jamaat supporters. Human Rights Watch found no indication of any meaningful investigations by authorities into alleged security force violations, including unjustified or improper use of live ammunition, mass arrests and extrajudicial executions.[36]

3.9.14 Thousands of protesters took to the streets of Dhaka in Shahbagh Square in February 2013 to demand the execution of the leader of the country's biggest Islamist party, Jamaat-e-Islami, after he was sentenced to life in prison for war

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[33] International Crisis Group Bangladesh : Back to the Future – 13 June 2012 http://www.crisisgroup.org/~/media/Files/asia/south-asia/bangladesh/226-bangladesh-back-to-the-future.pdf

[34] Freedom House, Freedom in the World 2013 – Bangladesh January 2013 http://www.refworld.org/docid/517104a911.html

[35] US Department of State, Country Report on Human Rights Practices 2012: Bangladesh, 19 April 2013 Section 1 http://www.state.gov/documents/organization/204607.pdf

[36] Human Rights Watch, Blood on the Streets The Use of Excessive Force During Bangladesh Protests, 1 August 2013, Summary http://www.hrw.org/reports/2013/08/01/blood-streets

crimes committed during the 1971 independence conflict. Traffic in the city, already notoriously slow, ground to a halt. Troops patrolled government buildings and intersections in the capital Dhaka and port city of Chittagong to guard against any escalation in violence as more and more protesters gathered. Abdul Quader Mollah committed his crimes during Bangladesh's nine-month struggle for independence from Pakistan in 1971. Mollah and the 11 others who stand trial with him – 10 of whom are members of Jamaat-e-Islami – are accused of collaborating in war crimes with the Pakistani army. Between March and December of that year, the Pakistani army unleashed a campaign of mass murder against Bangladeshi civilians. [37]

3.9.15 Since Bangladesh's independence, the state had done little to bring people such as Mollah to justice. The erasure of the war began in 1972 with the granting of amnesty to the Pakistani army officers who led the killings. During the decades of political turmoil that followed in Bangladesh, the war and its crimes were buried, while one regime after another contributed to the rehabilitation of the Jamaat party. Internationally, charges of genocide were never formally brought to the United Nations. However, the tide finally turned in 2008, when the AL (the party whose then leader, Sheikh Mujibur Rahman, had led the independence movement) won a landslide victory at the general election. The campaign included a promise to set up a tribunal to prosecute those who had committed war crimes in 1971. The International Crimes Tribunal was set up in 2010. Since then, the Court has been gathering evidence and hearing testimonies against the accused.[38]

3.9.16 In an indication of the rifts opened up by the Court, shops and businesses in the capital and elsewhere were shut as Jamaat-e-Islami enforced a national strike against the imprisonment of Abdul Quader Mollah. Four people were killed and over 150 hurt, including 50 police. Jamaat has threatened to paralyse the country unless Mollah and its other leaders on trial are freed and the tribunal dissolved. Critics have said that Prime Minister Sheikh Hasina is using the International Crimes Tribunal as a political weapon against the two biggest opposition parties, the BNP and Jamaat-e-Islami. The ruling Awami party has rejected accusations that the tribunal is biased but it has been criticised by human rights groups for failing to adhere to standards of international law.[39]

3.9.17 According to the South Asia Terrorism Portal (SATP) – Bangladesh Assessment 2013, the Government had consolidated its secular commitments through 2012, reining in Islamist extremist groups and targeting the Left Wing Extremist (LWE) movement in the country.[40]

[37] Reuters – Protesters Demand Death For Bangladesh War Crimes Islamist – 6 February 2013
http://in.reuters.com/article/2013/02/06/bangladesh-verdict-war-idINDEE9150CS20130206
The Guardian – Shahbag Protesters Versus The Butcher of Mirpur – 13 February 2013
http://www.theguardian.com/world/2013/feb/13/shahbag-protest-bangladesh-quader-mollah
[38] The Guardian – Shahbag Protesters Versus The Butcher of Mirpur – 13 February 2013
http://www.theguardian.com/world/2013/feb/13/shahbag-protest-bangladesh-quader-mollah
[39] Reuters – Protesters Demand Death For Bangladesh War Crimes Islamist – 6 February 2013
http://in.reuters.com/article/2013/02/06/bangladesh-verdict-war-idINDEE9150CS20130206
[40] South Asia Terrorism Portal – Bangladesh Assessment 2013 – Accessed 16 January 2013
http://www.satp.org/satporgtp/countries/bangladesh/index.htm

3.9.18 The constitution prohibits arbitrary arrest and detention, but the law permits authorities to arrest and detain persons suspected of criminal activity without an order from a magistrate or a warrant.[41]

3.9.19 According to Freedom House, during 2012 the political situation further deteriorated, as the opposition held numerous street protests and threatened to reject elections that must be held by early 2014.[42] The Economist states that the May 2013 killings of Islamist hardliners promised further instability in Bangladesh. As many as 50 people were killed in the capital on 6 May as security forces cracked down on members of Hefajat-e-Islam and many more were killed elsewhere. Odhikar reports that some hundreds of people died during a "killing spree" by a force of 10,000 made up of police, paramilitaries and armed men from the ruling Awami League. Bodies were strewn about the streets of Dhaka's commercial district as deadly clashes took place elsewhere, such as at Narayanganj, south of the capital, where 20 people were reported killed.[43]

3.9.20 In April 2013, hundreds of thousands of Hefajat supporters, who are mostly from madrassas near Chittagong, marched on Dhaka, issuing 13 demands that they said the government should meet by the end of the month. These comprised of the introduction of an anti-blasphemy law carrying the death penalty for anyone who "insults" Islam. Other Taliban-style demands were for an end to Bangladesh's pro-women development policy, a ban on men and women mixing in public, an end to "shameless behaviour and dresses" and a call for the Ahmadiyya sect to be declared non-Muslim. Such regressive calls go entirely against the moderate Islam practiced by most Bangladeshis and against the country's generally secular political tradition. Yet, according to The Economist, the main opposition, the BNP, backed Hefajat and the BNP's Islamist credentials are growing more explicit. It remains allied to Jamaat-e-Islami, a religious party that serves as a standard-bearer for Saudi Arabia's strident strand of Islam. In April 2013 Khaleda Zia, the BNP's leader, hosted a meeting of Arab envoys in what appeared to be a show of support by the diplomats for the party.[44]

See also: **Actors of Protection** **(Section 2.2 above)**
Internal Relocation **(Section 2.3 above)**
Caselaw **(Section 2.4 above)**

3.9.21 **Conclusion** The Supreme Court held in RT (Zimbabwe) that the rationale of the decision in HJ (Iran) extends to the holding of political opinions. An individual should not be expected to modify or deny their political belief, or the lack of one, in order to avoid persecution.

3.9.22 There are reports that some perceived political opponents have been subject to extra-judicial killings, violence, intimidation, arbitrary arrest and detention.

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[41] US Department of State, Country Report on Human Rights Practices 2012: Bangladesh, 19 April 2013 Section 1 http://www.state.gov/documents/organization/204607.pdf
[42] Freedom House, Freedom in the World 2013 – Bangladesh, January 2013 http://www.refworld.org/docid/517104a911.html
[43] The Economist – Political Violence in Bangladesh – In Hot Blood – 11 May 2013 http://www.economist.com/news/asia/21577418-killings-islamist-hardliners-promise-further-instability-hot-blood
[44] The Economist – Political Violence in Bangladesh – In Hot Blood – 11 May 2013 http://www.economist.com/news/asia/21577418-killings-islamist-hardliners-promise-further-instability-hot-blood

Harassment of political opponents is also widespread, with charges brought against senior BNP members and limitations placed on political activities, particularly rallies and processions. However, large scale demonstrations are regularly reported and some of these are entirely peaceful while others have resulted in violence. Cases against supporters of the current Awami League government have been withdrawn on the recommendations of the National Committee for Withdrawing Politically Motivated Cases. Case owners should assess claims made on the basis of the applicant's perceived political opposition to the current government on the facts of the case taking account of the exact nature of the applicants claimed political activity and level of political involvement as well as the claimant's previous experiences in Bangladesh.

3.9.23 Deaths and injuries are reported as a result of internal conflicts in the BNP and the Awami League. In cases based on fear of ill-treatment by members of opposing political parties or in fear of opposing factions within their own party, it is unlikely that effective protection would be available from governmental sources. However, it may be possible that such claimants would be able to relocate internally away from the area if they are at risk of localised violence. A grant of asylum or HP would only be appropriate in cases where an individual was able to show that he/she remained at risk because of specific factors relating to his/her particular history, and internal relocation was not an option, for example, where the individual would also be at risk in the proposed area of relocation.

3.10 Victims of domestic violence

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

3.10.2 **Treatment** Following a visit to Bangladesh in May 2013, the United Nations Special Rapporteur on Violence against Women stated in her end-of-mission statement of 29 May 2013 that the most pervasive form of violence against women in Bangladesh is domestic violence, with an estimated 60 percent of married women reported to having experienced violence at the hands of a spouse and/or in-laws. Other manifestations of violence include: different forms of sexual violence including rape and harassment in public places; dowry-related violence; sexual harassment; forced and/or early marriages and acid attacks.[45]

3.10.3 The law prohibits rape and physical spousal abuse but makes no specific provision for spousal rape. According to Odhikar, during 2012 there were 805 reported incidents of rape against women and girls, including 299 women and 33 victims whose age could not be ascertained. According to human rights monitors, the actual number of rape cases was higher because many rape victims did not report the incidents due to social stigma or fear of further harassment. Prosecution of rapists was not consistent. Of the women, 31 were killed after

[45] UN Office of the High Commissioner for Human Rights: 'Special Rapporteur on Violence against women, its causes and consequences finalises country mission to Bangladesh', 29 May 2013 http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=13374&LangID=E

being raped and 101 were victims of gang rape. ASK reported 1,008 rape cases, including 21 attempted rapes, filed with police during 2012.[46]

3.10.4 The law criminalizes domestic violence. Women's rights groups criticized the government for its inaction on domestic violence and data was difficult to obtain. A 2000 study by the UN Population Fund indicated that at least 50 percent of women experienced domestic violence at least once in their lives. During 2012, the Bangladesh National Women Lawyers' Association (BNWLA) received more than 9,000 reports of violence against women and filed 731 cases related to violence against women. Non-governmental organisations (NGOs) with little assistance from the government funded most efforts to combat domestic violence. NGOs such as the BNWLA operated shelters for destitute persons and distressed women and children. Courts sent most victims of domestic violence to shelter homes such as those run by BNWLA. In a few cases victims were sent to prison as a transitory destination for short periods. There were some support groups for victims of domestic violence.[47] In March 2011, the UN Committee on the Elimination of Discrimination Against Women noted with concern the "limited number of shelters and One Stop crisis-centres as it views these to be inadequate in responding to the needs of the victims of violence against women".[48] A Visiting Professor of Criminology at Kathmandu School of Law and Principal Advisor on a gender-responsive community policing project in Bangladesh interviewed by CORI in June 2011 on 'domestic violence and conditions for divorced Muslim women with children, without male relatives, in Bangladesh' stated that "victims of domestic violence are generally shunned. They cannot return to their families as there appears to be 'shame' in being a victim of such behaviour".[49]

3.10.5 Human Rights Watch observed in their World Report 2013 that whilst Bangladesh has a strong set of laws and judicial guidelines to tackle violence against women, implementation remains poor. Violence against women including rape, dowry-related assaults and other forms of domestic violence, acid attacks and illegal punishments in the name of fatwas or religious decrees and sexual harassment continue.[50]

3.10.6 The Police Reform Project, which began in late 2005 has been extended for another five years up to 2014 and has been undertaken with an aim to improve the efficiency and effectiveness of the Bangladesh Police. One of the most important objectives of this program is for the police services to become more responsive and sensitive to women survivors of violence. The Police Reform Project has established a Victim Support Centre in Dhaka city to provide professional support to survivors and 21 additional centres at district levels. The Police Reform Project has key strategic areas, including, to increase the number

[46] US Department of State, Bangladesh Country Report on Human Rights Practices 2012: Bangladesh, 19 April 2013, Section 6 http://www.state.gov/documents/organization/204607.pdf
[47] US Department of State, Bangladesh Country Report on Human Rights Practices 2012: Bangladesh, 19 April 2013, Section 6 http://www.state.gov/documents/organization/204607.pdf
[48] UN Committee on the Elimination of Discrimination Against Women, Concluding observations of the Committee on the Elimination of Discrimination against Women: Bangladesh, 22 March 2011, paragraph 19, http://www.ecoi.net/file_upload/1930_1335432283_g1141730.pdf
[49] Country of Origin Research and Information (CORI), CORI Country Report: Bangladesh, March 2012, 7. Women/Children/Sexual Orientation, B. Situation of Women and Girls, 2. Access to legal remedies and support, http://www.refworld.org/docid/50618c6f2.html
[50] Human Rights Watch, World Report 2013 : Bangladesh, Women's and Girls' Rights, 31 January 2013 http://www.hrw.org/world-report/2013/country-chapters/bangladesh .

of female police officers and gender sensitization.[51] It has however been reported that the programme continues to be faced with obstacles and stern resistance from the political executive. [52] The Visiting Professor of Criminology at Kathmandu School of Law and Principal Advisor on a gender-responsive community policing project in Bangladesh stated that "the police consider domestic violence to be a family matter and are unlikely to investigate cases. The second in command of the Bangladesh Police, who was the National Project Director of the UNDP/DFID Police Reform Programme told me that police would never investigate cases of domestic violence as it was a 'family matter'".[53] He further noted that it "was too dangerous for women to report to a police station alone, that there is a high level of corruption within the police who lack adequate training".[54] Human Rights Watch reported that the administration of social assistance for victims of domestic violence leaves much to be desired. Women they interviewed described "enduring months and sometimes years of domestic violence because they knew if they separated or divorced, they faced economic desperation".[55]

3.10.7 Some of the reported violence against women was related to disputes over dowries. On 2 November 2012, a pregnant housewife in Nageshwari, Kurigram, Khushina Khatun, was allegedly strangled to death by her husband, Mofizul Huq, over dowry demands. She died on the way to Rangpur Medical College Hospital. After her death her father filed a complaint against his daughter's in-laws at the Nageshwari police station. On 18 December 2012, the investigating officer informed Odhikar that, while the victim's father-in-law and mother-in-law were arrested, they did not arrest the prime suspect, Mofizul Huq.[56]

3.10.8 Odhikar has stated in their 2012 Human Rights Report, that taking or giving dowry is illegal, punishable with imprisonment and /or fine according to the Dowry Prohibition Act, 1980. Parts of the Prevention of Repression on Women and Children Act 2000, which was amended in 2003, provides various punishments against perpetrators for committing dowry related crimes. In spite of the existing law, dowry related violence has increased sharply in 2012 compared to other years.[57]

3.10.9 According to Odhikar, a deep rooted patriarchal mindset, lack of awareness and non implementation of laws were behind the vicious dowry system and instigated

[51] UN Secretary-General's Database on Violence against Women: Bangladesh, Police Reform Project 2005 – 2014, Last updated: 25 May 2010 http://sgdatabase.unwomen.org/searchDetail.action?measureId=33290&baseHREF=country&baseHREFId=192

[52] Commonwealth Human Rights Initiative,Network for Improving Policing in South Asia (NIPSA), Overview, undated. http://www.nipsa.in/bangladesh

[53] Country of Origin Research and Information (CORI), CORI Country Report: Bangladesh, March 2012, 7. Women/Children/Sexual Orientation, B. Situation of Women and Girls, 2. Access to legal remedies and support, http://www.refworld.org/docid/50618c6f2.html

[54] Country of Origin Research and Information (CORI), CORI Country Report: Bangladesh, March 2012, 7. Women/Children/Sexual Orientation, B. Situation of Women and Girls, 2. Access to legal remedies and support, http://www.refworld.org/docid/50618c6f2.html

[55] Human Rights Watch, "Will I Get My Dues … Before I Die?": Harm to Women from Bangladesh's Discriminatory Laws on Marriage, Separation, and Divorce, September 2012, III. Impacts of Bangladesh's Discriminatory Personal Laws on Married, Divorced, and Separated Women, Domestic Violence, http://www.hrw.org/sites/default/files/reports/bangladesh0912ForUpload.pdf

[56] US Department of State, Bangladesh Country Report on Human Rights Practices 2012: Bangladesh, 19 April 2013, Section 6 http://www.state.gov/documents/organization/204607.pdf

[57] Odhikar, Human Rights Report 2012, 12 January 2013, Chapter VIII: Violence Against Women, Dowry-Related violence, paragraphs 254 and 255 (p83) http://odhikar.org/wp-content/uploads/2013/01/report-Annual-Human-Rights-Report-2012-eng.pdf

the violence. The inaction of law enforcement agencies to investigate or arrest the accused and a lengthy, problematic judicial procedure inspires the accused and other potential abusers to commit such violence. Between January and December 2012, 822 females were subjected to dowry related violence. Of these women, it has been alleged that 273 were killed because of dowry, 535 were ill-treated in various other ways and 14 committed suicide over dowry demands.[58]

3.10.10 Acid attacks, although less common than in the past, remained a serious problem. Assailants threw acid in the faces of victims, usually women, which left them disfigured and often blind. Acid attacks often related to a woman's refusal to accept a marriage proposal or to land disputes. Odhikar reported acid attacks on 58 women, 17 men, 20 girls and 10 boys in 2012. The law seeks to control the availability of acid and reduce acid-related violence directed toward women, but lack of awareness of the law and poor enforcement limited its effect. The government made efforts to punish offenders and reduce the availability of acid to the general public. The Commerce Ministry restricted acid sales to buyers registered with relevant trade organisations, however, the restrictions were not universally enforced. The law provides for speedier prosecutions of acid-throwing cases in special tribunals and generally does not allow bail. According to the Acid Survivors Foundation (ASF), the special tribunals were not entirely effective and prosecutors obtained a conviction in an estimated 8 to 10 percent of cases. Five persons were convicted in three cases during 2012.[59]

3.10.11 The Acid Crime Control Act of 2002 provides for sentences ranging from three years to life imprisonment or the death penalty. Sentences depend largely on the parts of the victim's body affected. For example, punishment for killing of a person by acid or injuring a person resulting in loss of vision, loss of hearing, or damage or disfigurement of the face, breasts or sexual organs can result in capital punishment or imprisonment for life and a fine. The Acid Control Act of 2002 was introduced to control the import, production, transportation, hoarding, sale and use of acid and to provide treatment to victims of acid violence, rehabilitate them and provide legal assistance.[60]

3.10.12 A United Nations independent expert called on Bangladesh to ensure the effective implementation of laws and measures that protect women from violence, stressing that in addition to the enforcement of policies, changes in attitudes need to occur regarding women's role in society."The absence of effective implementation of existing laws, the lack of responsive justice systems and impunity for acts of violence, was the rule rather than the exception in cases of violence against women," said the Special Rapporteur on Violence against Women, Rashida Manjoo, who just finished a 10-day visit to the country. Ms Manjoo noted that the most pervasive form of violence against women in the country is domestic violence, with a high percentage of married women having experienced violence at the hands of their husbands and/or in-laws. Other manifestations include rape, discrimination based on ethnicity, religion and caste status, sexual harassment, forced marriages and trafficking. Stereotypical views

[58] Odhikar, Human Rights Report 2012, 12 January 2013, Chapter VIII: Violence Against Women, Dowry-Related violence, paragraphs 253 and 259 (pages 83 and 84) http://www.odhikar.org/documents/2013/AHRR_2012/report-Annual%20Human%20Rights%20Report-2012-eng.pdf

[59] US Department of State, Bangladesh Country Report on Human Rights Practices 2012: Bangladesh, 19 April 2013, Section 6 http://www.state.gov/documents/organization/204607.pdf

[60] Acid Survivors' Foundation (ASF), Legal, Undated http://www.acidsurvivors.org/Legal

regarding the role of women in society are obstructing efforts to empower women, Ms. Manjoo said. "Such attitudes and behaviour have the effect of perpetuating discrimination against women and girls and contribute to the continuation of violence against them." Ms. Manjoo commended the steps taken by the Government towards legislative, policy and programmatic measures to address the development needs of women and violence against women specifically. However, in spite of some positive developments, discrimination and violence against them continues in law and practice. To increase accountability regarding cases of violence against women and address the systemic and structural causes of inequality and discrimination, social transformation needs to occur, Ms. Manjoo said.[61]

3.10.13 According to Freedom in the World 2013, rape, dowry-related assaults, acid throwing and other forms of violence against women occur regularly. A law requiring rape victims to file police reports and obtain medical certificates within 24 hours of the crime in order to press charges prevents most cases from reaching the courts. Police also accept bribes to quash rape cases and rarely enforce existing laws protecting women. The ASF verified 71 acid attacks during 2012 which affected 98 victims, most of them women. While attacks have declined since the passage of the Acid Crime Prevention Act in 2002, investigations remain inadequate. A 2010 law offers greater protection to women and children from domestic violence, including both physical and mental abuse. Giving or receiving dowry is a criminal offence, but coercive requests remain a problem, as does the country's high rate of early marriage. Odhikar noted an increase in dowry-related violence against women in 2012, with more than 250 murders confirmed during 2012.[62]

3.10.14 Bangladesh reported the highest prevalence of child marriages in the world. Archaic and discriminatory family laws for Muslims, Hindus and Christians, continued to impoverish many women when they separate from, or divorce spouses and confine them to abusive marriages for fear of destitution. The Law Commission of Bangladesh researched and suggested reforms to these laws in 2012.[63]

See also: **Actors of Protection** **(Section 2.2 above)**

Internal Relocation **(Section 2.3 above)**

Caselaw **(Section 2.4 above)**

3.10.15 **Conclusion** The country guidance case of SA (Divorced woman- illegitimate child) Bangladesh CG [2011] UKUT 00254 found that whilst the government has made efforts to improve the situation for women, the disinclination of the police to act on reports on domestic violence means that women applicants may be unable to obtain effective state protection. Applicants may be able to escape persecution by internally relocating to another area of Bangladesh, but it should be noted that victims of domestic violence may be shunned by their families and single women with no support network are vulnerable and may be left destitute. The personal circumstances of an individual applicant should be taken into

[61] UN News Centre, Bangladesh Must Address Lack of Protection for Women from Violence – UN expert, 30 May 2013 http://www.un.org/apps/news/story.asp?NewsID=45037#.UhU1SuvF1F8
[62] Freedom House, Freedom in the World 2013 – Bangladesh, 10 April 2013 http://www.freedomhouse.org/report/freedom-world/2013/bangladesh
[63] Human Rights Watch, World Report 2013: Bangladesh, Women's and Girls' Rights, 31 January 2013 http://www.hrw.org/world-report/2013/country-chapters/bangladesh?page=3

account when assessing whether it would be unduly harsh to expect them to do so.

3.10.16 Women applicants who can demonstrate that they have a well-founded fear of persecution as a result of domestic violence and have no recourse to state protection or internal relocation should be granted asylum as a member of a particular social group.

3.11 Treatment of Journalists/Media professionals

3.11.1 Some applicants may make an asylum and/or human rights claim based on ill-treatment amounting to persecution at the hands of the authorities due to them being journalists (whether in print or other media) who have expressed anti-government views.

3.11.2 The constitution provided for freedom of speech and press, but the government sometimes failed to respect these rights. There were some limitations on freedom of speech and perceived misrepresentation or defamation of Islam. Some journalists self-censored their criticisms of the government due to harassment. Journalists were subjected to physical attack, harassment, and intimidation from both state and non-state actors.[64] Freedom of opinion and expression can be treated as 'sedition'. According to the 15th Amendment of the Constitution, the highest punishment for sedition is the death penalty. Section 124A of the Penal Code defines the term 'Sedition' as: written or spoken words, or signs, or visible representation, or otherwise, that bring or attempt to bring hatred or contempt, or disaffection towards the 'government established by law'. According to Odhikar, 2012 was a bad year for journalists with five journalists being killed. In 2011 none were killed, in 2010 four journalists were killed and in 2009 three journalists were killed. The journalists and the media continue to be victims of attacks, physical assault, threats and intimidation from different powerful quarters, specially the government and the ruling party leaders and activists. From January to December 2012, according to Odhikar's documented statistics, apart from the five journalists killed, 161 journalists have been injured, 63 have been threatened, 10 have been attacked and 50 have been assaulted and two journalists were tortured by RAB and the Detective Branch (DB) of police.[65] The Inter Press Service reported that during the first half of 2013, 120 media practitioners were subjected to severe attacks and 24 received some form of threat during the course of their professional duties.[66]

3.11.3 The Committee to Protect Journalists (CPJ) reported on 8 April 2013 that hundreds of thousands of Islamists took to the streets in Dhaka demanding death for bloggers whose work they see as blasphemous. The demonstrations highlight the deteriorating climate for journalists, both those whose work is the target of the protests and those who have tried to cover the events. Several journalists were assaulted while covering the demonstrations. These most recent demonstrations led by the Islamist political party, Hefajat-e-Islam, are in response to online writers and activists who have been instrumental in amplifying support for the

[64] US Department of State, Country Report on Human Rights Practices 2012: Bangladesh, 19 April 2013 Section 2 http://www.state.gov/documents/organization/204607.pdf
[65] Odhikar, Human Rights Report 2012, dated 12 January 2013, Violence and repression against journalists paragraph 35 http://odhikar.org/wp-content/uploads/2013/01/report-Annual-Human-Rights-Report-2012-eng.pdf
[66] Inter Press Service, Fourth Estate Under Fire in Bangladesh, 16 July 2013 http://www.ipsnews.net/2013/07/fourth-estate-under-fire-in-bangladesh/

Shahbagh movement which calls for the death penalty against all those standing trial for war crimes. Threats to online journalists who have written about growing fundamentalism surfaced in January 2013 when the popular blogger Asif Mohiuddin, who describes himself as an atheist, was stabbed by religious extremists. On 15 February 2013 Ahmed Rajib Haider, another well-known blogger, was hacked to death outside his home. A well-known journalist couple – Nayeemul Islam Khan and Nasima Khan Monti – had a series of bombs hurled at their car. The day after this attack, unidentified assailants threw three explosives at the Chittagong Press Club.[67] Four bloggers were arrested in early April 2013 on charges of insulting Islam through their Internet writings. The bloggers, who have written about Islamist fundamentalism in a critical way, face up to 10 years in jail under existing cyber laws. The arrests come amid a wider crackdown on the Internet in which the government has blocked about a dozen websites and blogs. Authorities have also set up a panel, which included intelligence chiefs, to investigate material posted on social media sites that is perceived to be blasphemous.The CPJ article observed that many bloggers have stopped writing and some have gone into hiding fearing for their life.[68] Article 19 reported in April 2013 that it was particularly concerned that among those journalists attacked while reporting on demonstrations in Dhaka, a number of women journalists were specifically targeted because of their gender.[69]

3.11.4 The government can restrict speech deemed to be against the security of the state; against friendly relations with foreign states; against public order, decency, or morality; or that constitutes contempt of court, defamation, or incitement to an offence. The government indirectly censored the media through threats and harassment. According to journalists, on multiple occasions government officials asked privately owned television channels not to broadcast the opposition's activities and statements. For example, ETV, Bangla Vision and Islamic TV defied unofficial requests not to broadcast a live opposition alliance rally on 12 March 2013. Government intelligence officials allegedly forced cable operators to suspend the transmission of the three channels until after the rally had finished.[70]

3.11.5 According to some journalists and human rights NGOs, journalists engaged in self-censorship due to fear of government retribution. Although public criticism of the government was common and vocal, the media particularly print media, relied on government advertisements for a significant percentage of their revenue. As a result the media had an incentive for self-censorship.[71]

3.11.6 According to Freedom House's Freedom in the World 2013 report, journalists continue to be threatened and attacked with impunity by organised crime groups, party activists and Islamist factions. There also appeared to be an increase in other types of physical harassment against the press. In May 2012, nine journalists were injured when armed men attacked the newsroom of the bdnews24.com website. In a separate incident that month, three photojournalists from the daily Prothom Alo were badly beaten by police while attempting to cover

[67] Committee to Protect Journalists (CPJ), 'In Bangladesh, climate worsens for journalists', 8 April 2013 http://www.cpj.org/blog/2013/04/in-bangladesh-climate-worsens-for-journalists.php
[68] Committee to Protect Journalists (CPJ), 'In Bangladesh, climate worsens for journalists', 8 April 2013 http://www.cpj.org/blog/2013/04/in-bangladesh-climate-worsens-for-journalists.php
[69] Article 19, Bangladesh: Action needed now to stop gender-based violence against journalists, 10 April 2013, http://www.refworld.org/docid/519dcdd74.html
[70] US Department of State, Country Report on Human Rights Practices 2012: Bangladesh, 19 April 2013 Section 2 http://www.state.gov/documents/organization/204607.pdf
[71] US Department of State, Country Report on Human Rights Practices 2012: Bangladesh, 19 April 2013 Section 1 http://www.state.gov/documents/organization/204607.pdf

a story. Some journalists received threatening telephone calls from intelligence agencies seeking to prevent negative coverage. In January 2012, a university teacher was given a six-month jail sentence for comments he made about Prime Minister Hasina on the social-networking site Facebook in 2011. In September 2012, the government blocked the video-sharing site YouTube following a global uproar over an anti-Islam video produced in the United States. Various forms of artistic expression, including books and films, are occasionally banned or censored.[72]

3.11.7 Amnesty International reports that Mahmudur Rahman was arrested at his office on 11 April 2013 after the newspaper he works for, Amar Desh, published articles that criticised the government. On 17 April, after 5 days in police custody, during which time his lawyers say he was tortured, he was produced before a magistrate who ordered that he be transferred from police to jail custody.[73] Reporters Sans Frontières reported that around ten journalists covering Islamist rioting in the central Dhaka district of Paltan on 5 May 2013 were injured in attacks by protesters, supporters of Hefajat-e-Islam, and two were hospitalised in a critical condition. The rioting was followed by the closure of two Islamist TV stations.[74] In July 2013 the Committee to Protect Journalists noted reports that Golam Maula Rony, a member of the ruling Awami League, and several unnamed individuals present at the politician's office in Dhaka allegedly beat Imtiaz Momin Sony, a reporter for Independent TV, a private news channel, and cameraman Mohsin Mukul. The reports said that the journalists had visited Rony's office seeking comment for a story they were covering for the station's investigative show, "Talash," on allegations of bribery against the politician.[75]

See also: **Actors of Protection** **(Section 2.2 above)**
Internal Relocation **(Section 2.3 above)**
Caselaw **(Section 2.4 above)**

3.11.8 **Conclusion** The constitution and law provide for freedom of speech and of the press; however, the government limited these rights by intimidation, detention, restrictive legislation, censorship and the closure of media outlets. The Government continues to harass, detain and torture journalists who write or publish articles which are considered unfavourable to the authorities and both state and non-state actors subjected journalists to intimidation, assault and physical attacks, including extra-judicial killing.

3.11.9 While each case must be considered on its individual merits, where a journalist has expressed views which could be perceived to be critical of the Government (whether in print or other media), then they are likely to be at real risk of ill treatment which may amount to persecution. In such cases a grant of asylum will be appropriate due to their imputed political opinion.

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[72] Freedom House, Freedom in the World 2013 – Bangladesh, January 2013 http://www.refworld.org/docid/517104a911.html
[73] Amnesty International, Detained editor alleges torture, 19 April 2013 http://www.amnesty.org/en/library/asset/ASA13/007/2013/en/f5b09b7f-85e9-452c-9063-98db5ddea77f/asa130072013en.html
[74] Reporters Sans Frontières, Reporters attacked by rioting Islamists during clashes with police, 7 May 2013 http://en.rsf.org/bangladesh-reporters-attacked-by-rioting-07-05-2013,44579.html
[75] Committee to Protect Journalists, Journalists report being attacked by Bangladeshi MP, 23 July 2013, available at: http://www.refworld.org/docid/520897ed14.html

3.12 Treatment of Minority Religious Groups

3.12.1 Some claimants will apply for asylum or make a human rights claim based on ill treatment amounting to persecution at the hands of Bangladeshi authorities due to their involvement with minority religious groups.

3.12.2 The constitution and other laws and policies protect religious freedom and, in practice, the government generally respected religious freedom. The trend in the government's respect for religious freedom did not change significantly during 2012. The government made limited progress on the long-standing issue of returning "vested property" to Hindus dating from the country's liberation war and also took steps towards equalizing family law for Hindus through legislating optional marriage registration. The constitution states that Islam is the state religion, but reaffirms the nation is a secular state that "shall ensure equal status and equal right in the practice of the Hindu, Buddhist, Christian and other religions." The constitution provides for the right to profess, practice or propagate all religions, subject to law, public order and morality. Although government officials, including police, were sometimes slow to assist members of minority religious groups who were victims of harassment and violence, there were examples of timely and effective police intervention. Under the penal code, statements or acts made with a "deliberate and malicious" intent to insult religious sentiments are subject to fines or up to two years in prison. In addition, the Code of Criminal Procedure states the government may confiscate all copies of a newspaper if it publishes anything that creates enmity and hatred among the citizens or denigrates religious beliefs.[76]

3.12.3 According to the 2011 census, Sunni Muslims constitute 90 percent of the population and Hindus make up 9.5 percent of a total population of 152.5 million. The remainder of the population is predominantly Christian (mostly Roman Catholic) and Theravada-Hinayana Buddhist. Ethnic and religious minority groups often overlap and are concentrated in the Chittagong Hill Tracts and northern districts. Buddhists are predominantly found among the indigenous (non-Bengali) populations of the Chittagong Hill Tracts. Bengali and ethnic minority Christians live in communities across the country, concentrating in Barisal City, Gournadi in Barisal District, Baniarchar in Gopalganj, Monipuripara in Dhaka, Christianpara in Mohakhal, Nagori in Gazipur, and Khulna City. There also are small populations of Shia Muslims, Bahais, animists and Ahmadiyya Muslims. Estimates of their numbers varied from a few thousand to 100,000 adherents per group. Most non-citizen residents are of Bangladeshi descent and practice Islam. Separately, there are approximately 30,000 registered Rohingya refugees and between 250,000 and 450,000 unregistered Rohingya practicing Islam in the southeast around Cox's Bazar. [77]

3.12.4 The Vested Property Act remained in force until 2001, allowing the government to expropriate "enemy" (in practice, Hindu) lands. Over the course of its existence, the government seized approximately 2.6 million acres of land, affecting almost all Hindus in the country. Many Hindus continued efforts to recover land lost

[76] U.S. Department of State, International Religious Freedom Report for 2012: Bangladesh, 20 May 2013, Executive Summary and Section II. Status of Government Respect for Religious Freedom, Legal/Policy Framework, http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm?year=2012&dlid=208424

[77] U.S. Department of State, International Religious Freedom Report for 2012: Bangladesh, 20 May 2013, Section 1. Religious Demography
http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm?year=2012&dlid=208424

under the act. The Vested Properties Return (Amendment) Bill of 2011 obligates the government to publish lists of returnable vested property through gazette notification within 120 days. Subsequently, Hindu leaders submitted applications to reclaim previously seized vested property and requested an extension to prepare further applications. The Vested Property Return (Second Amendment) Act of 2012, passed on 18 September 2012, gives an additional 180 days for interested parties to submit applications for adjudication.[78]

3.12.5 Freedom in the World 2013 states land rights for the Hindu minority remain tenuous. The 2011 Vested Properties Return Act allows Hindus to reclaim land that seized from them by the government or other individuals. However, human rights groups have critiqued the government for its slow implementation of the law.[79]

3.12.6 There were reports of societal abuses and discrimination based on religious affiliation, belief or practice. There were scattered attacks on members of minority religious and ethnic groups, most notably against Buddhists in Ramu in September and October 2012. Most attacks consisted of arson and looting of religious sites and homes and because many members of minority religious groups also had low economic and social status, they were often seen as having little political recourse. Members of Hindu, Christian, Buddhist and Ahmadiyya Muslim minority groups experienced harassment and sometimes violence from the Sunni Muslim majority population. The government and many civil society leaders stated that violence against members of minority religious groups normally had political or economic dimensions and could not be attributed solely to religious belief or affiliation.[80]

3.12.7 Buddhists in Ramu, Cox's Bazar and neighbouring cities experienced communal violence on 29 and 30 September 2012. After rumours spread that a local Buddhist youth posted anti-Islamic photos on Facebook, thousands of protesters burned and vandalized Buddhist homes and temples. Local police called in supplemental security forces to suppress the violence, but attackers had already set fire to at least 15 Buddhist temples and 100 homes. The Home Ministry increased law enforcement presence around neighbouring Buddhist sites. Violence spread in the following days to Patiya, Chittagong, where two Buddhist monasteries and one Hindu temple were burned, and to Ukhia and Teknaf, Cox's Bazar, where two monasteries and five homes were burned. The Prime Minister, Home Minister and Foreign Minister all immediately issued strong statements condemning the violence and reaffirming the tolerant, secular, multi-religious nature of the country. The Prime Minister travelled to Ramu to convey the extent of her concern. [81]

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[78] U.S. Department of State, International Religious Freedom Report for 2012: Bangladesh, 20 May 2013, Section II. Status of Government Respect for Religious Freedom, Legal/Policy Framework, http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm?year=2012&dlid=208424

[79] Freedom House, Freedom in the World 2013: Bangladesh, 10 April 2013, http://www.freedomhouse.org/report/freedom-world/2013/bangladesh

[80] U.S. Department of State, International Religious Freedom Report for 2012: Bangladesh, 20 May 2013, Executive Summary, http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm?year=2012&dlid=208424

[81] U.S. Department of State, International Religious Freedom Report for 2012: Bangladesh, 20 May 2013, Section III. Status of Societal Respect for Religious Freedom, http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm?year=2012&dlid=208424
United States Commission on International Religious Freedom – Annual Report 2013 – Bangladesh http://www.uscirf.gov/images/2013%20USCIRF%20Annual%20Report%20(2).pdf

3.12.8 The government paid for reconstruction of the burned temples and monasteries. Prominent societal leaders from all religious groups, universities and rights organisations condemned the attack and called for inter-religious harmony. According to the government's official inquiry into the Ramu incidents, the then-superintendent of police of Cox's Bazar and the then-officer-in-charge of Ramu police station failed to take appropriate measures to stop the violence. The report charged the two officials with negligence of official duties and withdrew them from their duty stations.[82]

3.12.9 The Society for Threatened Peoples, in its report to the UN Human Rights Council, stated that violence against religious minorities "has increased in the People's Republic of Bangladesh in the year 2013" and that "despite several arrests of radical Islamists there is a widespread feeling among minority people to lack protection by the authorities. Many Christians, Hindus and Buddhists feel unsafe in Bangladesh and are preparing to flee the country".[83]

3.12.10 The U.S. Commission on International Religious Freedom noted that in February 2013, the conviction and death sentence of a Jamaat-e-Islami leader, Delawar Hossain Sayedee, sparked violent attacks against Hindus and their religious temples and shrines and homes and businesses. "Over 80 individuals died, and dozens of temples, shrines, homes and businesses were burned down. The government was slow in responding to violence and local police allegedly stood by as the violence occurred. The government in March began to deploy the army to stop the violence and a few perpetrators of violence were arrested".[84]

3.12.11 According to the BBC, "Hindu community leaders say the attacks are systematic and have been going on for years. They say they are not only carried out by hardline Islamists but also by supporters of other mainstream political parties, including the Awami League and the main opposition Bangladesh Nationalist Party."[85]

3.12.12 Religious studies are part of the curriculum in government schools. Students attend classes in which their own religious beliefs are taught. Schools with few students from minority religious groups often make arrangements with local churches or temples to hold religious studies classes outside school hours.[86]

3.12.13 There are an estimated 46,000 madrassahs. Approximately 2 percent of primary school students in rural areas attend "Qaumi" madrassahs, independent private madrassahs not regulated by the government, according to a 2009 World Bank study. The same study estimates another 8 percent of primary school students and 19 percent of secondary school students attend "Aliyah" madrassahs, state-

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[82] U.S. Department of State, International Religious Freedom Report for 2012: Bangladesh, 20 May 2013, Section III. Status of Societal Respect for Religious Freedom, http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm?year=2012&dlid=208424

[83] Society for Threatened Peoples, Written statement submitted by the Society for Threatened Peoples, a non-governmental organization in special consultative status, 23 May 2013, http://www.ecoi.net/file_upload/1930_1371044948_g1313920.pdf

[84] United States Commission on International Religious Freedom, Annual Report 2013, April 2013, Other Countries and Regions Monitored, Bangladesh, http://www.uscirf.gov/images/2013%20USCIRF%20Annual%20Report%20%282%29.pdf

[85] BBC News, Bangladesh minorities 'terrorised' after mob violence, 9 March 2013, http://www.bbc.co.uk/news/world-asia-21712655

[86] U.S. Department of State, International Religious Freedom Report for 2012: Bangladesh, 20 May 2013, Section II. Status of Government Respect for Religious Freedom, Legal/Policy Framework, http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm?year=2012&dlid=208424

regulated private madrassahs teaching a government-approved curriculum. Other primary school students attend “Forkania” madrassahs attached to mosques, and some students in urban areas attend “Cadet” madrassahs, which blend religious and non-religious studies. The rest either attend secular government schools or NGO-run schools, or did not attend school. There are no known government-run Christian, Hindu or Buddhist schools, although there are private religious schools throughout the country.[87]

3.12.14 The government observes the following religious holidays as national holidays: Eid Milad un-Nabi, Shab-e-Barat, Shab-e-Qadar, Jumatul Wida, Eid Ul Fitr, Eid Ul Azha, Muharram; Krishna Janmashtami; Durga Puja; Buddha Purnima; and Christmas.[88]

3.12.15 **Conclusion** There is no evidence that in general religious minorities are at risk of persecution at the hands of the Bangladeshi authorities solely because of their religious belief. However, there are incidents of violent attacks against religious minorities in which the government has been slow to respond and has not provided adequate protection to the affected communities.

3.12.16 Where in individual cases the claimant does face a serious risk of persecution, torture or inhuman or degrading treatment, caseworkers will need to consider whether in the case of risk emanating from non-state actors there is effective protection for the particular individual and whether they could relocate internally to a place where they would not face a real risk of serious harm and where they can reasonably be expected to stay. Where internal relocation would avoid persecution and would be reasonable, a grant of asylum will not be appropriate.

3.13 Prison Conditions

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

3.13.2 The guidance in this section is concerned solely with whether prison conditions are such that they breach Article 3 of ECHR and warrant a grant of humanitarian protection. If imprisonment would be for a Refugee Convention reason or in cases where for a Convention reason a prison sentence is extended above the norm, the asylum claim should be considered first before going on to consider whether prison conditions breach Article 3 if the asylum claim is refused.

3.13.3 **Consideration.** Prison system conditions remained harsh and, at times, life threatening due to overcrowding, inadequate facilities and lack of proper sanitation. Human rights observers stated that these conditions contributed to custodial deaths. According to Odhikar, 58 persons died in prison in 2012 compared with 105 prison deaths in 2011. In a 4 July 2012 report on the trials of

[87] U.S. Department of State, International Religious Freedom Report for 2012: Bangladesh, 20 May 2013, Section II. Status of Government Respect for Religious Freedom, Legal/Policy Framework, http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm?year=2012&dlid=208424

[88] U.S. Department of State, International Religious Freedom Report for 2012: Bangladesh, 20 May 2013, Section II. Status of Government Respect for Religious Freedom, Legal/Policy Framework, http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm?year=2012&dlid=208424

Bangladesh Rifles mutineers, HRW documented 47 cases of custodial death between 2009 and 2012, some due to torture or mistreatment. [89]

3.13.4 The U.S State Department reports that although the constitution and law prohibit torture and other cruel, inhuman or degrading treatment or punishment, security forces, including RAB and police, reportedly employed torture and physical and psychological abuse during arrests and interrogations. Security forces used threats, beatings and electric shocks. According to Odhikar, security forces tortured at least 72 persons, killing seven. The government rarely charged, convicted or punished those responsible.[90]

3.13.5 In its annual report covering 2012 Amnesty International notes that torture and other ill-treatment were widespread, committed with virtual impunity by the police, RAB, the army and intelligence agencies. Methods included beating, kicking, suspension from the ceiling, food and sleep deprivation and electric shocks. Most detainees were allegedly tortured until they "confessed" to having committed a crime. Police and RAB allegedly distorted records to cover up the torture, including by misrepresenting arrest dates.[91] Amnesty International also reports that rape in custody is common in Bangladesh and victims usually decline to report the crime for fear they will not be taken seriously or of angering their attacker or having to face further harassment by the police.[92]

3.13.6 The Asian Legal Resource Centre describes torture in Bangladesh as an "endemic problem" which "has been inseparable and deeply entrenched within the law-enforcement and investigation systems of the government".[93] It also reports that torture occurs particularly at the time of arrest, during arbitrary detention of crime suspects and in police remand for confession statements at the investigative stage of the criminal case and that police use torture as a tool for extorting bribes from detainees and crime suspects.[94]

3.13.7 The International Centre for Prison Studies (ICPS) confirmed in their Prison Brief that the total prison population stood at 72,104 on 16 April 2013. The country's 68 prison establishments had an official capacity of 33,570 on the same date, yielding an occupancy level of 215 percent. The total prison population had averaged approximately 69,850 in 2011 and 83,000 in 2008. ICPS noted that

[89] US Department of State, Country Report on Human Rights Practices 2012: Bangladesh, 19 April 2013 Section 1 http://www.state.gov/documents/organization/204607.pdf
[90] US Department of State, Country Report on Human Rights Practices 2012: Bangladesh, 19 April 2013 Section 1 http://www.state.gov/documents/organization/204607.pdf
[91] Amnesty International, Annual Report 2013 - The State of the World's Human Rights – Bangladesh, 23 May http://amnesty.org/en/region/bangladesh/report-2013
[92] Amnesty International, Bangladesh: Climate of impunity prevents adequate protection of human rights: Amnesty International submission to the UN Universal Periodic Review, 22 February 2013 http://www.amnesty.org/en/library/asset/ASA13/002/2013/en/518ef946-99b8-4c19-b6ff-6f2478343079/asa130022013en.pdf
[93] Asian Legal Resource Centre, Written statement* submitted by the Asian Legal Resource Centre, a non-governmental organization in general consultative status submitted to the Human Rights Council, 22 February 2013 http://www.ecoi.net/file_upload/1930_1361976077_g1311308.pdf
[94] Asian Legal Resource Centre, Written statement* submitted by the Asian Legal Resource Centre, a non-governmental organization in general consultative status submitted to the Human Rights Council, 22 February 2013 http://www.ecoi.net/file_upload/1930_1361976077_g1311308.pdf

pre-trial detainees/remand prisoners comprised 68.3 per cent of the prison population in December 2012.[95]

3.13.8 Media and human rights observers reported the prison population to be approximately 68,700 in a system designed to hold 33,570. Approximately one-third of the prison population had been convicted, with the rest awaiting trial or detained for investigation. Pre-trial detainees often were incarcerated with convicted prisoners. 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 organisations 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.[96]

3.13.9 Odhikar stated in their Human Rights Report 2012 that 63 persons had died in prison in 2012 and 105 prisoners died in 2011. Odhikar did not provide an analysis of the causes of those deaths or say how the mortality rate compared with that of the Bangladeshi population in general. According to the report the prison cells are small and cramped, with poor sanitation and inadequate ventilation. Many of the buildings are dilapidated and are, throughout the years, accommodating prisoners beyond cell capacity. The supply of low quality food, lack of adequate medical facilities, crime, the spread of various kinds of disease and torture have all led to deaths of prisoners in Bangladesh. There are provisions for the health of prisoners in chapter VIII of the Prisons Act, 1894 (Act No. IX OF1894). It is stated that the medical officers or their subordinates are bound to give treatment or supply of medicines without any delay. There are not enough doctors for the prisoners and female prisoners are mostly deprived of treatment as there is no female doctor in the jails.[97]

3.13.10 Arbitrary and lengthy pre-trial detention continued to be a problem due to bureaucratic inefficiencies, limited resources, lax enforcement of pre-trial rules, and corruption. An estimated two million civil and criminal cases were pending. According to a 2008 estimate from the International Center for Prison Studies, nearly 70 percent of prison inmates, or 56,000 prisoners, were in pretrial detention. In some cases the length of pre-trial detention equalled or exceeded the sentence for the alleged crime.[98]

3.13.11 Conditions in prisons and often within the same prison complex varied widely because some prisoners were lodged in areas subject to high temperatures, poor ventilation, and overcrowding while others were placed in “divisional” custody, which featured better conditions, including increased family visitation and access to household staff.[99]

3.13.12 The law requires that juveniles be held separately from adults, but in practice many juveniles were incarcerated with adults. Children were sometimes

[95] International Centre for Prison Studies (ICPS) based at the University of Essex, World Prison Brief – Bangladesh: Updated 16 April 2013 http://www.prisonstudies.org/info/worldbrief/wpb_country.php?country=87
[96] US Department of State, Country Report on Human Rights Practices 2012: Bangladesh, 19 April 2013 Section 1 http://www.state.gov/documents/organization/204607.pdf
[97] Odhikar, Human Rights Report 2012, 12 January 2013, paragraph 179 and Table 4 http://odhikar.org/wp-content/uploads/2013/01/report-Annual-Human-Rights-Report-2012-eng.pdf
[98] US Department of State, Country Report on Human Rights Practices 2012: Bangladesh, 19 April 2013 Section 1 http://www.state.gov/documents/organization/204607.pdf
[99] US Department of State, Country Report on Human Rights Practices 2012: Bangladesh, 19 April 2013 Section 1 http://www.state.gov/documents/organization/204607.pdf

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. According to Odhikar, 2,435 women were incarcerated in prisons, including 1,787 women awaiting trial and 648 who were convicted prisoners.[100]

3.13.13 Prison recordkeeping was adequate. Authorities did not use alternatives to sentencing for non-violent offenders and prison ombudsmen were not available to prisoners. Authorities permitted religious observance for prisoners. They allowed prisoners to submit uncensored complaints and occasionally investigated such complaints. The government generally did not permit prison visits by independent human rights monitors, including Odhikar and the International Committee of the Red Cross, but 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.[101]

3.13.14 The UN General Assembly Special Session on HIV/AIDS (UNGASS), in a 'Country Progress Report' of 4 April 2012, noted that prisoners in any country are at exceptional risk of infection with HIV, Hepatitis B and C, TB,and sexually transmitted infections because of incarceration (for short and long periods), overcrowding and unsafe intravenous drug use. The report stated that an HIV prevention programme had been introduced in six prisons in Bangladesh in collaboration with the UN Office on Drugs and Crime and the programme was being expanded.[102]

3.13.15 **Conclusion.** Conditions in Bangladeshi prisons are reported to be generally harsh but vary widely between prisons and often within the same prison complex. In the country guidance case of SH (prison conditions) Bangladesh CG [2008] UKAIT 00076, the Tribunal concluded that prison conditions in Bangladesh, at least for ordinary prisoners; do not violate Article 3 of the ECHR. However the Tribunal stated that this does not mean 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. Caseowners must consider each claim on its individual merits taking full account of the most recent country information about prison conditions and the individual facts of each case; relevant factors being the likely length of detention, the likely type of detention facility and the individual's age, gender and state of health. Where individual applicants are able to demonstrate a real risk of imprisonment on return to Bangladesh (and exclusion is not justified), depending on the factors set out above, a grant of humanitarian protection may be appropriate.

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[100] US Department of State, Country Report on Human Rights Practices 2012: Bangladesh, 19 April 2013 Section 1 . http://www.state.gov/documents/organization/204607.pdf

[101] US Department of State, Country Report on Human Rights Practices 2012: Bangladesh, 19 April 2013 Section 1 http://www.state.gov/documents/organization/204607.pdf

[102] UN Assembly Special Session on HIV/AIDS, UNGASS Country Progress Report: Bangladesh, Submitted 4 April 2012 http://www.aidsdatahub.org/en/reference-librarycols2/item/24192-ungass-country-progress-report-bangladesh-national-aids-std-programme-bangladesh-2012

4. Minors claiming in their own right

4.1 Minors claiming in their own right who have not been granted asylum or HP can only be returned where the Secretary of State is satisfied that safe and adequate reception arrangements are in place in the country to which the child is to be returned.

4.2 At present there is insufficient information to be satisfied that there are adequate alternative reception, support and care arrangements in place for minors with no family in Bangladesh. Those who cannot be returned should be considered for leave as a unaccompanied asylum seeking children (UASC).

4.3 Regulation 6 of the Asylum Seekers (Reception Conditions) Regulations 2005 imposes a duty on the Secretary of State to try to trace the families of UASC as soon as possible after the claim for asylum is made, while making sure that those endeavours do not jeopardise the child's and/or their family's safety. Information on the infrastructure within Bangladesh which may potentially be utilised to assist in trying to trace the families of UASC, can be obtained from the Country of Origin Information Service (COIS).

4.4 Caseworkers should refer to the asylum instruction: Processing an Asylum Application from a Child, for further information on assessing the availability of safe and adequate reception arrangements, UASC leave and family tracing. Additional information on family tracing can be obtained from the interim guidance on Court of Appeal judgment in KA (Afghanistan) & Others [2012] EWCA civ1014.

5. Medical treatment

5.1 Individuals whose asylum claims have been refused and who seek to remain on the grounds that they require medical treatment which is either unavailable or difficult to access in their countries of origin, will not be removed to those countries if this would be inconsistent with our obligations under the ECHR. Caseworkers should give due consideration to the individual factors of each case and refer to the latest available country of origin information concerning the availability of medical treatment in the country concerned. If the information is not readily available, an information request should be submitted to the COIS.

5.2 The threshold set by Article 3 ECHR is a high one. It is not simply a question of whether the treatment required is unavailable or not easily accessible in the country of origin. According to the House of Lords' judgment in the case of N (FC) v SSHD [2005] UKHL31, it is "whether the applicant's illness has reached such a critical stage (for instance he is dying) that it would be inhuman treatment to deprive him of the care which he is currently receiving and send him home to an early death unless there is care available there to enable him to meet that fate with dignity". That judgment was upheld in May 2008 by the European Court of Human Rights.

5.3 That standard continues to be followed in the Upper Tribunal (UT) where, in the case of GS and EO (Article 3 – health cases) India [2012] UKUT 00397(IAC) the UT held that a dramatic shortening of life expectancy by the withdrawal of medical treatment as a result of removal cannot amount to the highly exceptional case that engages the Article 3 duty. But the UT also accepted that there are recognised departures from the high threshold approach in cases concerning

children, discriminatory denial of treatment, the absence of resources through civil war or similar human agency.

5.4 The improvement or stabilisation in an applicant's medical condition resulting from treatment in the UK and the prospect of serious or fatal relapse on expulsion will therefore not in itself render expulsion inhuman treatment contrary to Article 3 ECHR. All cases must be considered individually, in the light of the conditions in the country of origin, but an applicant will normally need to show exceptional circumstances that prevent return. Namely that there are compelling humanitarian considerations, such as the applicant being in the final stages of a terminal illness without prospect of medical care or family support on return.

5.5 Where a caseworker considers that the circumstances of the individual applicant and the situation in the country would make removal contrary to Article 3 or 8 a grant of discretionary leave to remain will be appropriate. Such cases should always be referred to a senior caseworker for consideration before a grant of discretionary leave. Caseworkers must refer to the Asylum Instruction on Discretionary Leave for the appropriate period of leave to grant.

6. Returns

6.1 There is no policy which precludes the enforced return to Bangladesh of failed asylum seekers who have no legal basis of stay in the United Kingdom.

6.2 Factors that affect the practicality of return such as the difficulty or otherwise of obtaining a travel document should not be taken into account when considering the merits of an asylum or human rights claim. Where the claim includes dependent family members their situation on return should however be considered in line with the Immigration Rules.

6.3 Any medical conditions put forward by the person as a reason not to remove them and which have not previously been considered, must be fully investigated against the background of the latest available country of origin information and the specific facts of the case. A decision should then be made as to whether removal remains the correct course of action, in accordance with Chapter 53.8 of the Enforcement Instructions and Guidance.

6.4 Bangladeshi nationals may return voluntarily to any region of Bangladesh at any time in one of three ways. Leaving the UK:

(a) by themselves, where the applicant makes their own arrangements to leave the UK,
(b) through the voluntary departure procedure, arranged through the UK Immigration service, or
(c) under one of the assisted voluntary return (AVR) schemes.

6.5 The AVR schemes are implemented on behalf of the Home Office by Refugee Action which will provide advice and help with obtaining any travel documents and booking flights, as well as organising reintegration assistance in Bangladesh. The programme was established in 1999, and is open to those awaiting an asylum decision or the outcome of an appeal, as well as failed asylum seekers. Bangladeshi nationals wishing to avail themselves of this opportunity for assisted return to Bangladesh should be put in contact with Refugee Action Details can be found on Refugee Action's web site at: www.choices-avr.org.uk.

Country Specific Litigation Team
Immigration and Border Policy Directorate
Home Office
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