



Flygtningenævnets baggrundsmateriale

Bilagsnr.:	99
Land:	Bangladesh
Kilde:	Home Office
Titel:	"Operational Guidance Note"
Udgivet:	14. december 2005
Optaget på baggrundsmaterialet:	27. januar 2006



OPERATIONAL GUIDANCE NOTE

BANGLADESH

CONTENTS	
1. Introduction	1.1 – 1.5
2. Country assessment	2.1 – 2.10
3. Main categories of claims	3.1 – 3.5
Members of political parties	3.6
Political activists in fear of members of opposing parties	3.7
Victims of domestic violence	3.8
Biharis	3.9
Hindus	3.10
Ahmadis	3.11
Prison Conditions	3.12
4. Discretionary Leave	4.1
Minors claiming in their own right	4.3
Medical treatment	4.4
5. Returns	5.1 – 5.2
6. List of source documents	

1. Introduction

- 1.1** This document summarises the general, political and human rights situation in Bangladesh and provides information on the nature and handling of claims frequently received from nationals/residents of that country. It must be read in conjunction with the COI Service Bangladesh Country Report October 2005 and any COI Service Bangladesh Bulletins at http://www.homeoffice.gov.uk/rds/country_reports.html
- 1.2** This guidance is intended to provide clear guidance on whether the main types of claim are or are not likely to justify the grant of asylum, Humanitarian Protection or Discretionary Leave. Caseworkers should refer to the following Asylum Policy Instructions for further details of the policy on these areas:
- API on Assessing the Claim
 - API on Humanitarian Protection
 - API on Discretionary Leave
 - API on the European Convention on Human Rights.
- 1.3** Claims should be considered on an individual basis, but taking full account of the information set out below, in particular Part III on main categories of claim.
- 1.4** Asylum and human rights claims must be considered on their individual merits. However, if following consideration, the claim is refused, caseworkers should consider whether the claim 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. The information set out below contains relevant country information, the most common types of claim and guidance from the courts, including guidance on whether certain types of claim are likely to be clearly unfounded.
- 1.5** A full list of the source documents cited in footnotes is at the end of this note.

2. Country Assessment

- 2.1** Bangladesh is a Parliamentary Democracy with a non-executive President elected by Parliament. Parliament and President are both elected for five years.¹
- 2.2** In the elections held in October 2001, the 'Four-Party' Alliance led by the *Bangladesh Nationalist Party (BNP)* won an overall majority with 216 seats out of 300 (*BNP* – 193 seats; *Jamaat-e-Islami* – 17 seats; the *Jatiya Party (N) (JPN)* – 4 seats; and the *Islami Oikya Jote (IOJ)* – 2 seats). The main opposition party, the *Awami League (AL)* won 62 seats. International observers reported that the election was generally free and fair although there were reports of election-related violence, ballot rigging and other election malpractice.² However the AL publicly refused to accept the result, and boycotted Parliament until June 2002.³
- 2.3** Since 2002, AL attendance in Parliament has been sporadic, and AL MPs complain of discrimination by the Speaker. In January 2004, the AL published a programme of 15 wide-ranging demands of the Government, which they later amended to a single demand – that the Government resign. However, they returned to Parliament in mid June, apparently acknowledging that this approach would not work, and ensured that the AL kept their seats (which had been under threat from non-attendance). They also agreed to resume participation in parliamentary committees.⁴
- 2.4** Political violence increased over 2004 and into 2005. In August 2004, at least 20 were killed, including Woman's Affairs Secretary Ivy Rahman in a grenade attack on an AL political rally in Dhaka where Sheikh Hasina was speaking. Over 100 were injured. On 27 January, the former Finance Minister, Shah Kibria, was assassinated along with four colleagues after a grenade attack at an AL rally in Northern Bangladesh.⁵
- 2.5** Bangladesh has been ranked worst on Transparency International's Corruption Perceptions Index for the past four years. An Independent Anti Corruption Commission was set up in the second half of 2004 after concerted donor lobbying but has yet to become fully effective. However, there has been little progress made on other key reforms, such as the separation of the Judiciary and Executive in lower level courts, and the formation of an independent Humans Rights Commission.⁶
- 2.6** Bangladesh does not have a good human rights record. On coming to power the BNP-led government pledged to take a number of actions to improve human rights during its term in office. However significant steps including the separation of the judiciary and the executive in lower level courts⁷ - a process which has commenced but is likely to take several more years to complete⁸ - and the establishment of an independent Human Rights Commission and Ombudsman have not been taken.⁹ The higher levels of the judiciary have however displayed some degree of independence and often ruled against the Government in criminal, civil, and politically controversial cases.¹⁰
- 2.7** Law enforcement agencies, and in particular the Rapid Action Battalion (RAB) are reported to have committed a wide range of human rights abuses and nearly all abuses go un-investigated and unpunished. Police are often reluctant to pursue investigations against persons affiliated with the ruling party, and the Government frequently used the police for political purposes. The creation of the RAB in July 2004 to track down and apprehend criminal elements is said to have created an atmosphere of insecurity throughout the country. The RAB since its inception has pursued an aggressive strategy against criminal

¹ FCO Bangladesh Country Profile: 17 March 2005

² COIS Bangladesh Country Report: Oct 2005 para 4.30-4.31

³ FCO Bangladesh Country Profile: 17 March 2005

⁴ FCO Bangladesh Country Profile: 17 March 2005

⁵ FCO Bangladesh Country Profile: 17 March 2005

⁶ FCO Bangladesh Country Profile: 17 March 2005

⁷ FCO Bangladesh Country Profile: 17 March 2005

⁸ COIS Bangladesh Country Report: Oct 2005 para 5.19

⁹ FCO Bangladesh Country Profile: 17 March 2005

¹⁰ COIS Bangladesh Country Report: Oct 2005 para 5.17

gang members that has led to a large number of killings in so-called crossfire after people have been arrested. There were also reports of 'crossfire' deaths at the hands of police. The deaths, all under unusual circumstances, occurred while the accused were in custody and during police operations; however, the Government described the deaths of some identified criminals as occurring in crossfire between the RAB and crime gangs. These crossfire custodial deaths are viewed by human rights groups as a form of extrajudicial execution arising from lack of civilian oversight of the RAB. These extrajudicial executions have generated serious disquiet within the political opposition as well as among civil society and have now drawn the attention of the international community as well.¹¹

- 2.8** There have been attacks on religious minorities since the BNP government came into power in October 2001, including Hindus and the Ahmadiyya community. Towards the end of 2003, anti-Ahmadiyya groups grew more vociferous, demanding that the Ahmadiyyas be declared non-Muslim, and attacking Ahmadiyya mosques. AI has criticised the Bangladeshi government for not taking action against the hate campaign and for the January 2004 banning of Ahmadiyya publications.¹² Bangladesh's High Court has temporarily suspended the Order banning Ahmadiyya publications pending the hearing of a legal challenge brought by human rights groups.¹³ The police have recently proved more effective at preventing some of the threatened sieges to mosques, but attacks continue to take place.¹⁴
- 2.9** On 23 February 2005 following a spate of murders, bombings and related terrorist activities across the country, the Bangladesh government banned two militant Islamic groups - *Jamatul Mujahedin Bangladesh* (JMB or JM) and *Jagrata Muslim Janata Bangladesh* (JMJB).¹⁵ On 17 August 2005 more than 400 simultaneous bomb explosions occurred in 63 cities and towns around Bangladesh. Many of the bombs were set off in crowded places; according to officials, the targets included government offices, judicial buildings and journalists' clubs. *Jamatul Mujahedin Bangladesh* (JMB), one of two militant Islamic groups that were banned on 23 February 2005, reportedly claimed responsibility. Leaflets bearing JMB's name were found at some of the bombsites; the leaflets called for the implementation of Islamic Law and warned 'Bush and Blair' to get out of Muslim countries.¹⁶ Since then there have been a number of incidents involving the bombing of law courts and the assassination of judges which has also been attributed to JMB.¹⁷
- 2.10** Bangladesh retains the death penalty. A new faster trial court was introduced in 2003 which has led to a rapid increase in the numbers on death row. In September 2004 there were 531 prisoners on death row, an increase from some 375 in June 2003. According to media reports, 11 people were executed in 2004, in comparison to 25 executions over the past 17 years.¹⁸
- 3. Main categories of claims**
- 3.1** This Section sets out the main types of asylum claim, human rights claim and Humanitarian Protection claim (whether explicit or implied) made by Bangladeshi nationals. It also contains any common claims which may raise issues covered by the API on Discretionary Leave. Where appropriate it provides guidance on whether or not an individual making a claim is likely to face a real risk of persecution, unlawful killing or torture or inhuman or degrading treatment/punishment. It also provides guidance on whether or not sufficiency of protection is available in cases where the threat comes from a non-state actor; and whether or not internal relocation/flight is an option. The law and policies on persecution, Humanitarian Protection, sufficiency of protection and internal relocation/flight are set out in the relevant APIs, but how these affect particular categories of claim are set out in the instructions below.

¹¹ COIS Bangladesh Country Report: Oct 2005 para 6.15 – 6.16

¹² FCO Bangladesh Country Profile: 17 March 2005

¹³ COIS Bangladesh Country Report: Oct 2005 para 6.59

¹⁴ FCO Bangladesh Country Profile: 17 March 2005

¹⁵ COIS Bangladesh Country Report: Oct 2005 para 4.56

¹⁶ COIS Bangladesh Country Report: Oct 2005 para 4.62

¹⁷ BBC News 14 Nov 2005

¹⁸ FCO Bangladesh Country Profile: 17 March 2005

- 3.2** Each claim should be assessed to determine whether there are reasonable grounds for believing that the claimant would, if returned, face persecution for a Convention reason - i.e. due to their race, religion, nationality, membership of a particular social group or political opinion. The approach set out in Karanakaran should be followed when deciding how much weight to be given to the material provided in support of the claim (see the API on Assessing the Claim).
- 3.3** If the claimant does not qualify for asylum, consideration should be given as to whether a grant of Humanitarian Protection is appropriate. If the claimant qualifies for neither asylum nor Humanitarian Protection, consideration should be given as to whether he/she qualifies for Discretionary Leave, either on the basis of the particular categories detailed in Section 4 or on their individual circumstances.
- 3.4** This guidance is **not** designed to cover issues of credibility. Caseworkers will need to consider credibility issues based on all the information available to them. (For guidance on credibility see paragraph 11 of the API on Assessing the Claim).
- 3.5** Also, this guidance does not generally provide information on whether or not a person should be excluded from the Refugee Convention or from Humanitarian Protection or Discretionary Leave. (See API on Humanitarian Protection and API on Exclusion under Article 1F or 33(2) and API on DL). All APIs can be accessed via the IND website at:

http://www.ind.homeoffice.gov.uk/ind/en/home/laws_policy/policy_instructions/apis.html

3.6 Members of political parties

- 3.6.1** Many claimants will seek asylum based on ill treatment amounting to persecution at the hands of the Bangladesh authorities due to their involvement with political organisations. Claimants may fall into one of two categories:
- those who describe themselves as supporters or members of the main opposition party, the *Awami League*, and who have participated in low level political activity at local level, express fear of ill-treatment at the hands of the local police. Similar claims are also made by members of other political parties such as the ruling *Bangladesh National Party (BNP)* or *Jatiya Party* who claim a fear of *local* police who are politically aligned in opposition to them
 - high profile political activists, i.e. those who are known beyond their local area perhaps because of police interest or media coverage, may claim a fear of persecution or ill-treatment on return to Bangladesh as a consequence of their political activity.
- 3.6.2 Treatment.** Although the Constitution prohibits arbitrary arrest and detention, the Government arrested and detained persons arbitrarily and used national security legislation such as the Special Powers Act (SPA) of 1974 to detain citizens without filing formal charges or specific complaints. The law does not provide for the use of warrants in all cases. Section 54 of the Criminal Procedure Code and Section 86 of the Dhaka Metropolitan Police (DMP) Ordinance provide for the detention of persons on the suspicion of criminal activity without an order from a magistrate or a warrant, and the Government regularly arrested persons without formal charges, or specific complaints, as punishment for the expression of views critical of or different from the Government. Both ordinances were misused during the year. Mass arrests, often politically motivated, continued to occur. In the Dhaka Metropolitan Area, a total of 4,126 persons were arrested between January and August 2004 under Section 54 and another 58,722 under Sections 86 and 100 of the DMP Ordinance.¹⁹
- 3.6.3** It has been widely reported that arbitrary arrests in Bangladesh are rampant²⁰ and that the police and paramilitaries such as Bangladesh Rifles (PBR) and Rapid Action Battalion (RAB) have detained supporters of political parties. The police have often employed

¹⁹ COIS Bangladesh Country Report: Oct 2005 para 5.30 – 5.31

²⁰ COIS Bangladesh Country Report: Oct 2005 para 6.11

excessive, sometimes lethal, force in dealing with opposition demonstrators, and the police routinely employ physical and psychological torture during arrests and interrogations.²¹

- 3.6.4** Police sometimes detain opposition activists prior to and during demonstrations without citing any legal authority, holding them until the event was over. Opposition parties and human rights monitors claim that many political activists are arrested and convicted for unfounded criminal charges. There is no accurate estimate of the total number of detentions for political reasons. Many activists are charged with crimes, and many criminals claim to be political activists. Reports suggest that most such detentions appear to last for several days or weeks, and defendants in most cases receive bail; however, dismissal of wrongful charges or acquittal can take considerably longer.²²
- 3.6.5** On 24 September 2004, in Dhaka, police arrested large numbers of opposition party members prior to the opposition's planned public rallies on 3 October. The High Court, following the filing of a petition from human rights NGOs, barred police from arresting any citizen under Section 86 until October 3; however, police continued to arrest persons under Section 54.²³
- 3.6.6** Following repeated High Court orders and international appeals, some prominent political detainees were released in January 2003. They included human rights defenders Shahriar Kabir, Professor Muntasir Mamun and Saleem Samad, as well as Awami League leaders Bahauddin Nasim, Saber Hossain Chowdhury and Tofael Ahmed. However, they continued to suffer harassment and threats of detention. In June 2003, warrants of arrest were issued against Mahfuz Anam, editor and publisher of the *Daily Star* newspaper; Matiur Rahman, editor of the *Prothom Alo* daily newspaper; and Abdul Jalil, Secretary General of the Awami League. A senior government official had brought a criminal defamation case against them after publication of a letter in which Abdul Jalil criticized the nomination of the official to an executive post in an international organization. They were not detained but the arrest warrants remained pending.²⁴
- 3.6.7** Ill-treatment, which may amount to torture, is frequently used by the police in the course of criminal investigations, and also as a tool to extract money from detained suspects and their families. Political opponents have reportedly been subjected to ill-treatment and torture under various governments; during times of unrest there has been a marked increase in institutional violence against journalists, demonstrators, opposition members, etc.²⁵
- 3.6.8** **Sufficiency of Protection** If the fear is of ill treatment/persecution by the state authorities individuals cannot apply to those authorities for protection. However claimants in this category do not generally claim to be in fear of the state authorities themselves, but fear the *local* police who are politically motivated and with views in opposition to theirs. In this circumstance however they cannot approach the local police for protection.
- 3.6.9** **Internal Relocation** The Bangladesh Constitution provides for the right of free movement within the country and in practice the Government generally respected these rights, allowing citizens to move freely within the country. Although there were instances in which the Government restricted these rights, these related to the movement of major opposition political leaders and there is no indication that there are any restrictions on the movement of ordinary party members or officials.²⁶
- 3.6.10** Forged and fraudulently obtained documents are readily available in Bangladesh and are frequently submitted in support of entry clearance applications. Such documents include forged passports, birth, death and marriage certificates, bank statements (local and British), business plus employment related documents and educational certificates. Maintenance of official records in Bangladesh tends to be haphazard. Most records are kept in hand written

²¹ COIS Bangladesh Country Report: Oct 2005 para 6.02

²² COIS Bangladesh Country Report: Oct 2005 para 6.10 – 6.11

²³ COIS Bangladesh Country Report: Oct 2005 para 5.30 – 5.31

²⁴ COIS Bangladesh Country Report: Oct 2005 para 6.14

²⁵ COIS Bangladesh Country Report: Oct 2005 para 6.09

²⁶ COIS Bangladesh Country Report: Oct 2005 para 6.84

logs, with very little in the way of computerised records. There is no local equivalent of the UK Police National Computer system. Instead, records are kept at local police stations with no national link. With regard to birth and death certificates, and marriage and divorce certificates, local municipal corporations or union councils, and local registrars issue these respectively. As with police records, there is no national link up between any of these records. Most banks have similar poor maintenance of accounts, and most rural branches lack computers or even telephones.²⁷

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

3.6.12 Conclusion It is most unlikely that anyone claiming involvement in *low-level* political activities would be able to demonstrate that the treatment they might suffer at the hands of *local* police would amount to a well-founded fear of persecution within the terms of the 1951 Convention. Although there may not be a sufficient protection provided at local level in their home areas they can relocate safely to escape the attention of local officials and therefore such claims will generally fall to be refused and be clearly unfounded.

3.6.13 There may however be some individual *high profile* activists who are able to demonstrate that they face persecution or ill-treatment by the Government as a consequence of their political opinion. Where individuals are able to demonstrate such a risk a grant of asylum is appropriate.

3.7 Political activists in fear of members of opposing parties

3.7.1 Some claimants express a fear of ill-treatment by members of opposing political parties or a fear of opposing factions within their own party.

3.7.2 Treatment The Bangladesh constitution guarantees freedom of association and assembly, yet these rights were repeatedly violated by the state in 2004.²⁸ Violence, often resulting in deaths, was a pervasive element in the country's politics. Supporters of different political parties, and often supporters of different factions within one party, frequently clashed with each other and with police during local rallies and demonstrations.²⁹ There are also often violent local clashes between members of the student organisations affiliated to the main political parties.³⁰

3.7.3 Amnesty International, in August 2005, reported attacks on Awami League gatherings by BNP supporters on 15 August 2005. Hundreds of Awami League (AL) supporters were reportedly injured, including an MP and a local AL leader. According to reports received by Amnesty International, police who were present failed to stop the attackers and AL members reacted angrily, getting involved in physical clashes with the attackers. The Awami League had held gatherings and processions throughout the country on 15 August to observe the 30th anniversary of the assassination of Sheikh Mujibur Rahman, Bangladesh's first president. Amnesty International expressed concern about comments attributed to the Communications Minister which may have encouraged the attackers.³¹

3.7.4 Sufficiency of Protection Where the alleged fear of persecution/ill treatment is from non-state agents, sufficiency of protection needs to be considered in light of the particular facts of the case (i.e. which political parties the claimant and the alleged persecutors support, whether attempts were made to seek protection and if not why not and, if protection was sought, what the police response was).

²⁷ COIS Bangladesh Country Report: Oct 2005 para 6.145

²⁸ COIS Bangladesh Country Report: Oct 2005 para 6.72

²⁹ COIS Bangladesh Country Report: Oct 2005 para 6.02

³⁰ COIS Bangladesh Country Report: Oct 2005 Annex B

³¹ COIS Bangladesh Country Report: Oct 2005 para 6.72

3.7.5 Internal Relocation. The Bangladesh Constitution provides for the right of free movement within the country and in practice the Government generally respected these rights, allowing citizens to move freely within the country. Although there were instances in which the Government restricted these rights, these related to the movement of major opposition political leaders and there is no indication that there are any restrictions on the movement of ordinary party members or officials.³²

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

3.7.7 Caselaw

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

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

3.7.8 Conclusion Whilst protection from governmental sources may not be available in all cases, those in fear of ill-treatment by members of opposing political parties or in fear of opposing factions within their own party will generally be able to relocate internally away from the area where they are at risk. Claims made on this basis are therefore also likely to be clearly unfounded and will fall to be certified.

3.7.9 A grant of asylum or HP would only be appropriate in exceptional cases, where an individual was able to show that he/she remained at risk because of specific factors relating to his/her particular history, and internal relocation was not an option.

3.8 Victims of domestic violence

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

3.8.2 Treatment Domestic violence is widespread in Bangladesh. Although violence against women was difficult to quantify because of unreliable statistics and societal inhibitions about reporting such violence, much of the reported violence against women was related to disputes over dowries. It has been estimated that during 2004, 155 women were killed by their husbands and 35 women tortured. It has also been reported that there were 166 reported dowry-related killings, and 78 reported dowry-related incidents of torture during 2004. The law prohibits rape and physical spousal abuse but makes no specific provision for spousal rape as a crime.³³

3.8.3 Acid attacks on women by rejected suitors, angry husbands, or those seeking revenge is also a serious problem. Assailants threw acid in the faces of women and a growing number of men, leaving victims disfigured and often blind.³⁴

3.8.4 Two new laws were introduced in 2002 - the Acid Crime Prevention Act 2002 and the Acid Control Act 2002 - to restrict the import and sale of acid in open markets, allow for trials in acid throwing cases by a special tribunal (with a right of appeal to a higher court) to make the maximum punishment for acid throwing offences the death penalty and to provide for

³² COIS Bangladesh Country Report: Oct 2005 para 6.84

³³ COIS Bangladesh Country Report: Oct 2005 para 6.116 – 6.123

³⁴ COIS Bangladesh Country Report: Oct 2005 para 6.125

the treatment and rehabilitation of victims.³⁵ Statistics provided by the Acid Survivors Foundation (ASF) – as updated June 2005 – show that 266 acid attack incidents were recorded in 2004, with a total of 322 victims; in 2003, 335 incidents were recorded, with 410 victims; in 2002 there had been 366 recorded incidents, with 484 victims. Of the 322 victims in 2004, there were 183 women, 63 men and 76 children under 18 years. Case conviction rates increased after the introduction of the two new acid-related laws in 2002; there was then a lower number of convictions in 2004. In 2003, 86 cases led to a conviction, compared with 52 in 2002 and 17 in 2001. During 2004, 36 cases resulted in a conviction. The motives for acid attacks are not always gender-related. For example, 42 per cent of recorded acid attacks in 2004 were, according to ASF, in connection with land or property or money disputes; 15 per cent of attacks related to marital or dowry disputes and 16 per cent of attacks were categorised as 'refusal of romance/marriage/ sex'.³⁶

- 3.8.5 Sufficiency of Protection** Laws specifically prohibit certain forms of discrimination against women, including the Dowry Prohibition Act, the Cruelty to Women Law, and the Women and Children Repression Prevention Act. However, enforcement of these laws was weak. The Women and Children Repression Prevention Act provides special procedures for persons accused of violence against women and children. The law calls for harsher penalties, provides compensation to victims, and requires action against investigating officers for negligence or willful failure in duty. An amendment to this act was passed on 20 July 2003, weakening provisions for dowry crimes and attempting to address the issue of suicide committed by female victims of acts of 'dishonour'.³⁷
- 3.8.6** Bangladesh is a gradually changing society where the position, status and roles of men and women have primarily been shaped by the stereotype of male predominance and authority over women. Traditional socio-cultural values and practices work against raising the status of women. Women still have limited opportunities for education, technical and vocational training, employment and activities. Under the Constitution, women enjoy the same status and rights as men in terms of education, health, political process, employment, development processes and social welfare. However, in practice, they do not enjoy the fundamental rights and freedom to the extent as men do. The unequal status of women in society and in public life is largely due to the fact of having unequal status in the family life. Women's lower socio-economic status, lower literacy, and lesser mobility are some of the practical obstacles to the establishment of their fundamental rights. The government and NGOs have launched initiatives to reduce discrimination and gender-based oppression.³⁸
- 3.8.7** The law prohibits rape and physical spousal abuse but makes no specific provision for spousal rape as a crime. During 2004, 896 rapes were reported; 117 victims were killed and 13 committed suicide after being raped. Human rights monitors insisted that the actual number of rapes was higher, as many rape victims did not report the incidents in order to avoid social disgrace. Prosecution of rapists was uneven. In September 2004, four persons were sentenced to life imprisonment for gang-raping a girl in April 2003. The Suppression of Violence against Women and Children Act 2000 carries the death penalty or life imprisonment for rape if death or injury results or is intended. Attempted rape is subject to a penalty of five to 10 years' imprisonment. Women's rights groups blamed the low rate of convictions for violence against women on a lack of government institutions to support the victims and a lack of trained police officers to investigate the cases.³⁹
- 3.8.8** The Bangladeshi Ministry of Women and Children Affairs runs six shelters, one in each Division of Bangladesh, for abused women and children. In 2002 a Safe Custody Centre was opened in Dhaka. The Bangladesh National Women Lawyers Association (BNWLA) has two shelters in Dhaka and other NGOs run smaller facilities but this is, according to USSD 2004, insufficient to meet victims' shelter needs.⁴⁰

³⁵ COIS Bangladesh Country Report: Oct 2005 para 6.126

³⁶ COIS Bangladesh Country Report: Oct 2005 para 6.127

³⁷ COIS Bangladesh Country Report: Oct 2005 para 6.114

³⁸ COIS Bangladesh Country Report: Oct 2005 para 6.113

³⁹ COIS Bangladesh Country Report: Oct 2005 para 6.123

⁴⁰ COIS Bangladesh Country Report: Oct 2005 para 6.119

3.8.9 Internal Relocation The Bangladesh Constitution provides for the right of free movement within the country and in practice the Government generally respected these rights, allowing citizens to move freely within the country.⁴¹ Internal relocation may be a viable option for women who fear domestic violence, however factors such as the social and professional background of an individual claimant must be carefully considered when determining relocation as an option.

3.8.10 Caselaw

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

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

3.9 Biharis

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

3.9.2 Treatment Biharis – sometimes referred to as '*stranded Pakistanis*' - are Muslims who originated in what is now India's state of Bihar and who emigrated to what was formerly East Pakistan (now Bangladesh) during the 1947 partition of India. Most Biharis supported Pakistan during Bangladesh's 1971 war of independence; they then remained in Bangladesh after independence, but later asked to be 'repatriated' to Pakistan. Pakistan accepted some 170,000 in 1973. In 1992 Pakistan agreed to take in a further 3,000 families. This repatriation process began in 1993 but - after only 325 families had relocated - Pakistan suspended the process, apparently due to funding constraints. The two countries have yet to agree on a resumption of the resettlement process. The Bihari population in Bangladesh is currently estimated to number about 300,000 and are mainly Urdu speaking (although many also speak Bengali). They are accommodated in 66 special camps throughout the country, though many Biharis have now live outside of those camps.⁴² It has been reported that by 2004 half of the Biharis lived outside of camps, were integrated into the local community, were eligible to receive passports, to vote, and to attend college, and were able to exercise most of the rights of citizens.⁴³

3.9.3 The legal status of the Biharis has been the subject of a major controversy. The Citizenship Law bars from citizenship those who have acknowledged allegiance to a foreign state, and the Bangladesh Government has claimed that the Biharis have done so by seeking resettlement to Pakistan. In 2003 the Bangladesh High Court recognised ten Bangladeshi-

⁴¹ COIS Bangladesh Country Report: Oct 2005 para 6.84

⁴² COIS Bangladesh Country Report: Oct 2005 para 6.87 – 6.90

⁴³ COIS Bangladesh Country Report: Oct 2005 para 6.94

born Biharis as citizens; however, the Government is appealing the Court's ruling and has not as yet granted Bangladeshi citizenship to any other members of the Bihari community.⁴⁴

3.9.4 In the 66 Bihari camps, living conditions are generally poor and said to be deteriorating. Many families live in very cramped accommodation. According to the U.S. Committee for Refugees and Immigrants, the Government provided some camps with free electricity in 2004, but water and sanitation were inadequate and healthcare and education facilities were minimal. In January 2004 the Government stopped subsidising food to the camps.⁴⁵

3.9.5 *Sufficiency of Protection* There is no evidence to suggest that Biharis suffer persecution in Bangladesh on grounds of ethnicity and there is no evidence that they are any less likely than other citizens of the country to access protection from the State.

3.9.6 *Internal relocation* The Bangladesh Constitution provides for the right of free movement within the country and in practice the Government generally respected these rights, allowing citizens to move freely within the country. Although there were instances in which the Government restricted these rights, these related to the movement of major opposition political leaders and there is no indication that there are any restrictions on the movement of ordinary party members or officials.⁴⁶ It has been estimated that half of the Biharis live outside of camps, are integrated into the local community, are eligible to receive passports, to vote, and to attend college, and are able to exercise most of the rights of citizens⁴⁷

3.9.7 *Caselaw*

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

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

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

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

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

3.10 *Hindus*

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

⁴⁴ COIS Bangladesh Country Report: Oct 2005 para 6.92

⁴⁵ COIS Bangladesh Country Report: Oct 2005 para 6.90

⁴⁶ COIS Bangladesh Country Report: Oct 2005 para 6.84

⁴⁷ COIS Bangladesh Country Report: Oct 2005 para 6.94

- 3.10.2 *Treatment*** Sunni Muslims constitute 88 percent of the population. Approximately 10 percent of the population is Hindu. The remainder of the population is mainly Christian (mostly Catholic) and Buddhist. Members of these faiths are found predominantly in the tribal (non-Bengali) populations of the Chittagong Hill Tracts, although many other indigenous groups in various parts of the country are Christian. There also are small populations of Shi'a Muslims, Sikhs, Baha'is, animists, and Ahmadis⁴⁸
- 3.10.3** Reports of harassment by BNP supporters of Hindus, who traditionally vote for the *Awami League (AL)*, preceded and followed the 2001 election. Reported incidents included killings, rape, looting, and torture. The BNP acknowledged reports of atrocities committed between Muslims and Hindus; however, the BNP claimed that they were exaggerated. The Home Minister was unable to confirm reports that Hindus had fled the country and insisted that there was no link between religion and the violence. He also dismissed allegations that the BNP was linked to the perpetrators. In 2001, the High Court ordered the Government to investigate and report on attacks on religious minorities and to demonstrate that it was taking adequate steps to protect minorities. The Government submitted its report to the High Court in 2002. The report claimed that some of the incidents of post-election violence were not connected to communal relations. It also alleged that some of the reports of violence were fabricated or exaggerated. Since the submission of the report, neither the High Court nor the Government has taken further action.⁴⁹
- 3.10.4** It has been reported that with the spread of a brand of intolerant Islamic fundamentalism in the country, some Hindus have said that they are increasingly being intimidated by gangs of Islamic fundamentalists, who attack them in their homes, warn them to pack up and leave for India and extort ransom from them.⁵⁰
- 3.10.5 *Sufficiency of Protection*** The Constitution establishes Islam as the state religion but provides for the right to practice – subject to law, public order, and morality – the religion of one's choice. The Government generally respects this provision in practice; however, some members of the Hindu, Christian, Buddhist, and Ahmadi communities experience discrimination.⁵¹
- 3.10.6** Religion is said to exert a powerful influence on Bangladeshi politics, and the Government is sensitive to the Muslim consciousness of its political allies, *Jamaat-e-Islami* and the *Islami Okiyya Jote*, as well as the majority of its citizens. The Government has taken some steps to promote interfaith understanding⁵² and to provide police protection for the religious festivals of other minorities, most notably the Hindus. No major incident of Hindu–Muslim communal violence was reported in the media in 2004. However, over the past few decades, Hindus have faced continual discrimination. For example, immediately following the 2001 elections, the Hindus were subjected to various forms of violence including killing, assault, rape, ransom-seeking, and loss of property.⁵³
- 3.10.7 *Internal Relocation*** The Bangladesh Constitution provides for the right of free movement within the country and in practice the Government generally respected these rights, allowing citizens to move freely within the country. Although there were instances in which the Government restricted these rights, these related to the movement of major opposition political leaders and there is no indication that there are any restrictions on the movement of ordinary party members or officials.⁵⁴ Religious violence in Bangladesh is not state-sponsored. Internal relocation is, therefore, generally a viable option and claimants could relocate from areas where they are in the religious minority to safer areas that are not dominated by such violence or where they are in the majority.

⁴⁸ COIS Bangladesh Country Report: Oct 2005 para 6.38

⁴⁹ COIS Bangladesh Country Report: Oct 2005 para 6.47

⁵⁰ COIS Bangladesh Country Report: Oct 2005 para 6.43

⁵¹ COIS Bangladesh Country Report: Oct 2005 para 6.39

⁵² COIS Bangladesh Country Report: Oct 2005 para 6.41

⁵³ COIS Bangladesh Country Report: Oct 2005 para 6.54

⁵⁴ COIS Bangladesh Country Report: Oct 2005 para 6.84

3.10.8 Conclusion The Government of Bangladesh and the country's political leaders do not condone religious violence perpetrated by their supporters, however the police cannot be said to be able to consistently provide sufficient protection to minority religious groups against actions by non-state agents. The threshold for persecution, torture or inhuman and degrading treatment may be passed in individual cases. However this is not inevitable, each case should still be considered individually on its own merits to assess whether the claimant sought and was provided with protection and/or whether internal relocation is an option. In certain cases claimants may be able to establish a valid claim for asylum.

3.11 Ahmadis (or Ahmadiyyas)

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

3.11.2 Treatment The Ahmadi community was founded in the 1880s by *Mirza Ghulam Ahmad*, who was born in the Punjab town of Qadiyan. It later split into two groups, of which *Qadiani* is the larger; the other is the *Lahore* branch. While they identify as a Muslim community, Ahmadis are considered heretics by mainstream Islam because *Mirza Ghulam Ahmad* proclaimed himself to be the expected *Mahdi*, or prophet, thereby rejecting a fundamental tenet of Islam.⁵⁵

3.11.3 Anti-Ahmadi agitations began during 2003, since when they have been the targets of attacks and harassment prompted by clerics and the rhetoric of leaders of the *Islami Okkiya Jote*, an Islamic party and coalition partner of the ruling BNP.⁵⁶ Throughout 2004 and into 2005, the Khatme Nabuwat (K.N.), an umbrella organization of Islamist groups dedicated to the preservation of “the finality of the prophethood” of Mohammad, has threatened the Ahmadiyya community with attacks on their mosques and campaigned for Ahmadis to be declared non-Muslim. The KN enjoys links to the ruling BNP through the BNP’s coalition partners, the *Jama’at-e-Islami* and the *Islami Okkiya Jote*.⁵⁷

3.11.4 Following demands for the ban of Ahmadi publications and that Ahmadis be declared non-Muslims, the Government announced a ban on publications on 8 January 2004.⁵⁸ Bangladesh’s High Court has temporarily suspended the Order banning Ahmadiyya publications pending the hearing of a legal challenge brought by human rights groups.⁵⁹ The Prime Minister has however also announced that the Government would not declare Ahmadis to be non-Muslims.⁶⁰ Ahmadis have nevertheless continued to be the target of hate campaigns by a number of Islamic groups in Bangladesh. These groups have mobilised crowds to chant anti-Ahmadi slogans, have sought confiscation of Ahmadi mosques, and have demanded that the government declare the sect non-Muslim. These agitators have been involved in “excommunication” and illegal house arrest of Ahmadis, the killing of an Ahmadi Imam (preacher), beating of Ahmadis, and marches to occupy Ahmadi mosques.⁶¹

3.11.5 Sufficiency of Protection The Constitution establishes Islam as the state religion but provides for the right to practice – subject to law, public order, and morality – the religion of one’s choice. The Government generally respects this provision in practice; however, some members of the Hindu, Christian, Buddhist, and Ahmadi communities experience discrimination.⁶² Religion is said to exert a powerful influence on Bangladeshi politics, and the Government is sensitive to the Muslim consciousness of its political allies, *Jamaat-e-Islami* and the *Islami Okiyya Jote*, as well as the majority of its citizens. The Government

⁵⁵ COIS Bangladesh Country Report: Oct 2005 para 6.55

⁵⁶ COIS Bangladesh Country Report: Oct 2005 para 6.57

⁵⁷ COIS Bangladesh Country Report: Oct 2005 para 6.60

⁵⁸ COIS Bangladesh Country Report: Oct 2005 para 6.57

⁵⁹ COIS Bangladesh Country Report: Oct 2005 para 6.59

⁶⁰ COIS Bangladesh Country Report: Oct 2005 para 6.56

⁶¹ COIS Bangladesh Country Report: Oct 2005 para 6.57

⁶² COIS Bangladesh Country Report: Oct 2005 para 6.39

has taken some steps to promote interfaith understanding⁶³ and to provide police protection for the religious festivals of other minorities.⁶⁴ The Government have also acted to prevent the crowds from entering Ahmadi mosques, but on the other hand it has taken no action against the perpetrators of the hate campaign. Fundamental rights of the Ahmadis have been further eroded by the government ban on their publications.⁶⁵

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

3.11.7 *Internal Relocation* The Bangladesh Constitution provides for the right of free movement within the country and in practice the Government generally respected these rights, allowing citizens to move freely within the country. Although there were instances in which the Government restricted these rights, these related to the movement of major opposition political leaders and there is no indication that there are any restrictions on the movement of ordinary party members or officials.⁶⁶ Religious violence in Bangladesh is not state-sponsored. Internal relocation is, therefore, generally a viable option and claimants could relocate from areas where they are in the religious minority to safer areas that are not dominated by such violence or where they are in the majority.

3.11.8 In July 2004 it was estimated that Bangladesh had a total population of 141 million with Ahmadis only constituting 100,000 of that.⁶⁷ Whilst violence against Ahmadis is localised caseworkers will need to consider whether, in the light of the size of the Ahmadi community in Bangladesh, it would be unduly harsh to expect the claimant to relocate to an area where Ahmadis may not be present.

3.11.9 *Conclusion* Official and societal attitudes towards Ahmadis may result in the harassment of individuals. The threshold for persecution, torture or inhuman and degrading treatment may be passed in individual cases. However this is not inevitable, each case should still be considered individually on its own merits to assess whether the claimant sought and was provided with protection and/or whether internal relocation is an option. In certain cases claimants may be able to establish a valid claim for asylum.

3.12 Prison conditions

3.12.1 Claimants may claim that they cannot return to Bangladesh because there is a serious risk that they will be imprisoned on return and prison conditions in Bangladesh are so poor as to amount to torture or inhuman treatment or punishment contrary to Article 3.

3.12.2 Prison conditions were extremely poor and were a contributing factor to some custodial deaths. All prisons were overcrowded and lacked adequate facilities. Government figures indicated that the existing prison population of 76,148 was nearly 300 percent of the official prison capacity of 25,823. Of the entire prison population, 52,137 were awaiting trial, 23,536 had been convicted, and 36 were detained without charges, according to figures received by a human rights organisation. In most cases, cells were so crowded that prisoners slept in shifts. During 2004, 103 persons died in prison.⁶⁸

3.12.3 Women prisoners are held separately from men but face the same extremely poor conditions. United News of Bangladesh reported on 10 February 2004 that a new women's prison was being constructed at Kashimpur, near Dhaka. It will eventually accommodate 2,550 inmates. A United News article of 29 September 2004 noted also that a new prison was due to be opened in the district of Habiganj on 12 October 2004 – it has a separate accommodation building and separate hospital for women, as well as separate facilities for juveniles.⁶⁹

⁶³ COIS Bangladesh Country Report: Oct 2005 para 6.41

⁶⁴ COIS Bangladesh Country Report: Oct 2005 para 6.54

⁶⁵ COIS Bangladesh Country Report: Oct 2005 para 6.57

⁶⁶ COIS Bangladesh Country Report: Oct 2005 para 6.84

⁶⁷ COIS Bangladesh Country Report: Oct 2005 para 6.55

⁶⁸ COIS Bangladesh Country Report: Oct 2005 para 5.47 – 5.50

⁶⁹ COIS Bangladesh Country Report: Oct 2005 para 5.47 – 5.50

3.12.4 In general, the government does not permit visits by independent human rights monitors. Government-appointed committees of prominent private citizens in each prison locality monitored prisons monthly but did not release their findings. District judges occasionally also visited prisons but rarely disclosed their findings.⁷⁰

3.12.5 Caselaw

UKIAT 00054 Chowdhury [2002]. It was found that the prison conditions in which the claimant would be detained “*are not reasonably likely to be such as to amount to inhuman or degrading treatment*”.

3.12.6 Conclusion. Whilst prison conditions in Bangladesh are poor with overcrowding being a particular problem in some establishments, in general these conditions are unlikely to reach the minimum level of severity required to reach the Article 3 threshold. Therefore even where claimants can demonstrate a real risk of imprisonment on return to Bangladesh a grant of Humanitarian Protection will not generally be appropriate. However, the individual factors of each case should be considered to determine whether detention will cause a particular individual in his particular circumstances to suffer treatment contrary to Article 3, relevant factors being the likely length of detention the likely type of detention facility and the individual's age and state of health. Only where it clearly cannot be argued that an individual will face treatment which reaches the Article 3 threshold, should a claim of this kind be certified.

4. Discretionary Leave

4.1 Where an application for asylum and Humanitarian Protection falls to be refused there may be compelling reasons for granting Discretionary Leave (DL) to the individual concerned. (See API on Discretionary Leave)

4.2 With particular reference to Nigeria the types of claim which may raise the issue of whether or not it will be appropriate to grant DL are likely to fall within the following categories. Each case must be considered on its individual merits and membership of one of these groups should *not* imply an automatic grant of DL. There may be other specific circumstances not covered by the categories below which warrant a grant of DL - see the API on Discretionary Leave.

4.3 Minors claiming in their own right

4.3.1 The policy on minors claiming in their own right is set out in the API on Children. Unaccompanied minors who have not been granted asylum or HP can only be returned where they have family to return to or there are adequate reception, care and support arrangements. At the moment we do not have sufficient information to be satisfied that there are adequate reception, care and support arrangements in place.

4.3.2 Minors claiming in their own right without a family to return to, or where there are no adequate reception, care and support arrangements, should if they do not qualify for leave on any more favourable grounds be granted Discretionary Leave for the period detailed in Asylum Policy Instruction on or until their 18th birthday, whichever is the shorter period.

4.4 Medical treatment

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

4.4.2 Where a caseworker considers that the circumstances of the individual applicant and the situation in the country reach the threshold detailed in the IDI on Medical Treatment making removal contrary to Article 3 a grant of discretionary leave to remain will be appropriate.

⁷⁰ COIS Bangladesh Country Report: Oct 2005 para 5.47 – 5.50

Such cases should always be referred to a Senior Caseworker for consideration prior to a grant of Discretionary Leave.

- 4.4.3** The EIU Country Profile 2004 notes that the public sector provides more than 90 per cent of health services; in 2000 there were 31,872 hospital beds, 30,868 registered doctors, 17,446 registered nurses and 15,235 midwives in the public sector. Taking into account private-sector facilities, there was one hospital bed per 3,009 persons and one doctor per 4,205 persons. NGOs such as the Bangladesh Rural Advancement Committee also provide health services.⁷¹
- 4.4.4** The Bangladesh government has been operating a National Integrated Population and Health Programme (NIPHP), or Health and Population Sector Programme (HPSP). The health policy is directed at improving equity and accessibility to the Essential Services Package (ESP). Since 1997, USAID has funded the NIPHP employing a network of technical assistance organisations and local NGOs to deliver the Government's ESP. The USAID website, accessed on 12 September 2004, states: *"The NGO Service Delivery Program (NSDP) supports 41 local NGOs to deliver an essential package of health services (ESP) including child health, maternal health care, reproductive health care, clinical and non-clinical family planning services, communicable disease control, tuberculosis, safe delivery including first aid emergency obstetric care, post-abortion care, and limited curative care. This network of NGOs works through 346 urban and rural clinics, nearly 8000 satellite clinics and almost 7000 female depot holders nationwide, serving approximately 17 per cent of the national population. Over 1.5 million customers are served each month."*⁷²
- 4.4.5** Mental health care is provided at the primary level by primary care physicians and health workers, at the secondary level by district hospitals, though only one hospital is equipped to provide the services, and at tertiary level by teaching hospitals. Of the 14 drugs for psychiatric treatment listed in the WHO Project Atlas survey, only three were not available in Bangladesh.⁷³
- 4.4.6** Bangladesh is a country with low HIV prevalence but high 'vulnerability'. Bangladesh has documented the lowest condom use, very high numbers of clients of sex workers, low knowledge of HIV/AIDS, and extensive needle/syringe sharing by drug users in the region. In spite of this, national commitment to HIV/AIDS prevention and care is high. UNAIDS comments that Bangladesh has the key ingredients for a successful response, a nationwide network of NGOs implementing effective interventions, effective examples of government organisation/NGO collaboration, a sector-wide approach to health with mechanisms for donor collaboration, an enabling multi-sectoral policy, and a strong commitment from the government as well as civil society. The UNAIDS website, on 19 September 2005, noted that a National Strategic Plan for the period 2004-2010 had been developed in 2004 to coordinate and fund a national response to HIV. It had been estimated that, by end-2003, between 2,500 and 15,000 people in Bangladesh were living with HIV.⁷⁴
- 4.4.7** Where a caseworker considers that the circumstances of the individual claimant and the situation in the country reach the threshold detailed in the IDI on Medical Treatment making removal contrary to Article 3 a grant of discretionary leave to remain will be appropriate. Such cases should always be referred to a Senior Caseworker for consideration prior to a grant of Discretionary Leave.

5. Returns

- 5.1** Factors that affect the practicality of return such as the difficulty or otherwise of obtaining a travel document should not be taken into account when considering the merits of an asylum or human rights claim.
- 5.2** Bangladesh nationals may return voluntarily to any region of Bangladesh at any time by way of the Voluntary Assisted Return and Reintegration Programme run by the International

⁷¹ COIS Bangladesh Country Report: Oct 2005 para 5.52

⁷² COIS Bangladesh Country Report: Oct 2005 para 5.53

⁷³ COIS Bangladesh Country Report: Oct 2005 para 5.54

⁷⁴ COIS Bangladesh Country Report: Oct 2005 para 5.56

Organisation for Migration (IOM) and co-funded by the European Refugee Fund. IOM will provide advice and help with obtaining travel documents and booking flights, as well as organising reintegration assistance in Bangladesh. The programme was established in 2001, and is open to those awaiting an asylum decision or the outcome of an appeal, as well as failed asylum seekers. Bangladesh nationals wishing to avail themselves of this opportunity for assisted return to Bangladesh should be put in contact with the IOM offices in London on 020 7233 0001 or www.iomlondon.org.

6. List of source documents

- COIS Bangladesh Country Report October 2005
http://www.homeoffice.gov.uk/rds/country_reports.html
- Foreign and Commonwealth Office (FCO) Country Profile on Bangladesh:17 March 2005
<http://www.fco.gov.uk/servlet/Front?pagename=OpenMarket/Xcelerate/ShowPage&c=Page&cid=1007029394365&a=KCountryProfile&aid=1018965297515>
- BBC News: 14 November 2005
http://news.bbc.co.uk/1/hi/world/south_asia/4434436.stm

**Asylum and Appeals Policy Directorate
14 December 2005**