



**fidh**

# VANISHED WITHOUT A TRACE

## The enforced disappearance of opposition and dissent in Bangladesh

Cover Photo : Relatives of victims made a human chain in front of the press club in Dhaka demanding an end to enforced disappearance, killing and abduction on International Human Rights Day, December 2014. (Photo by Zakir Hossain Chowdhury/NurPhoto)



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# List of acronyms

<b>BNP</b>	Bangladesh Nationalist Party
<b>CAT</b>	United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
<b>CID</b>	Criminal Investigation Department
<b>DB</b>	Detective Branch
<b>DGFI</b>	Directorate General of Forces Intelligence
<b>DMP</b>	Dhaka Metropolitan Police
<b>EU</b>	European Union
<b>FIDH</b>	International Federation for Human Rights
<b>FIR</b>	First Information Report
<b>GD</b>	General Diary
<b>ICC</b>	International Criminal Court
<b>ICCPR</b>	International Covenant on Civil and Political Rights
<b>ICPPED</b>	International Convention for the Protection of All Persons from Enforced Disappearance
<b>ICT</b>	Information and communications technology
<b>ICT Act</b>	2006 Information and Communication Technology Act
<b>ICTJ</b>	International Center for Transitional Justice
<b>IGP</b>	Inspector General of Police
<b>IMSI</b>	International mobile subscriber identity
<b>IS</b>	Islamic State
<b>JMB</b>	Jamaat-ul-Mujahideen
<b>NGO</b>	Non-Governmental Organization
<b>NHRC</b>	National Human Rights Commission
<b>NSI</b>	National Security Intelligence
<b>OC</b>	Officer-in-Charge
<b>OMCT</b>	World Organisation Against Torture
<b>OTP</b>	Office of the Prosecutor of the ICC
<b>RAB</b>	Rapid Action Battalion
<b>RAT</b>	Rapid Action Team
<b>SMNMS</b>	Social Media Network Monitoring System
<b>SSF</b>	Special Security Force
<b>UK</b>	United Kingdom
<b>UN</b>	United Nations
<b>UNDP</b>	United Nations Development Programme
<b>UPR</b>	Universal Periodic Review
<b>US</b>	United States
<b>WGEID</b>	Working Group on Enforced or Involuntary Disappearances

# Executive summary

Over the past decade, enforced disappearances have been on the rise in Bangladesh and have contributed to a growing and pervasive climate of fear in the South Asian country. Out of the 507 cases of enforced disappearances that have been documented by civil society organisations from January 2009 to the end of 2018, 62 people were found dead, 286 returned alive, and the whereabouts of 159 disappeared persons are still unknown. Enforced disappearances significantly increased in Bangladesh after the Awami League took power under the leadership of current Prime Minister Sheikh Hasina in 2009, and in particular since 2013. These enforced disappearances have been accompanied by other human rights violations, most commonly extrajudicial killings, arbitrary detention, torture, and other cruel and degrading treatment. Such instances were particularly common in the lead-up to, and the aftermath of, the general election in January 2014, and were again noticed in the lead-up to the following general election in December 2018, which saw Sheikh Hasina re-elected for a third straight term in office.

The substantial rise in enforced disappearances has also been accompanied by an increased pattern of targeting of political opponents and other dissidents through violations of freedoms of expression, association, and peaceful assembly. More recently, individuals have been targeted in the framework of the government's anti-terrorism policy. The systematic nature of this targeting suggests that enforced disappearances are being used as a political tool by the government to silence criticism and dissent.

The absence of both political will and a credible criminal justice system to hold personnel of law enforcement agencies to account for enforced disappearances has allowed this State policy to continue. The widespread impunity of State agents has not only permitted this rise in enforced disappearances and associated crimes, but it has also greatly eroded the rule of law in Bangladesh.

Despite mounting evidence that the authorities are behind these disappearances, the government of Bangladesh has repeatedly denied their occurrence, failed to conduct investigations and to punish the perpetrators. Representatives of the Bangladeshi government have repeatedly and publicly dismissed any criticism of their track record on this subject by stating that the hundreds of alleged enforced disappearances are simply people who have gone into hiding, run away from legitimate criminal cases, their debt, their wives or with their mistresses, or have been kidnapped by non-State actors.

While it may be impossible to say for certain that all of the reported cases of individuals who have gone missing are indeed cases of enforced disappearances, solid evidence points to the fact that a great majority of them are, in fact, enforced disappearances. Given the climate of fear and insecurity, as well as prevailing impunity, it is safe to say that the reported cases of enforced disappearance only represent the tip of the iceberg of a recurrent and increasing crime. Through its analysis of the patterns, trends, and *modus operandi* of law enforcement agents in the commission of enforced disappearances in Bangladesh, this report demonstrates that there is sufficient evidence to believe that the crimes were committed within the frame of a systematic and widespread attack directed against a civilian population, which follows a State-sponsored policy. Enforced disappearances in Bangladesh thus amount to crimes against humanity as defined in the Rome Statute of the International Criminal Court (ICC). Given that a vast majority of the targeted victims were members of Bangladeshi political opposition parties or individuals perceived to be political opponents to the ruling Awami League party, and were targeted because they were identified as such, the disappearances may also be qualified as persecution on political grounds.

As this report shows, there are virtually no remedies for victims of enforced disappearances in Bangladesh, which further demonstrates the inability and lack of will of State authorities to genuinely investigate and prosecute perpetrators of this crime.

# Introduction

Enforced disappearances have continued to occur with alarming frequency in Bangladesh amid a tense and highly polarized political environment. At least 92 people were believed to have been subjected to an enforced disappearance by the authorities in 2018 – bringing the total number of cases of enforced disappearances documented since the beginning of 2009 to 507. The highest number of cases of enforced disappearances was recorded in 2016 and 2018. The cases included in these statistics are those for which human rights activists have been able to collect corroborating elements, including testimonies by family members and witnesses.

Although enforced disappearances have occurred in Bangladesh since the country's independence and under successive governments, including military-controlled emergency governments in 2007 and 2008, the media, independent human rights defenders, and local civil society organisations began the systematic monitoring and documentation of enforced disappearances in Bangladesh when the number of such cases dramatically increased starting in 2009.

## Methodology

In order to investigate the issue of enforced disappearances in Bangladesh, FIDH conducted two missions to the country: a preparatory mission from 23 to 28 April 2016 and a follow-up mission from 2 to 9 July 2018. During these missions, FIDH conducted interviews with victims of enforced disappearances, eyewitnesses, and families of the disappeared. In most cases, victims' families were witnesses of the disappearances. These interviews were conducted in Bengali and English with the presence of a trusted interpreter and using a standard framework of interview questions, which included open-ended questions and the possibility of follow-up questions.

Unless otherwise specified, all the information contained in this report is drawn from interviews conducted by FIDH in July 2018. A list of all cases is presented in an annex. In all cases, the names of interviewees have been changed or withheld to protect their security.

In total, interviews were conducted with 30 direct and indirect (such as family members) victims of enforced disappearances: four who were disappeared in 2012; 16 in 2013; one in 2014; four in 2015; three in 2016; and two in 2017. Indirect victims were selected predominantly based on their willingness to speak to FIDH about their cases. Some of them were also invited by other families to speak with the mission delegates. FIDH aimed at interviewing a representative sample of indirect and direct victims of enforced disappearances from different time periods and which would reflect different victim profiles. FIDH also sought to conduct individual interviews, although some people testifying were accompanied by other family members and were unwilling to speak alone.

Due to significant concerns over potential repercussions, individuals who disappeared and were subsequently released were extremely reluctant to speak to anyone besides their immediate family members regarding their ordeal. As a result, FIDH was able to conduct only two interviews with such individuals, one of which was conducted under condition of strict anonymity.

Moreover, family members of individuals who were subjected to enforced disappearance within the past two years are particularly reluctant to speak to human rights organisations. This is due in part to being told by law enforcement agents to keep quiet, coupled with the increasing repression of freedom of expression and civic space in Bangladesh.

During the missions, FIDH also spoke with other interlocutors, including: the Chair of Bangladesh's National Human Rights Commission (NHRC); United Nations (UN) representatives based in Bangladesh; diplomats from foreign missions in Dhaka; representatives of local non-governmental organisations; human rights defenders; lawyers; and local and foreign journalists. The names of human rights defenders, lawyers, and journalists who are quoted in this report have been withheld for security reasons.

In order to complement the information gathered during the mission, FIDH used data collected by independent human rights defenders associated with credible human rights organisations and news reports of enforced disappearances published in 12 newspapers in Bangladesh and the international media. Information collected from local human rights defenders and victims' families was used to corroborate cases identified in the media and to receive reports on cases that were not publicized. FIDH also drew on reporting by other international human rights organisations and on research conducted on enforced disappearances in other countries.



Map No. 3711 Rev. 2 UNITED NATIONS  
January 2004

Department of Peacekeeping Operations  
Cartographic Section

# 1. Context

*"Bangladesh is not a place for courageous people. Courageous people go to jail, or to the graveyard or abroad" - Bangladeshi journalist*

## 1.1 A conflictual political history

Since Bangladesh's independence from Pakistan in 1971, politics in the South Asian country have been wrought with violence, military coups, and internal strife. Bangladeshi politics have been dominated by two main political parties: the Awami League, currently headed by Prime Minister Sheikh Hasina, and the opposition Bangladesh Nationalist Party (BNP), currently led by former Prime Minister Khaleda Zia, who has been incarcerated on charges of corruption since February 2018. Both parties, as well as their current leaders, have strong ties to Bangladesh's independence movement and early history. The Awami League was co-founded in 1949 by Sheikh Mujibur Rahman, Sheikh Hasina's father, with the key aim of democratisation and the eradication of discrimination against peasants and workers. The BNP was founded by former president General Ziaur Rahman, Khaleda Zia's husband, in 1978.

In the decades following independence, power has gone back and forth between the Awami League and the BNP. Both Sheikh Mujibur Rahman and General Ziaur Rahman were assassinated: the former in 1975 in a military coup that saw General Ziaur Rahman become president, the latter in 1981 in another military coup. This political turmoil has, over the years, resulted in a situation where inter-party relations are mired in bitter memories that span decades and where areas of common ground and potential dialogue are far and few between.

Relations between the two parties are worsened by an ongoing reliance on violent tactics. Since their early beginnings, political parties in Bangladesh have relied on their active student and youth wings, who have often played central roles in key events in Bangladesh's history. For example, the Awami League's student wing, the Bangladesh Chhatra League, deployed freedom fighters during the war for independence. In more recent years, however, these student and youth wings, including the BNP's Jatiyatabadi Chhatra Dal and the Jamaat-e-Islami party's Islami Chhatra Shibir, have often been implicated in violent attacks and clashes.<sup>1</sup> This pervasive violence, which became a hallmark of the contested 2014 general election [see below, *The 2014 election*], has contributed to a situation where dialogue is close to impossible.

Successive Bangladeshi governments, both civilian and military, have been accused of severe human rights violations. Torture, extrajudicial killings, and arbitrary detentions have been reported by international human rights organisations since at least the 1990s.<sup>2</sup> Under the last BNP government from 2001 to 2006, a drive to eradicate criminality called 'Operation Clean Heart' involved the deployment of over 40,000 military personnel and the arrest of over 10,000 people, of whom at least 50 died in custody, over a period of 85 days.<sup>3</sup> Soon after these events, the

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1. BBC News, *Bangladesh high court restricts Islamist party Jamaat*, 1 August 2013, <http://www.bbc.co.uk/news/world-asia-23531826>; Human Rights Watch, *Democracy in the Crossfire: Opposition Violence and Government Abuses in the 2014 Pre- and Post- Election Period in Bangladesh*, April 2014, <https://www.hrw.org/report/2014/04/29/democracy-crossfire/opposition-violence-and-government-abuses-2014-pre-and-post>.

2. See for example: Amnesty International, *Reports of Torture and Possible Extrajudicial Executions*, 1 March 1992, <https://www.amnesty.org/en/documents/asa13/002/1992/en/>.

3. Human Rights Watch, *Judge, Jury, and Executioner: Torture and Extrajudicial Killings by Bangladesh's Elite Security Force*, 2006, <https://www.hrw.org/reports/2006/bangladesh1206/index.htm>.

paramilitary Rapid Action Team (RAT), the predecessor of the Rapid Action Battalion (RAB) [see below, *Actors*], was established.

## 1.2 The 2014 election

On 5 January 2014, the government of Prime Minister Sheikh Hasina was re-elected in an election that was boycotted by the BNP and almost all other opposition parties due to widespread allegations of election fraud. The boycott resulted in 153 of the total 300 seats being uncontested. The Awami League won 232 seats, including 127 of the uncontested seats, while its political allies won the rest of the seats.<sup>4</sup>

The run-up to the 2014 election and election day itself were marred by extensive violence, including arbitrary arrests and detentions, extrajudicial killings and enforced disappearances.<sup>5</sup> Many Bangladeshis lost their lives or were injured in violent clashes between the police and protesters, and in clashes between rival political party supporters. Supporters of the BNP and Jamaat-e-Islami enforced general strikes and transport blockades through violent means.

By the end of December 2013, at least 25 people had died of burns and 97 had been admitted to hospital.<sup>6</sup> In January 2014, 39 persons were killed during election-related violence either due to clashes with police and political party activists on both sides, or as a result of petrol bomb attacks.<sup>7</sup> Twenty-one people were killed on election day and voting at approximately 400 polling centres was halted.<sup>8</sup>

As a result of this widespread violence and election irregularities, including allegations of ballot stuffing, the election results were called into question by the international community, which expressed its disappointment over the lack of inclusiveness and transparency of the electoral process.<sup>9</sup> In addition, several countries strongly condemned the voter intimidation and violence by all parties during the elections.<sup>10</sup>

Under the pretext of responding to the election-related violence, the government cracked down on the opposition, naming hundreds of opposition supporters as suspects in violent attacks. As part of this crackdown, members of law enforcement agencies carried out extra-judicial executions,

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4. Odhikar, *Human Rights Monitoring Report January 1-31, 2014*, February 2014, <http://odhikar.org/wp-content/uploads/2014/08/human-rights-monitoring-monthly-report-january-2014-English.pdf>; See also: CNN, *Bangladesh ruling party wins elections marred by boycott, violence*, 7 January 2014, <http://edition.cnn.com/2014/01/06/world/asia/bangladesh-elections/>.

5. Human Rights Watch, *supra* note 1.

6. Ain O Salish Kendra, *Burn Victims from Political Violence*, 31 January 2014, <http://www.askbd.org/ask/2014/01/31/burn-victims-political-violence-jan-31-december-2013/>.

7. Odhikar, *supra* note 4.

8. Al Jazeera, *Bangladesh ruling party sweeps violent vote*, 7 January 2014, <http://www.aljazeera.com/news/asia/2014/01/bangladesh-vote-201416229528440.html>.

9. Al Jazeera, *Violent Bangladesh poll 'not credible'*, 7 January 2014, <https://www.aljazeera.com/indepth/features/2014/01/violent-bangladesh-poll-not-credible-201417153340105129.html>.

10. See e.g. US Department of State, *Parliamentary Elections in Bangladesh*, 6 January 2014, <https://2009-2017.state.gov/r/pa/prs/ps/2014/01/219331.htm>; UK Government, *Baroness Warsi comments on Bangladesh election results*, 6 January 2014, <https://www.gov.uk/government/news/baroness-warsi-comments-on-bangladesh-election-results>; Press TV, *UN raps Bangladesh parties for election violence*, 6 January 2014, <http://www.presstv.ir/detail/2014/01/06/344120/un-raps-bangladesh-parties-for-violence/>.

enforced disappearances, arbitrary arrests, and unlawful destruction of private property.<sup>11</sup> No police or security officials involved in the operations that resulted in those serious human rights violations were investigated through an independent and impartial mechanism.<sup>12</sup>

In the aftermath of the election, freedom of expression came under increasing attack by the authorities. Media outlets and journalists that were critical of the ruling party and its policies were increasingly targeted through judicial measures aimed at silencing them, including through the use of lawsuits brought by ruling party supporters. Journalists and civil society activists also faced contempt of court charges for criticising judicial decisions.<sup>13</sup>

In addition to the human rights violations committed by the authorities, a rise in religious extremism also contributed to a tightening of civic space. In its most extreme illustration, four bloggers who expressed views critical of Islam or who sympathized with atheist views were hacked to death.<sup>14</sup> Instead of fully denouncing the attacks, the government called on bloggers to exercise their freedom of speech with restraint,<sup>15</sup> while simultaneously capitalising on the looming threat of terrorism to clamp down on free speech. Although many of the terrorist attacks in Bangladesh since 2013 have been linked to groups affiliated to Al Qaeda, such as Ansar al-Islam, or the Islamic State (IS), the government has instead placed the blame on opposition political parties.<sup>16</sup>

### 1.3 Human rights in Bangladesh today

Although human rights violations have always been rife in Bangladesh, the situation has become increasingly dire since the 2014 election, with many of the abuses committed in the lead-up and during those polls continuing today at an even faster pace. Enforced disappearances in Bangladesh occur in a context of widespread and systematic state-sponsored human rights violations, including extra-judicial killings, torture in custody, arbitrary arrests and detentions, denial of fair trial rights, and severe restrictions on the rights to freedom of expression, freedom of peaceful assembly, and freedom of association.

In May 2018, the government announced that it would begin what it has termed as a “war on drugs” in response to an alleged increase in illegal drug use, particularly methamphetamines, in the country.<sup>17</sup> The operations have been led in large part by the RAB, a paramilitary unit under the

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

12. Amnesty International, *Stop Them, Now! Bangladesh: Enforced Disappearances, torture and restrictions on freedom of expression*, 2014, <https://www.amnesty.org/download/Documents/4000/asa130052014en.pdf>.

13. Human Rights Watch, *World Report 2016: Bangladesh*, 2017, <https://www.hrw.org/world-report/2016/country-chapters/bangladesh#>. Also see, eg: The Guardian, *Bangladesh court convicts British journalist for doubting war death toll*, 2 December 2014, <https://www.theguardian.com/world/2014/dec/02/bangladesh-convicts-british-journalist-david-bergman>.

14. Hindu, *Timeline of Bangladeshi bloggers hacked to death*, 25 April 2016, <http://www.thehindu.com/specials/timelines/timeline-of-bangladeshi-bloggers-hacked-to-death/article8516522.ece>; BBC, *Bangladesh students protest after blogger hacked to death*, 7 April 2016, <http://www.bbc.com/news/world-asia-35987345>.

15. Guardian, *Inside Bangladesh's killing fields: bloggers and outsiders targeted by fanatics*, 12 June 2016, <https://www.theguardian.com/world/2016/jun/11/bangladesh-murders-bloggers-foreigners-religion>.

16. Daily Star, *Bangladesh PM Hasina smells link of BNP-Jamaat*, 5 October 2015, <https://www.thedailystar.net/frontpage/pm-smells-link-bnp-jamaat-152074>.

17. FIDH and Odhikar, *Bangladesh: Halt 'war on drugs' killings, end impunity for serious human rights abuses*, 31 May 2018, <https://www.fidh.org/en/region/asia/bangladesh/halt-war-on-drugs-killings-end-impunity-for-serious-human-rights>.

police notorious for human rights abuses (see *Actors* below). These raids on houses of suspected drug dealers have resulted in what the authorities term “shootouts,”<sup>18</sup> during which at least 287 people have been killed as of the end of 2018.<sup>19</sup> Some of the individuals killed were known to be BNP activists, which raised concerns that the raids were used to crack down on the political opposition in the lead-up to the December 2018 general election. Civil society actors with whom FIDH spoke felt that the “war on drugs” had only replaced “the bogey man of Islamic terrorism” and was little more than a tactic for scaring people ahead of the election.

The troubling rate of extrajudicial killings – at least 1,920 cases were documented by civil society organisations from January 2009 to December 2018 – was coupled with equally troubling rates of torture and deaths in custody. Over the same period, 126 people died as a result of custodial torture and dozens became permanently disabled as a result of kneecappings while in police custody.

These issues are compounded by a judicial system that has routinely failed to adequately investigate and prosecute allegations of human rights abuses, enabled by widespread corruption within the judicial system. A 2015 joint report by the Bangladesh Supreme Court and the United Nations Development Programme (UNDP) admitted that there appeared to be an “inconsistent application of the concept of judicial independence” in Bangladesh and that judges of subordinate courts were “not yet fully independent and autonomous.”<sup>20</sup> Criticism has also been voiced regarding Bangladesh’s system of “disposable” prosecutors, whereby prosecutors and state attorneys are appointed by the ruling party and replaced with each change in government. This system has been criticized for its lack of professionalism and independence from the ruling party.<sup>21</sup>

Over the past few decades, civil society in Bangladesh has been increasingly stifled and the space for expression has progressively shrunk. This is due to a number of factors, including repressive laws that are used by the government to silence critical voices. For example, the 2013 Foreign Donations (Voluntary Activities) Regulation Act has been used to effectively shut down non-governmental organisations (NGOs) that are deemed too critical of the government, by freezing their assets and blocking their ability to receive foreign funding.

The government has also continued to engage in heavy-handed crackdowns on civil society. In late July 2018, thousands of students peacefully descended on the streets of Dhaka to demand the reform of road safety regulations after two students were killed by a speeding bus on 29 July. The protests were met with excessive use of force by the authorities, and many protest leaders were later arrested and detained, before being charged in politically-motivated cases.<sup>22</sup> In the

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18. Law enforcement agencies in Bangladesh often term extra-judicial killings, which occur with alarming frequency, as deaths in “gunfight” or “crossfire,” despite allegations from families of victims to the contrary. Law enforcement agencies will allegedly carry out an operation to ‘recover arms’; authorities then claim that the victim or associates of the victim opened fire at members of law enforcement agencies, who then shot back in self-defence, resulting in the death of the victim. In most cases perpetrators enjoy impunity.

19. Odhikar, *Human Rights Monitoring Report – September 2018*, October 2018, p.24, [https://www.fidh.org/IMG/pdf/hrr-september-2018\\_eng.pdf](https://www.fidh.org/IMG/pdf/hrr-september-2018_eng.pdf).

20. Supreme Court of Bangladesh and UNDP, *A Challenge for Change - Timely Justice for all in Bangladesh: Court processes, Problems and Solutions*, 2015, <http://www.bd.undp.org/content/dam/bangladesh/docs/Projects/JUST/A%20Challenge%20For%20Change.pdf>

21. Md. Ashrafuzzaman, *The Disposable Prosecutors of Bangladesh*, 16 March 2008, <http://alrc.asia/article2/2008/03/the-disposable-prosecutors-of-bangladesh/>; also see: Md. Ashrafuzzaman, Abu Sufian and Adilur Khan, *Bangladesh: The People Do Not Trust the Judiciary*, 9 March 2015, <http://alrc.asia/article2/2015/03/bangladesh-the-people-do-not-trust-the-judiciary/>.

22. See: Observatory for the Protection of Human Rights Defenders, *Bangladesh: Arbitrary arrest and incommunicado detention of 13 student leaders*, 14 September 2018, <https://www.fidh.org/en/issues/human-rights-defenders/bangladesh-arbitrary-arrest-and-incommunicado-detention-of-13-student>.

midst of these protests, internationally renowned photographer Shahidul Alam was detained on 5 August 2018 and later charged under Article 57 of the 2006 Information and Communication Technology (ICT) Act,<sup>23</sup> after having given an interview to *Al Jazeera* during which he expressed support for the student protests.<sup>24</sup> After being refused bail several times, he was finally released on bail on 20 November 2018. He claimed he was tortured in custody after being arrested.

***"I go to bed every night not sure if I will wake up in my bed in the morning or if I will be picked up during the night" - Bangladeshi newspaper editor.***

This context makes it particularly difficult for both civil society organisations and victims' families to speak about enforced disappearances. Researchers and journalists with whom FIDH spoke noted that there had been a notable decrease in public discussions regarding enforced disappearances in recent years, with the last big public gathering on the issue held in 2016.

Journalists reported that they were less and less able to investigate and report on cases of enforced disappearances. Journalists who were based outside of Dhaka and who reported on these cases faced threats and judicial harassment, and those based in Dhaka had limited access to information outside of the capital. Journalists also reported that self-censorship was on the rise, with management regularly suppressing stories about enforced disappearances and other colleagues putting pressure on those who followed the issue to not publish the stories.

***"In most cases, when a person is abducted, authorities tell the family not to speak to anyone, particularly the press. Because the families are scared, they follow the advice. Once they realize the police are doing nothing [to find the person], they realize it was a lie." - Bangladeshi journalist.***

This highly repressive context marred the lead-up to the general election on 30 December 2018. This election was remarkably similar to the 2014 polls, if not for the participation of the opposition. Freedom of speech was stifled, journalists and civil society organisations were threatened into silence, and members of the opposition were arrested en masse. The ruling Awami League, headed by Prime Minister Sheikh Hasina, won the polls in a landslide, winning, along with the seven other parties that formed its Grand Alliance, 289 of the 300 (or 96%) seats in the Jatiya Sangsad (Bangladesh's National Parliament).

The polls were widely criticized, both domestically and internationally, for the repressive environment under which they were held and the widespread and well-documented allegations of election fraud.<sup>25</sup> In the lead-up to the election, thousands of members of the political opposition were arrested on trumped-up charges, and numerous other forms of restrictions on fundamental

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23. On 19 September 2018, the Bangladeshi Parliament approved the Digital Security Bill, which repealed certain sections of the ICT Act, including the notorious Section 57, under which Shahidul Alam has been charged. However, sections of the Digital Security Bill are as equally repressive as those repealed from the ICT Act, if not more repressive.

24. Observatory for the Protection of Human Rights Defenders, *Bangladesh: Arbitrary detention and torture of photographer Mr. Shahidul Alam*, 6 August 2018, <https://www.fidh.org/en/issues/human-rights-defenders/bangladesh-arbitrary-detention-and-torture-of-photographer-mr>.

25. See: FIDH et al, *Joint statement on the undemocratic electoral environment in Bangladesh*, 29 December 2018, <https://www.fidh.org/en/region/asia/bangladesh/joint-statement-on-the-undemocratic-electoral-environment-in>; European Union, *Statement by the Spokesperson on parliamentary elections in Bangladesh*, 1 January 2019, [https://eeas.europa.eu/delegations/bangladesh/56110/statement-spokesperson-parliamentary-elections-bangladesh\\_en](https://eeas.europa.eu/delegations/bangladesh/56110/statement-spokesperson-parliamentary-elections-bangladesh_en); U.S. Department of State, *Bangladesh Election*, 1 January 2019, <https://www.state.gov/r/pa/prs/ps/2019/01/288293.htm>; UK Foreign & Commonwealth Office, *Minister for Asia statement on Bangladesh elections*, 1 January 2019, <https://www.gov.uk/government/news/minister-for-asia-statement-on-bangladesh-elections>; Reuters, *U.N. calls for probe into Bangladesh elections*, 4 January 2019, <https://www.reuters.com/article/us-bangladesh-election-un/un-calls-for-probe-into-bangladesh-elections-idUSKCN10Y1K7>.

freedoms, including attacks on journalists and harassment of civil society organisations and activists, were reported.<sup>26</sup> In the days prior to the election, authorities halted 3G and 4G Internet services,<sup>27</sup> ostensibly to prevent voters from getting last-minute information that could impact their votes and from documenting instances of fraud and irregularities.

Election Day itself was marred by allegations of voting irregularities and incidences of extreme violence. At least 18 people were killed in Election Day violence, which included clashes between supporters of the Awami League and the BNP.<sup>28</sup> The refusal by the government to investigate these incidents of violence and allegations of election fraud and irregularities indicates a strong likelihood that impunity will, yet again, prevail.<sup>29</sup>

A survey conducted by Transparency International found irregularities in 47 of the 50 constituencies it surveyed, including stamping ballot papers the night before the polls, ballot stuffing, voter intimidation and the barring of people from polling stations.<sup>30</sup> These concerns were echoed by the opposition, which called the election a “fraud” and a “mockery of democracy.”<sup>31</sup> Days after the election, a Bangladeshi journalist reporting for the *Dhaka Tribune* daily newspaper was arrested under the 2018 Digital Security Act for having allegedly published “false information” about voting irregularities, while another went into hiding after being accused of the same charges.<sup>32</sup>

## 1.4 Legal framework

Bangladeshi law, much of which has its roots in the legal framework of the British colonial era, provides protection for broad human rights and freedoms. However, several legislative provisions are often used by the authorities to perpetrate or justify human rights abuses.

### 1.4.1 The Constitution

The country’s 1972 Constitution, which was amended most recently in 2018, commits Bangladesh to being a “society in which the rule of law, fundamental human rights and freedom, equality and justice [...] will be secured for all citizens” (Preamble). The Constitution also provides for the protection of fundamental rights, including equality before the law (Article 27), the right to protection of the law (Article 31), and protection of the right to life and personal liberty (Article 32).

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26. Ibid, *supra note* 25.

27. South China Morning Post, *Bangladesh cuts internet speed ahead of weekend election, hoping to combat ‘propaganda,’* 28 December 2018, <https://www.scmp.com/news/asia/south-asia/article/2179839/bangladesh-cuts-internet-speed-ahead-weekend-election-hoping>.

28. Rappler, *Deaths, vote-rigging claims hit Bangladesh election day,* 30 December 2018, <https://www.rappler.com/world/regions/south-central-asia/219954-death-toll-bangladesh-election-violence-december-2018>.

29. Financial Times, *Sheik Hasina denies Bangladesh poll fraud as opposition cries foul,* 2 January 2019, <https://www.ft.com/content/94b06576-0d6e-11e9-acdc-4d9976f1533b>.

30. Channel NewsAsia, *Transparency International finds ‘irregularities’ in Bangladesh vote,* 15 January 2019, <https://www.channelnewsasia.com/news/asia/transparency-international-finds--irregularities--in-bangladesh-vote-11126294>.

31. Al Jazeera, *Bangladesh election makes mockery of democracy: BNP’s Alamgir,* 31 December 2018, <https://www.aljazeera.com/news/2018/12/bangladesh-election-mockery-democracy-bnp-chief-alamgir-181231183622220.html>.

32. Reporters Without Border, *Serious press freedom violations mar Bangladesh’s election,* 2 January 2019, <https://rsf.org/en/news/serious-press-freedom-violations-mar-bangladeshs-election>.

The Constitution also provides concrete safeguards with regard to arrests and detentions, including the provisions that no one shall be detained without being notified of the grounds for the arrest, and that individuals arrested are to be produced before a judge within 24 hours after the arrest (Article 33(1) and (3)). However, Article 33(4) of the Constitution allows for preventive detention exceeding a period of six months if authorized by an "Advisory Board consisting of three persons, of whom two shall be persons who are, or have been, or are qualified to be appointed as, Judges of the Supreme Court and the other shall be a person who is a senior officer in the service of the Republic."

#### 1.4.2 The Penal Code

Bangladesh's 1860 Penal Code, amended most recently in 2004, does not enumerate enforced disappearance as a specific crime.<sup>33</sup> The government, including in its various interactions with UN bodies, has argued that it is not necessary to incorporate the crime of enforced disappearance due to existing provisions in the Penal Code that criminalize abduction and kidnapping.

Under Article 362 of the Penal Code, "abduction" is defined as: "whoever by force compels, or by any deceitful means induces, any person to go from any place, is said to abduct that person." Articles 360 and 361 criminalize "kidnapping from Bangladesh" ("whoever conveys any person beyond the limits of Bangladesh without the consent of that person, or of some person legally authorized to consent on behalf of that person, is said to kidnap that person from Bangladesh") and "kidnapping from lawful guardianship" ("whoever takes or entices any minor under fourteen years of age if a male, or under sixteen years of age if a female, or any person of unsound mind, out of the keeping of the lawful guardian of such minor or person of unsound mind, without the consent of such guardian, is said to kidnap such minor or person from lawful guardianship"), respectively. Punishments for abduction and kidnapping range from seven years to life imprisonment, depending on various factors, which are elaborated in Articles 363 to 369.

Of particular relevance to the crime of enforced disappearance is Article 365, which states that "whoever kidnaps or abducts any person with intent to cause that person to be secretly and wrongfully confined, shall be punished with imprisonment [...] for a term which may extend to seven years, and shall also be liable to a fine."

However, these criminal provisions are not sufficient to adequately address the crime of enforced disappearance. For instance, these provisions do not address the issue of criminal liability beyond direct commission, which would enable the investigation and prosecution of not only those officers directly responsible for a disappearance but those in the chain of command who had knowledge and/or responsibility.<sup>34</sup>

The UN Working Group on Enforced or Involuntary Disappearances has argued that relying on disparate criminal provisions to address the issue of enforced disappearances is not sufficient and that States should introduce a comprehensive definition of enforced disappearance - separate

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33. Penal Code, 1860 (Act No. XLV of 1860), available at: [http://bdlaws.minlaw.gov.bd/print\\_sections\\_all.php?id=11](http://bdlaws.minlaw.gov.bd/print_sections_all.php?id=11).

34. As defined in international law, an enforced disappearance is "considered to be the arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law." International Convention on the Protection of All Persons from Enforced Disappearances, Article 2.

from offences of kidnapping and abduction - that addresses the following three components of the crime: the deprivation of liberty against the will of the person concerned; the involvement of government officials, at least indirectly by acquiescence; and the refusal to disclose the fate or whereabouts of the person concerned.<sup>35</sup>

### 1.4.3 Other domestic laws

In 2013, Bangladesh enacted the Torture and Custodial Death (Prohibition) Act. Under this law, torture is an offence punishable by up to five years' imprisonment, and death by torture is punishable by life in prison.<sup>36</sup>

The 1898 Criminal Procedure Code provides safeguards against arbitrary arrests by the police, including that no unnecessary restraint may be imposed on those placed under arrest, and that, when persons are arrested without a warrant, they shall be promptly taken before a magistrate, not be detained for more than 24 hours unless a special order has been granted, and the arrest without warrant must be reported.<sup>37</sup> In addition, all deaths in custody must be subject to an investigation conducted by a magistrate.<sup>38</sup> Lastly, officers-in-charge of a police station have an obligation to lodge a case and investigate all abduction-related allegations they receive under Articles 156 and 157 of the Criminal Procedure Code.<sup>39</sup>

However, the Criminal Procedure Code also provides significant immunity from prosecution to law enforcement agencies. Under Article 132, authorization must be obtained from the government before law enforcement officers can be prosecuted.<sup>40</sup> In addition, when law enforcement personnel can show that they acted in good faith, they enjoy immunity from prosecution.<sup>41</sup>

### 1.4.4 International legal obligations

Bangladesh is a State Party to the International Covenant on Civil and Political Rights (ICCPR), which obligates Bangladesh to ensure that: "any person whose rights or freedoms as herein

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35. UN Commission on Human Rights, 52<sup>nd</sup> session, *Report of the Working Group on Enforced or Involuntary Disappearances*, 15 January 1996, UN Doc. E/CN.4/1996/38, paras. 54-58, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G96/102/18/PDF/G9610218.pdf?OpenElement>.

36. In March 2015, a proposal to amend the Torture and Custodial Death (Prohibition) Act was introduced by the security services, which would have excluded the Rapid Action Battalion, the Criminal Investigation Department, Special Branch and Detective Branch from the definition of "law enforcement agency," as well as to limit the scope of the definition of torture. See more at: World Organization against Torture (OMCT) and Odhikar, *Bangladesh: Global anti-torture movement alarmed over possible licence to torture*, 27 March 2015, <http://www.omct.org/statements/bangladesh/2015/03/d23066/>.

37. 1898 Code of Criminal Procedure (Act No. V of 1898), Articles 50, 54, 60, 61, and 62, available at [http://bdlaws.minlaw.gov.bd/pdf\\_part.php?id=75](http://bdlaws.minlaw.gov.bd/pdf_part.php?id=75). In addition, in 2003, the Supreme Court of Bangladesh issued a set of 15 guidelines relating to the exercise of powers of arrest and remand, as part of its judgment in the BLAST v Bangladesh and others case (55 DLR HCD (2003) 363). <https://www.blast.org.bd/issues/justice/214-3806of1998>.

38. 1898 Code of Criminal Procedure, Article 176.

39. UN Human Rights Council, *National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21* (7 February 2013), A/HRC/WG.6/16/BGD/1, para 49.

40. 1898 Code of Criminal Procedure, Article 132.

41. 1898 Code of Criminal Procedure, Article 132(a); see also: Article 13 of the 1979 Armed Police Battalions Ordinance, which states that "No Suit, prosecution or other legal proceedings shall be against any member of the Force for anything which is done or intended to be done in good faith under this Ordinance."

recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity" (Article 3); "every human being has the inherent right to life"; "no one shall be arbitrarily deprived of his life" (Article 6.1); "no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment" (Article 7); and "no one shall be subjected to arbitrary arrest or detention" (Article 9). Bangladesh is also a State Party to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).

Moreover, on 23 March 2010, Bangladesh ratified the Rome Statute of the International Criminal Court (ICC), which entered into force in Bangladesh on 1 June 2010. Article 7(2) of the Rome Statute defines enforced disappearance as "the arrest, detention, or abduction of persons by, or with the authorization, support or acquiescence of, a State or political organization, followed by a refusal to acknowledge that deprivation of freedom or to give information on the fate or whereabouts of those persons." Article 7(1) of the Rome Statute stipulates that enforced disappearances amount to a "crime against humanity" when they are part of a "widespread or systematic attack directed against a civilian population, with knowledge of the attack."<sup>42</sup>

Bangladesh is not a State Party to the International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED). The government of Bangladesh has repeatedly refused to accept recommendations from various UN bodies and mechanisms to ratify the ICPPED, noting the absence of a definition of "enforced disappearance" in its domestic laws as one reason for not acceding to it.

The UN Declaration on the Protection of All Persons from Enforced Disappearances, adopted by the UN General Assembly in 1992, notes that "each State shall take effective legislative, administrative, judicial or other measures to prevent and terminate acts of enforced disappearance in any territory under its jurisdiction" (Article 3) and that "all acts of enforced disappearance shall be offences under criminal law punishable by appropriate penalties which shall take into account their extreme seriousness" (Article 4).

## 1.5 Actors

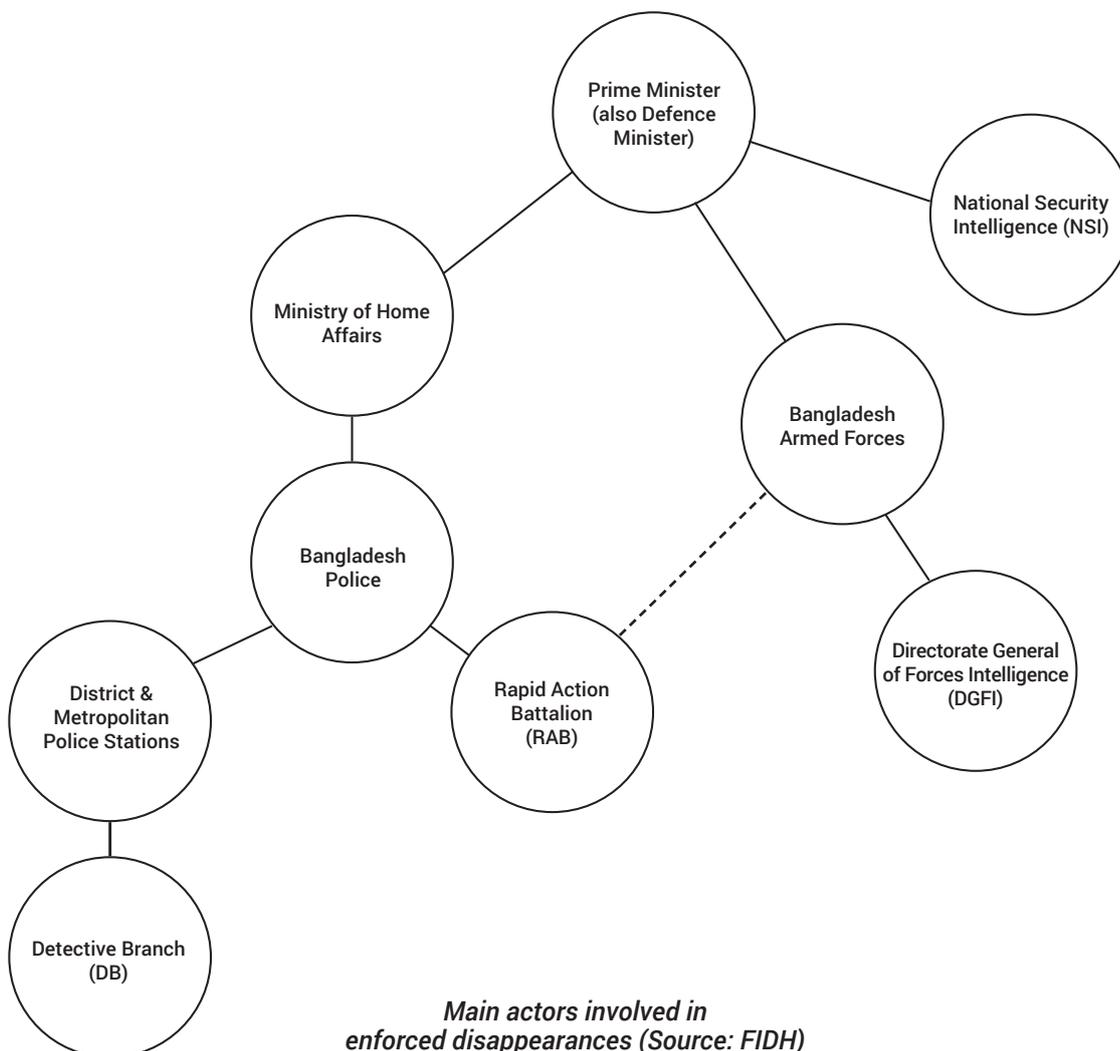
The head of the Bangladeshi government is the Prime Minister, currently Sheikh Hasina of the ruling Awami League party. The Cabinet (or Council of Ministers), the chief executive body, is composed of the Prime Minister, 24 Cabinet Ministers (including the Minister for Home Affairs), 19 State Ministers and three Deputy Ministers. Cabinet Ministers are selected from elected members of the Jatiya Sangsad ("House of Nation"), Bangladesh's unicameral legislature, which is currently dominated by the Awami League.

The vast majority of enforced disappearances in Bangladesh are believed to be committed by several units operating under the purview of the Bangladesh police. The Detective Branch (DB) and the Rapid Action Battalion (RAB) have been identified by witnesses and family members as the perpetrators of most cases of enforced disappearances, with the Industrial police (a specialized unit tasked with maintaining order in industrial zones) and the Ansar (a paramilitary

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42. Situation in the Republic of Côte d'Ivoire, "Decision Pursuant to Article 15 of the Rome Statute on the Authorisation of an Investigation into the Situation in the Republic of Cote d'Ivoire", 3 October 2011, ICC-02/11-14-Corr (hereinafter 'Cote d'Ivoire Decision'), p. 14, para. 29; and Situation in the Republic of Kenya, "Decision Pursuant to Article 15 of the Rome Statute on the Authorisation of an Investigation into the Situation in the Republic of Kenya", 31 March 2010, ICC-01/09-19-Corr ('Kenya Decision'), para. 79. See also Article 5 of the ICPPED.

auxiliary force) accounting for a small number of cases of enforced disappearances. In interviews conducted by FIDH, other actors were implicated as playing a role in enforced disappearances, including personnel from the Directorate General of Forces Intelligence (DGFI) and the National Security Intelligence (NSI).



### 1.5.1 Bangladesh police

The Bangladesh police operates under the control of the Ministry of Home Affairs, which is currently being led by Minister Asaduzzaman Khan. It operates under the rules and regulations established by the 1861 Police Act, which was last amended in 1973 and provides for the organisation of law enforcement in Bangladesh.<sup>43</sup> The highest ranking officer of the police, the Inspector General of Police (IGP), is a political appointment and can be removed at any time by the Minister of Home Affairs.

Although a Police Internal Oversight unit was set up in 2007, the government has not released recent statistics regarding excessive use of force by the police, and in the few instances in which investigations were conducted, it has been reported that police officers who were found guilty only received administrative punishments.<sup>44</sup>

43. Police Act, 1861 (Act No. V of 1861), Available at: [http://bdlaws.minlaw.gov.bd/pdf/12\\_\\_\\_\\_.pdf](http://bdlaws.minlaw.gov.bd/pdf/12____.pdf).

44. US Department of State, *Bangladesh 2017 Human Rights Report*, <https://www.state.gov/documents/organization/277521.pdf>; also see US Department of State, *Bangladesh 2016 Human Rights Report*, <https://www.state.gov/documents/organization/265744.pdf>.

### ***Detective Branch***

Each Metropolitan and District police division includes a specialised Detective Branch (DB). Although the specific mandate of the DB is not publicly available, the unit is responsible for gathering intelligence and conducting investigations, along with the Criminal Investigation Department and the Special Branch (both operating from the headquarters of the Bangladesh police).<sup>45</sup>

### ***Rapid Action Battalion***

The Rapid Action Battalion (RAB) is a joint task force composed of members of the police, army, navy, air force, border guards, and Ansar, who are all seconded to the RAB from their units.<sup>46</sup>

The RAB was formed in March 2004 (initially under the name of the Rapid Action Team) under the then BNP-led government, and has been in operation since April 2004, with an "anti-crime, anti-terrorism" mandate. Its mandate and authority derive from the 2003 Armed Police Battalions (Amendment) Act, which amended the 1979 Armed Police Battalions Ordinance.<sup>47</sup> RAB's vaguely worded mandate includes performing "internal security duties," "intelligence in respect of crime and criminal activities," and "investigation of any offence on the direction of the Government" (Armed Police Battalions Act, Article 6). The RAB is comprised of 14 battalion-sized units located across the country, including five in Dhaka. The RAB also comprises an Internal Enquiry Cell, although reports of the cell investigating and prosecuting cases of abuse by RAB members are far and few between. The RAB's current Director General is Benazir Ahmed, the former Commissioner of Dhaka Metropolitan Police.

Although the RAB operates under the command of the IGP under the Ministry of Home Affairs, due to its composition including members of the military, concerns have been voiced by civil society organisations that it operates under the heavy influence of the Bangladeshi Ministry of Defence, which could result in the military exerting undue interference in civilian matters.<sup>48</sup> Moreover, the Armed Police Battalions Act provides immunity for RAB officers acting "in good faith" under the Act (Article 13), resulting in a large degree of impunity for RAB officers.

The RAB has been repeatedly accused of committing severe human rights violations, including extrajudicial killings, torture, and enforced disappearances, and of operating under complete impunity.<sup>49</sup> Starting in 2018, the RAB has led the government's crackdown on illegal drugs, which had resulted in close to 300 suspected extra-judicial killings by the end of 2018.<sup>50</sup>

On 4 April 2017, Swedish Radio published a secret recording made of a RAB officer admitting to the RAB's involvement in enforced disappearances and extra-judicial killings. The officer described the capture, killing, and disposal of the body of individuals targeted by the RAB and

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45. For an analysis of overlapping intelligence and investigative mandates in Bangladesh, see A.S.M. Ali Ashraf, *Explaining Recent Intelligence Reforms in Bangladesh*, *Journal of the Asiatic Society of Bangladesh*, Vol. 59(1), 2014, pp. 65-94, [https://www.asiaticsociety.org.bd/journal/HJ2014\(1\)\\_4\\_Ashraf.pdf](https://www.asiaticsociety.org.bd/journal/HJ2014(1)_4_Ashraf.pdf).

46. Information regarding RAB's leadership and structure is available on their website : <http://www.rab.gov.bd/>.

47. The Armed Police Battalions Ordinance, 1979 (Ordinance No. XXV of 1979) & Armed Police Battalions (Amendment) Act, 2003 (Act No. XXVIII of 2003), available at [http://bdlaws.minlaw.gov.bd/pdf/593\\_\\_\\_\\_.pdf](http://bdlaws.minlaw.gov.bd/pdf/593____.pdf).

48. See, for instance, Human Rights Watch, *supra* note 3.

49. Human Rights Watch, *supra* note 3.

50. Al Jazeera, *Over 100 drug dealers surrender in Bangladesh crackdown*, 16 February 2019, <https://www.aljazeera.com/news/2019/02/drug-dealers-surrender-bangladesh-crackdown-190216165728814.html>.

revealed the RAB had “to make sure no clue is left behind.”<sup>51</sup> In addition, the officer detailed RAB methods of torture and the measures they take to dissimulate extra-judicial killings, such as planting weapons on bodies.

### 1.5.2 Intelligence agencies

Several different agencies have an intelligence-gathering mandate in Bangladesh, including some who have been implicated by witnesses in cases of enforced disappearances.<sup>52</sup> They include:

#### ***Directorate General of Forces Intelligence***

Established in 1977, the Directorate General of Forces Intelligence (DGFI) is Bangladesh's military intelligence agency, and is composed of military officers from the three branches of the Bangladesh Armed Forces (Army, Navy, and Air Force), which operate under the command of the Minister of Defence, Prime Minister Sheikh Hasina. The DGFI is currently under the command of General Mohammad Saiful Abedin, and provides intelligence to the President, the Cabinet, and the Armed Forces.<sup>53</sup>

Former Chief Justice Surendra Kumar Sinha, in exile in the United States since his forced resignation from Bangladesh's Supreme Court in November 2017, claimed he was pressured into resigning after receiving threats by the DGFI; he also claimed that the DGFI had been involved in “extorting money from businessmen” in Bangladesh.<sup>54</sup>

#### ***National Security Intelligence***

Established in 1972, the National Security Intelligence (NSI) is Bangladesh's primary intelligence gathering agency and acts under the direct authority of the Prime Minister. The NSI is headed by a Director General, currently Major General TM Jobaer, and is comprised primarily of civilian personnel, although members of the Armed Forces and the police are sometimes seconded to the NSI. The NSI has been implicated in human rights violations, including harassment of labour rights activists during the 2006-2008 political crisis.<sup>55</sup>

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51. Swedish Radio, *Exclusive: Officer Exposes Brutal Killings by Bangladeshi Elite Police Unit Rab*, 4 April 2017, <https://sverigesradio.se/sida/artikel.aspx?programid=83&artikel=6665807>.

52. The Special Branch (SB) and the Criminal Investigation Department (CID) of the Bangladesh police also have an intelligence-gathering mandate.

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

54. Surendra Kumar Sinha, *A Broken Dream: Rule of Law, Human Rights, & Democracy* (Lalitmohan-Dhanabati Memorial Foundation, 2018).

55. *Ibid.*

## 2. Crime of enforced disappearance: Analysis of trends and patterns

In Bangladesh, the crime of enforced disappearance is perpetrated following a pattern that features the following common traits: 1) individuals subjected to enforced disappearance had previously been targeted by the authorities; 2) the disappearances were perpetrated using similar tactics and by individuals often easily identified by eyewitnesses as law enforcement agents; and 3) following the disappearance, authorities treated relatives dismissively and/or threateningly.

### 2.1 Introduction: periods and trends

#### *Statistics of reported enforced disappearances (January 2009 - December 2018)*

Year(s)	Total number of Disappeared persons	Found Dead	Returned Alive	Whereabouts of the disappeared persons still unknown
2009	3	1	0	2
2010	18	1	0	17
2011	31	5	1	25
2012	26	1	12	13
2013	54	2	19	33
2014	39	10	21	8
2015	66	11	48	7
2016	92	14	66	12
2017	86	9	62	15
2018	92	8	57	27
<b>Total</b>	<b>507</b>	<b>62</b>	<b>286</b>	<b>159</b>

*Statistics collected by independent human rights defenders associated with credible human rights organisations in Bangladesh.*

Enforced disappearances have been reported in Bangladesh since independence and recorded by civil society organisations since at least 2009. However, there was a marked increase in cases of enforced disappearances starting in 2013 - the run-up to the January 2014 general election in Bangladesh. This period was characterised by violent clashes between the police and protesters, as well as between supporters of rival political parties. In this context, many BNP members and supporters were abducted and disappeared. During a two-week period in November and December 2013, 22 Dhaka-based BNP activists and sympathisers were picked up by law enforcement agents and disappeared. Nineteen of them remain missing to this day and FIDH was able to interview family members of 15.<sup>56</sup>

Many family members of those who disappeared in 2012 and 2013 do not deny the possibility that their relatives may have been guilty of some crimes and have repeatedly said that, if indeed suspected of criminal offences, they should be brought to court and tried in fair judicial proceedings, instead of being unlawfully arrested, subjected to enforced disappearance, and

56. See Appendix, cases V6 and V8 from November 2013; and cases V1, V2, V4, V5, V9, V14, V16, V17, V19, V20, V21, V22, and V23 from December 2013.

placed outside the protection of the law.<sup>57</sup>

After the 2014 elections, enforced disappearances continued to occur at an increasing rate, in complete impunity, amid intense political strife and increasing government repression of the opposition.

While enforced disappearances seem to have been used by law enforcement agents against members and supporters of the opposition in the context of Bangladesh's ongoing political conflict, research indicates that disappearances have also been carried out by State agents purportedly to combat growing religious extremism.



Portraits of victims of enforced disappearances in 2013. (© PHOTO BY FIDH)

Since 2013, Islamic militants have carried out attacks that have led to the death of more than 50 persons across Bangladesh. A series of attacks targeting outspoken atheist bloggers and activists who posted writings that the Al-Qaeda-affiliated terrorist network Ansar-al-Islam considered as insults to Islam, led many to go into hiding, flee the country, or stop writing.<sup>58</sup> Since September 2015, another series of attacks, claimed by the Islamic State (IS), have targeted foreigners in Bangladesh and members of religious minority groups. For example, the July 2016 attack on the Holey Artisan Bakery in Dhaka resulted in 29 deaths, including 18 foreigners who were first taken hostage by alleged members of Jamaat-ul-Mujahideen (JMB), an extremist group suspected to be linked to IS.

In response to these growing threats, Bangladeshi authorities claimed that BNP and Jamaat-e-Islami leaders were involved in "planned killings," as part of a plot to destabilize the country by supporting Islamic extremists such as JMB - claims which BNP leaders have vehemently

57. See Chapter 3, Section 3.4 [Requests of families: the right to truth and to justice].

58. Human Rights Watch, 'We Don't Have Him': Secret Detentions and Enforced Disappearances in Bangladesh, 2017, p.10, <https://www.hrw.org/report/2017/07/06/we-dont-have-him/secret-detentions-and-enforced-disappearances-bangladesh>.

denied.<sup>59</sup> Authorities have frequently used the fight against extremism as an excuse to repress members of the political opposition who allegedly support Islamic groups, practising Muslims who actively convey their faith, and government critics.

The analysis of patterns of the crime of enforced disappearance presented throughout the rest of this Chapter is illustrated by 30 cases documented by FIDH in 2018. These findings are consistent with research conducted by other human rights organisations, both local and international.

### **30 cases of enforced disappearance documented by FIDH in 2018**

Year of Alleged Disappearance	Gender		Fate			Category of victims		
	M	F	Found dead	Found alive	Un-known	BNP	Jamaat-e-Islami	Other
2012	4	-	-	-	4	2	1	1
2013	16	-	-	-	16	16	-	-
2014	1	-	-	-	1	1	-	-
2015	4	-	-	1	3	4	-	-
2016	3	-	1	-	2	-	2	1
2017	2	-	-	1	1	-	-	2
<b>Total</b>	<b>30</b>	<b>-</b>	<b>1</b>	<b>2</b>	<b>27</b>	<b>23</b>	<b>3</b>	<b>4</b>

## **2.2 Modus operandi**

All cases of enforced disappearances documented by FIDH share several common traits that reveal a similar *modus operandi* by security forces in Bangladesh, particularly in the way that victims were harassed by law enforcement agencies and the judiciary prior to their disappearance.

### **2.2.1 Previous threats, surveillance, and judicial harassment**

In a majority of the cases documented by FIDH, victims of enforced disappearance had been subjected to threats, surveillance and judicial harassment, including through the use of politically-motivated arrests and charges, prior to their disappearance.

#### ***Previous judicial cases***

In at least 12 out of the 30 cases (40%) documented by FIDH,<sup>60</sup> the disappeared persons had criminal cases brought against them on politically-motivated charges prior to their disappearance.

59. Dhaka Tribune, *Why the Holey attack is the work of ISIS*, 17 July 2016, <https://www.dhakatribune.com/opinion/op-ed/2016/07/17/holey-attack-work-isis>; see also: Bdnews24, *BNP, Jamaat-e-Islami behind series of killings to destabilise Bangladesh, says Hasina*, 25 April 2016, <https://bdnews24.com/bangladesh/2016/04/25/bnp-jamaat-e-islami-behind-series-of-killings-to-destabilise-bangladesh-says-hasina>.

60. Cases V1, V3, V5, V9, V10, V11, V13, V15, V17, V21, V23, and V29.

Some of the disappeared had previously been arrested and detained by the authorities for various periods of time before being released on bail. Family members were often unaware of the nature of such charges and only learn about them after their relative's disappearance. In none of the cases documented by FIDH had the victims of enforced disappearance been previously sentenced to imprisonment or to a fine after court proceedings that respected fair trial standards. Moreover, allegations of torture during pre-trial detention or custody were reported in at least one case, in which torture was used to force the victim to sign a confession.<sup>61</sup>

- ➔ Ilias Ali had at least 13 cases brought against him between 2009 and 2012, mainly on charges of arson. He had been released on bail by the High Court before his abduction and disappearance in April 2012.
- ➔ The family of Sajedul Islam Shumon learned, after his abduction and disappearance in December 2013, that charges had been brought against him for his alleged involvement, along with other BNP members, in the burning of buses that occurred only days before his abduction.
- ➔ Mohammad Mahabubur Rahaman had at least four cases brought against him prior to his disappearance in March 2014. He had been arrested (either by police, DB, or RAB officers), detained in police custody, and subsequently released on bail in relation to those cases.
- ➔ Idris Ali had four cases brought against him and was arrested in all four cases, either by plainclothes DB officers or people wearing police uniforms. Each time, he was kept in pre-trial detention for periods ranging from 15 to 30 days before being brought to court. He was eventually released on bail before his abduction and disappearance in August 2016.

Charges previously brought against the disappeared were in most cases linked to acts of violence and vandalism (i.e. arson attacks or burning of buses and vehicles) that occurred during the 2013 and 2014 pre- and post-election strikes and demonstrations. Family members of the disappeared all claim these charges were fabricated because of the political activities of the victims and their criticism of government policies.

- ➔ Zakir Hussain had at least 20 cases linked to vandalism and burning of buses filed against him before his abduction and disappearance in April 2015. He was arrested twice and detained for several months before the 2014 election. His family claimed these cases and arrests were the result of his participation in protests organised by the BNP, during one of which he was shot in the leg.
- ➔ Several charges were brought against Selim Reza Pintu before his disappearance in December 2013, amid pre-election violence. One of Pintu's family member stated: ***"The government always tried to implicate BNP people in these incidents."***<sup>62</sup>

### ***Previous threats, intimidations, and warnings***

In most of the cases documented by FIDH, the interviewed persons were not aware of direct threats to the disappeared person's or their family's physical integrity. However, in at least 10

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61. Case V10.

62. FIDH interview, 5 July 2018.

cases (33%),<sup>63</sup> relatives reported that, prior to the disappearance, the disappeared persons feared something might happen to them, mainly because: 1) friends and acquaintances who were politically active had already been arrested or disappeared; 2) they were subjected to acts of direct intimidation by law enforcement agents; 3) friends and colleagues warned them to be careful and not to “stay in the area”; or 4) the tense pre-election climate. This pervasive sense of fear led some of those who would eventually disappear to leave their usual home and to move elsewhere, at least temporarily.

- ➔ After some of his friends appeared in court for their supposed involvement in a bomb blast in February 2015, Saifur Rahman told his family he would be in trouble if he stayed at home and left for his in-laws' house, from where he was eventually abducted only days after his friends' arrest.
- ➔ Family members of Sajedul Islam Shumon reported that police officers in plain clothes frequently visited their house without search or arrest warrants or other valid reasons. Shumon had also received numerous direct threats by law enforcement. A family member witnessed a law enforcement agent once saying to Shumon, shortly before he disappeared in December 2013: **“you should not stay here; otherwise we will take you.”**<sup>64</sup> For two months up to Nur Alam's abduction in February 2015, police officers visited his house regularly and asked for him.
- ➔ Family members of Idris Ali reported that, in the lead-up to the 2014 election, representatives of the Awami League went to their house on several occasions with police officers and searched for Idris Ali. When they could not find him, they vandalised the house. Idris Ali was eventually abducted in August 2016.
- ➔ Selim Reza Pintu came to know that at least one of his BNP colleagues abducted in November 2013 was questioned about him, while being beaten. This information, combined with his father's fears about the increasing police arrests of opposition members in the lead-up to the 2014 election, led Pintu to seek refuge at another family member's house in the Milpur neighbourhood of Dhaka, from where he was eventually abducted and disappeared in December 2013.
- ➔ Prior to his abduction and disappearance in April 2014, Ilias Ali was the victim of an attack while in his car, which was shot at in Sylhet in north-eastern Bangladesh. No investigation was ever conducted into the attack.

### **Surveillance**

In at least seven (23%) of the cases documented by FIDH,<sup>65</sup> family members of the disappeared or the disappeared persons themselves suspected or were aware of being under surveillance. Some disappeared persons had told their relatives of their suspicions of being followed or monitored by individuals they thought were Awami League representatives or law enforcement agents shortly before their abduction. This led many of them to regularly change their mobile phones and numbers or to stay somewhere else besides their regular homes.

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63. Cases V1, V3, V5, V6, V8, V9, V10, V11, V13, and V18.

64. FIDH interview, 4 July 2018.

65. Cases V1, V8, V10, V11, V13, V26, and V29.

- ➔ Sajedul Islam Shumon's whereabouts and phone conversations were monitored before his abduction. Although family members indicated that he had changed his mobile phone number very shortly before being abducted, and that he had shared the new number with only two persons, Shumon was called on his new number by a RAB officer the day of the disappearance on 4 December 2012.
- ➔ An eyewitness reported that the police officers who took Nur Alam on 12 February 2015 had used a special device to check if the mobile phone he had with him was "the right one." Nur Alam had just acquired two new mobile phone numbers for security reasons, and the officers' action suggested that his new phones had already been tapped and his phone conversations monitored by the police.

### **Bangladesh's quest for enhanced surveillance equipment and the involvement of foreign companies**

Various NGO and media reports have documented the existence of the government's increased surveillance and its determination to expand its capacity to conduct surveillance of private communications in Bangladesh. As early as 2014, RAB officials were reported to have approached foreign companies, including Swiss surveillance company NeoSoft, to update its existing surveillance equipment. In a November 2013 letter to the Ministry of Home Affairs to request support for upgrading surveillance software, RAB officials described the existing existing software as 'useless.'<sup>66</sup> Bangladeshi authorities have also actively been seeking surveillance equipment known as "international mobile subscriber identity (IMSI) catchers," used to tap mobile phones. According to a Privacy International report, "these devices pretend to be real cell towers, enticing devices to connect to them. Once connected, IMSI catchers can identify, track, and intercept communications from all the devices in a certain area. Using IMSI Catchers, it is possible to identify who is in a specific area, for example during a protest."<sup>67</sup> Although it was reported that Switzerland impounded surveillance equipment that was to be shipped to Bangladesh, as a result of reports of human rights violations by State agencies, Bangladeshi forces, in particular RAB, have continued to seek to purchase IMSI catchers. According to news reports from 2015, IMSI catchers have already been purchased and used by the authorities.<sup>68</sup>

According to local media reports, the Bangladeshi government also bought a Social Media Network Monitoring System (SMNMS) surveillance software for the RAB from the US-based company SnapTrends. This software enables the Bangladeshi government to collect information from social media platforms (i.e. Facebook, Twitter, Instagram, YouTube), which is then used to pursue legal actions against users based on their posts, such as posts that are deemed harmful to society, the State, and the government.<sup>69</sup>

66. Daily Observer, *RAB mum over impounded spy goods in Switzerland*, 13 March 2015; also see, Privacy International, *Who is selling surveillance equipment to a notorious Bangladeshi security agency?*, 5 May 2014, [https://www.ifex.org/bangladesh/2014/05/05/security\\_agency\\_surveillance/](https://www.ifex.org/bangladesh/2014/05/05/security_agency_surveillance/).

67. Privacy International, *Amid Crackdown in Bangladesh, Government Forces Continue Spytech Shopping Spree*, 14 August 2018, <https://privacyinternational.org/feature/2226/amid-crackdown-bangladesh-government-forces-continue-spytech-shopping-spree>

68. See: Coalition Against Unlawful Surveillance Exports, *A critical opportunity: bringing surveillance technologies within the EU Dual-Use Regulation*, June 2015, [https://www.fidh.org/IMG/pdf/cause\\_report\\_final.pdf](https://www.fidh.org/IMG/pdf/cause_report_final.pdf).

69. Odhikar, *Six-Month Human Rights Monitoring Report, January 1 – June 30, 2016*, June 2016, p.27, <http://odhikar.org/wp-content/uploads/2016/10/human-rights-monitoring-monthly-report-Six-month-2016-Eng.pdf>.

## 2.2.2 Arbitrary arrest and abduction by agents of the State

In most of the cases of enforced disappearance in Bangladesh documented by FIDH, victims were arbitrarily arrested and abducted by law enforcement officers after nightfall. A RAB informant explained to an FIDH interviewee that ***"RAB officers who conduct enforced disappearances generally do it after midnight."***<sup>70</sup> Nevertheless, some abductions took place in broad daylight. For example, Yasin Talukder was apprehended and abducted in Dhaka by RAB officers in July 2016 in daylight, while waiting in his parked car near a busy crossroad in front of a police check-point and in the presence of numerous bus ticket sellers.

According to interviews conducted by FIDH, victims were abducted in the street either in front or near their home, their workplace or the house of friends or family members. A group of victims of enforced disappearances with ties to BNP were taken from a restaurant where they were meeting. Another group of persons was abducted in front of the main gate of the Dhaka central jail, while they were trying to visit a BNP leader who had been arrested.<sup>71</sup> In at least three other cases, victims were pulled out of their cars in the street during night time.<sup>72</sup> Al Mokaddas, who had been involved with the student wing of the Jamaat-e-Islami party, was taken in February 2012 by RAB and DB officers from a public bus.

In at least six of the cases documented by FIDH,<sup>73</sup> victims were arbitrarily arrested from their homes, or the homes of family members or friends. In these cases, the abductors requested to enter the house after identifying themselves as law enforcement agents and asking for a specific person, or forcibly entering into the house when encountering resistance to being let in. The victims were often arrested in front of multiple eyewitnesses. For example, Adnan Chowdury, an active member of the BNP student wing, was arrested in December 2013 by RAB and police officers from his house, after being quickly questioned on site, and taken away, allegedly for further interrogation. Law enforcement officers who took BNP activist Mohammad Kawser from his house in December 2013 also told the eyewitnesses they were taking him away for further questioning.

Numerous eyewitnesses reported that perpetrators of these abductions generally forced the victims into a microbus or minivan, in which sometimes there were already other abductees, suggesting that several "pick-ups" were executed during the same night. Mobile phones, ID cards, and wallets of the disappeared, and in some cases those of some of the family members present during the arrest and abduction, were also usually taken.

Eyewitnesses to the abductions state that the abductors were men, either in uniform or in civilian clothes, and, in almost all cases, armed. Force was often used during these arbitrary arrests. Those who resisted their abduction were beaten in order to be forced into the microbus. An eyewitness explained to FIDH that Mahabubur Rahaman was threatened at gunpoint by men in plain clothes who said they would shoot him if he refused to go with them. They also threatened his wife and their five-month-old child. Mohammad Kawser was taken by force without being able to even wear a shirt. Another victim was blindfolded, had his hands tied and his pants removed when he was taken into the microbus, where he was given electric shocks on his genitals.<sup>74</sup>

Eyewitnesses - be they family members, neighbours, or friends - who questioned the arbitrary

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70. Case V18, FIDH interview, 4 July 2018.

71. Cases V15, v17, and v19, and V6 and V8, respectively.

72. Cases V7, V11 (late at night), and V25.

73. Cases V9, V10, V14, V16, V24, and V29.

74. Anonymous, case V26.

arrests or tried to intervene, were generally told not to do anything if they wanted to see the victim again, or if they did not want to get arrested as well. An eyewitness to Tariqul Islam Tara's abduction in August 2012 was threatened by police officers when he tried to ask them questions. The officers told him to leave the house and not to look back, while Tara was calling out for help, saying that he was going to be killed.

From the very few testimonies of direct victims of enforced disappearance who were freed and talked to FIDH, persons who were arrested were immediately blindfolded and had their hands tied while they were driven to different locations for rides that could last for hours.

### 2.2.3 Disappeared without a trace

What happens after the abductions is mostly unknown to family and friends of the victims. The whereabouts of the persons picked up by agents of the State was normally concealed - one of the elements of the crime of enforced disappearance. The location to which the victims of an enforced disappearance were taken was, in most cases, unknown to their families and friends, and the victims had no access to a lawyer. With no information disclosed by the authorities supposed to investigate the incident,<sup>75</sup> family members of the disappeared relied mostly on their own ability or that of one of their acquaintances to collect information on the fate or whereabouts of their relative.

At least five of the persons interviewed by FIDH<sup>76</sup> received pieces of information on the whereabouts or conditions of detention of the disappeared persons from friends or family members working in law enforcement agencies or from "compassionate persons" working in the concerned agencies. These persons were generally transferred to other units and became unreachable soon after providing information to family members of the disappeared. However, the information provided was often limited and difficult to verify, and, as such, there was rarely a possibility for family members to use it to determine the fate or whereabouts of their relatives.

- ➔ A friendly NSI agent informed a relative of Mahabub Hasan Sujon that he was still alive one year after his abduction in December 2013.
- ➔ A RAB officer who remained anonymous contacted a relative of Saifur Rahman, who was abducted in February 2015, once to give information about him. The RAB officer said that Rahman was at the RAB-1 office in Dhaka and in good health. He told the relative that he shared this piece of information because he "felt bad" after seeing and speaking with the victim.
- ➔ In early 2018, after bribing security guards to be able to enter the RAB-1 office in Dhaka, a family member was able to receive information regarding the conditions of arbitrary detention of Yasin Talukder, abducted in July 2016, and at the time supposedly still detained in RAB-1. However, the relative was unable to receive an official confirmation of Talukder's whereabouts.

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75. A detailed analysis of the lack of remedies in Bangladesh is included in Chapter 5 [*Lack of remedies for the victims*].

76. Cases V4, V12, V18, V22, and V25.

## 2.2.4 Conditions of arbitrary detention

FIDH was able to collect information on the conditions of the detention of those subjected to enforced disappearances, mainly through interviews with direct victims who were arbitrarily detained and then freed and who were also witnesses of other abducted persons' conditions of detention. Information was also obtained from family members who were able to talk to freed victims or to persons working in the detention facilities.

### Definition of torture and inhumane treatment

Article 1 of the 1984 United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which was ratified by Bangladesh on 5 October 1998, defines "torture" as *"any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions."*<sup>77</sup>

Torture can be distinguished from cruel or inhuman treatment and from outrages upon personal dignity, by the level of severity of pain or suffering imposed, and the existence of a specific purpose behind the act.

- Torture: Existence of a specific purpose and intentional infliction of severe suffering or pain.
- Cruel or inhuman treatment: No specific purpose, significant level of suffering or pain inflicted.
- Outrages upon personal dignity: No specific purpose, significant level of humiliation or degradation.

### *Interrogation, torture, inhumane treatment, and sexual crimes*

From the few interviews with direct victims that FIDH was able to conduct, State agents generally interrogated them during the first days of their detention. The questions asked were mostly related to their political activities.<sup>78</sup> They were asked about the identity or whereabouts of other members of their political party. Some were asked questions about their family members, their occupation, and political engagement.<sup>79</sup>

Family members who were able to talk to victims of enforced disappearance who were abducted in November 2013 and subsequently released were told that after being arrested and during interrogation they were severely beaten and fell unconscious. On several occasions, the father of one victim of enforced disappearance could secretly call the number of a friendly employee in a RAB facility where his son was being kept after his arrest and abduction in March 2012. His son told him over the phone: *"they are beating us like animals."* The father could even hear once, through the employee's phone, his son's screams while he was being beaten.<sup>80</sup>

77. UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by UN General Assembly resolution 39/46 of 10 December 1984, entered into force on 26 June 1987, available at: <https://www.ohchr.org/en/professionalinterest/pages/cat.aspx>

78. Cases V6 and V8.

79. FIDH interview, 6 July 2018.

80. FIDH interview, 7 July 2018.

Evidence provided to FIDH indicates that acts of torture and of sexual violence were committed against men who had been arbitrarily detained.<sup>81</sup> Detainees were generally held individually in a separate room for torture sessions that were conducted by officers who received orders from people in the room next door.

### Definition of sexual crimes

Although there is not one all-encompassing and consolidated definition of sexual crimes, in its 2014 Policy Paper on Sexual and Gender-Based Crimes, the Office of the Prosecutor of the International Criminal Court (ICC) provides the following definition: “**Sexual crimes** that fall under the subject-matter jurisdiction of the ICC are listed under Articles 7(1)(g), 8(2)(b)(xxii) and 8(2)(e)(vi) of the Statute, and described in the Elements. In relation to ‘rape,’ ‘enforced prostitution,’ and ‘sexual violence,’ the Elements require the perpetrator to have committed an act of a sexual nature against a person, or to have caused another to engage in such an act, by force, or by threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression, or abuse of power, or by taking advantage of a coercive environment or a person’s incapacity to give genuine consent. An act of a sexual nature is not limited to physical violence, and may not involve any physical contact – forced nudity is an example of the latter. Sexual crimes, therefore, cover both physical and non-physical acts with a sexual element.”<sup>82</sup>

According to testimonies collected by FIDH, acts of torture and sexual crimes that were committed by law enforcement agents against victims of enforced disappearance included:

- Severe beatings;
- Suspension by the hands from the ceiling;
- Exposure to loud music and sounds;
- Mock executions;
- Electric shocks on ears and sexual organs; and
- Forced nudity.

Torture sessions could take place up to four or five days a week, during which other detainees could hear the screams of those who were tortured, sometimes accompanied by loud music.

***“I was suspended from the ceiling by the hands; with an iron rod they beat my feet and back. They did it for a long time, until I lost the feeling in my lower body. They continued to give me electric shocks in my private parts, until I lost consciousness.” - Anonymous victim of enforced disappearance.***

In addition to these acts of physical torture and sexual crimes, victims of enforced disappearances were also subjected to the psychological torture of seeing other detainees be taken away and never come back. One survivor explained how, one month after his abduction, he was taken with three other detainees to a separate room and was asked to pray to Allah for forgiveness, as this would be the last day they would be alive. The interviewee was the only one who came back. A RAB officer, later transferred out of the facility, confirmed to him that he was “lucky.”

81. FIDH interview with V26 on 6 July 2018.

82. ICC Office of the Prosecutor, *Policy Paper on Sexual and Gender-Based Crimes*, June 2014, <https://www.icc-cpi.int/iccdocs/otp/otp-policy-paper-on-sexual-and-gender-based-crimes-june-2014.pdf>.

## ***Detention facilities and their conditions***

After the arrest and arrival at the detention facility, victims of enforced disappearance were first kept collectively in a room and then detained individually in a small cell. Questioning and torture sessions would be undertaken in a separate room. However, the mother of one of the victims of enforced disappearance was informed by security guards of the RAB-1 camp that her son was kept in a cell with 28 persons, purportedly all victims of enforced disappearance, who were sleeping on plastic mattresses (two mattresses shared by three detainees), with a mosquito net and a blanket during the winter.<sup>83</sup>

Except for when they were given food or when they were authorised to use the toilets, detainees reported they were being kept blindfolded and with their hands tied the majority of their time in detention. Access to toilets was limited and depended on the will of the guards. One survivor of enforced disappearance explained that he was first allowed to take a bath after 48 days of detention.

***“I wanted to go to the toilet. They beat me with a stick, asking why I wanted to go to the toilet. So I didn’t want to go to the toilet anymore. After a while, I asked for water. They told me I can’t go to the toilet, I can’t have water. After me, two-three other people were brought in and faced the same treatment as me.” - Anonymous victim of enforced disappearance.***

Victims of enforced disappearance, especially if the arbitrary detention lasted several weeks, months or years, were generally moved to different locations during their detention. For example, Mohammad Zahirul Islam and others picked up on the same day in December 2013 were first taken to a DB office, then transferred 11 days later to another location, purportedly a RAB office. A source subsequently told relatives that they were being held in Mymensingh Central Jail in Mymensingh District, but family members of those detained were not able to confirm that their relatives were held in this jail and lost track of their whereabouts.

These transfers generally occurred during night time, with a change of vehicle if the ride was long, which may indicate that those responsible were taking precautions to not leave behind evidence of the abduction.

Different detention facilities, such as individual or collective cells within RAB or offices or official jails, were mentioned by family members, victims, and researchers, as possible locations of arbitrary detention of persons who disappeared. While there are a total of 14 RABs in Bangladesh, the following were expressly mentioned by FIDH interviewees: RAB-1, RAB-2, and RAB-4 in Dhaka, and RAB-5 in Rajshahi, in North Western Bangladesh.

### **2.2.5 Fate of the victims of enforced disappearance**

Out of the 507 victims of enforced disappearances recorded by civil society organisations from January 2009 to December 2018, 62 were found dead, 286 resurfaced alive, and the fate or whereabouts of 159 (31%) remains unknown. Of 30 victims who disappeared between 2012 and 2017 and whose cases have been documented by FIDH, one person was found dead, two resurfaced alive, and the fate or whereabouts of the remaining 27 victims remain unknown.

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83. FIDH interview, 6 July 2018.

## **Found dead**

Nearly 13% of the persons who disappeared from 2009 to 2018 were later found dead. Like for the many cases of extrajudicial killings documented by several civil society organisations and covered by international media,<sup>84</sup> Bangladeshi law enforcement agencies and authorities claimed that these persons died during “cross-fires,” “encounters,” or “gunfights.”<sup>85</sup> However, in many cases, independent investigations into individual cases by civil society organisations have found no evidence of shootings at the scene. Such investigations instead showed that victims were simply shot dead by law enforcement agents.<sup>86</sup>

In some cases of victims of enforced disappearances who were later found dead, law enforcement agents claimed they died in traffic accidents. For example, Idris Ali, a local Jamaat-e-Islami leader, was found dead eight days after he disappeared on 4 August 2016, after two armed men in plain clothes attempted to question him in the street in front of the dry cleaner’s of his village in Jhenaidah District. His body was found 10km from there, next to his motorcycle, with what seemed to be marks of a car having run over him. The post-mortem examination said he had a “road accident,” a claim which the family disputed.<sup>87</sup>

## **Returned alive but silenced**

Although 56% of victims of cases of enforced disappearance recorded by civil society organisations from January 2009 to December 2018 resurfaced alive, very few of them have been willing to seek justice for what they suffered and to testify regarding their ordeal, mainly out of fear of reprisal against them and their family members. Nevertheless, information provided by these victims indicate that law enforcement agents used the same kind of *modus operandi* when freeing the victims of enforced disappearance.

Victims were usually taken from the detention facility to a microbus from which they were thrown out, in the middle of the night, after being driven to remote location. Some victims mentioned a bridge, a forest, or a junction.<sup>88</sup> They were kept blindfolded with their hands tied, generally with no money or just a small amount of cash. Some victims were told, sometimes at gunpoint, not to look back and to run. When asked, law enforcement agents instructed released victims to tell police officers who might find them on the street in the middle of the night that carjackers had taken them. In every case, those responsible for the enforced disappearance told the victims not to talk about their ordeal. Some were asked not to get involved in politics again and were threatened with reprisals against them or their family members if they ignored those instructions.

***“My release is a miracle. (...) If I ask for justice, I will be killed.” - Anonymous victim of enforced disappearance***

After their release, victims of enforced disappearances generally do not speak out, and either flee the country, go into hiding, or take extreme security precautions, changing regularly their mobile phone number and/or their place of residence.

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84. Odhikar has reported 1676 instances of extra-judicial killing from 2009 to May 2018. See Odhikar statistics as of 31 May 2018 at: [http://odhikar.org/wp-content/uploads/2018/06/Statistics\\_EJK\\_2001-May-2018.pdf](http://odhikar.org/wp-content/uploads/2018/06/Statistics_EJK_2001-May-2018.pdf)

85. See Chapter 1 [Context].

86. FIDH interview with representatives of civil society organisations, 7 July 2018.

87. FIDH interview, 7 July 2018.

88. Cases V6, V8, and V26.

- In the case of five persons abducted on 28 November 2013, out of three of them who were freed 13 days after their abduction and enforced disappearance, only one shared information with the family members of the two who were still detained, before going into hiding himself. All three have gone into hiding with their close family members due to the fear of possible reprisals.

### ***Disappeared before being formally arrested***

While FIDH was unable to interview individuals who fit this profile, it is important to note that there are several examples of individuals who disappeared and then (from several days to several months later) appeared before a court and were charged in a criminal case.<sup>89</sup> These cases were frequent in 2016.

## **2.3 Categories of victims**

### **2.3.1 Gender perspective**

It is important to consider that the crime of enforced disappearances in Bangladesh has a noteworthy gender dimension. According to statistics compiled by civil society organisations, men account for 503 of 507 (99.2%) of the victims of enforced disappearances in Bangladesh from January 2009 to December 2018.

#### **Gender perspective**

The Office of the Prosecutor of the International Criminal Court (ICC) provides the following definition of “gender perspective” in its 2014 Policy Paper on Sexual and Gender-Based Crimes<sup>90</sup>: *“Gender perspective requires an understanding of differences in status, power, roles, and needs between males and females, and the impact of gender on people’s opportunities and interactions. This will enable the Office to gain a better understanding of the crimes, as well as the experiences of individuals and communities in a particular society.”*

Civil society representatives, lawyers, and journalists who documented enforced disappearances in Bangladesh told FIDH that women were typically not subjected to enforced disappearance specifically because of the gender role they play in Bangladeshi society. This analysis is accompanied by a general belief that abducting women would be a “step too far” and that the government seeks to avoid creating unnecessary outcry, which interviewees believed would happen if women were in fact subjected to enforced disappearances.

While women in Bangladesh are generally not subjected to enforced disappearance because of their gender, it is nevertheless important to consider that the crime of enforced disappearance in Bangladesh, and elsewhere, has an important gender dimension. Interviews conducted by FIDH emphasized the ongoing impact of enforced disappearances on women and girls who continue to bear the consequence of the loss of the bread winners of their families, all the same while attempting to uncover information on their fate and whereabouts [see below, **Chapter III**].

89. Human Rights Watch, *supra* note 58, pp.37-49.

90. ICC Office of the Prosecutor, *Policy Paper on Sexual and Gender-Based Crimes*, June 2014, <https://www.icc-cpi.int/iccdocs/otp/OTP-Policy-Paper-on-Sexual-and-Gender-Based-Crimes--June-2014.pdf>

The vulnerable position of women in this situation makes them indirect victims to the crime of enforced disappearance.

### 2.3.2 Political opposition activists

One of the common patterns among direct victims of enforced disappearance in Bangladesh in recent years is the fact that they were active supporters, members, activists or leaders of the political parties opposed to the ruling Awami League. This pattern is present not only in the sample interviews conducted by FIDH but also in the broader data set of cases collected by local human rights organisations.

#### ***BNP members and supporters***

A large number of victims of enforced disappearance were members, supporters, and sympathisers of the BNP, its student wing, the Bangladesh Jatiotabadi Chatra Dal, or its youth wing, the Jatiyatabadi Jubo Dal. Out of the 30 victims in cases documented by FIDH, 21 (70%) were BNP members who had been affiliated with the party for varying periods of time before their disappearance.<sup>91</sup>

These individuals were generally well-known in their neighbourhood or district, organised and participated in public BNP meetings or demonstrations, and were active in their community, whose members sometimes turned to them for social or economic support. Only two individuals in cases documented by FIDH were sympathisers of the BNP,<sup>92</sup> as opposed to members or active supporters, although they were with higher-profile BNP members when they were abducted.

- ➔ Ilias Ali, who disappeared in April 2012, was a BNP Secretary, Member of Parliament, and one of the party's most prominent representatives. He openly criticised the government, notably in relation to the controversial Tipaimukh dam project in Manipur State, India.<sup>93</sup>
- ➔ Sajedul Islam Shumon, who disappeared in December 2013, was BNP General Secretary in Dhaka's Ward 25. He was a well-know political figure in the area and members of his community were often turning to him for help, be it for medical support or financial support for the wedding of their child, for example.
- ➔ Nizam Uddin Munna, who disappeared in December 2013, was actively involved – along with his family members, in the activities of the Jatiotabadi Chatra Dal (the BNP student wing).

Given that these victims were already known in their neighbourhood and identified as BNP members or sympathisers, that several of them already had politically motivated criminal cases against them, and that there were serious indications that a great number of them were being monitored,<sup>94</sup> it would appear that they had been pre-identified by law enforcement agencies and their names included in lists. During the often violent questioning of victims of enforced disappearances, law

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91. Cases V1, V3, V4, V5, V6, V8, V9, V10, V11, V14, V15, V16, V17, V18, V19, V21, V22, V23, V24, V26, and V29.

92. Cases V2 and V20.

93. BDNNews24, *Ilias paying for anti-Tipaimukh movement*, 20 April 2012, <https://bdnews24.com/politics/2012/04/20/ilias-paying-for-anti-tipaimukh-movement>; Daily Star, *No good news for BNP leader Ilias Ali's family*, 17 April 2015, <https://www.thedailystar.net/backpage/no-good-news-ilias-family-77712>

94. See above, Section 2.2.1 [*Previous threats, surveillance, and judicial harassment*].

enforcement agents also asked victims about other BNP activists' whereabouts.

- When Somrat Molla, who disappeared with other BNP members in November 2013, gave his name to the abductors who were asking for his identity, one of the abductors said: ***“We were looking for you for so long.”***
- Around four months before Ilias Ali's disappearance in November 2012, a member of the Special Security Force (SSF),<sup>95</sup> revealed that Ilias Ali was ***“on the list of names against whom the government was making plans.”*** This was confirmed again by members of the SSF to relatives after his abduction: ***“the government has some plan regarding Ilias Ali.”***

### ***Jamaat-e-Islami members and sympathisers***

Members of Jamaat-e-Islami and its student wing, the Bangladesh Islami Chhatra Shibir, have also been victims of enforced disappearance. From the 30 cases documented by FIDH, three victims were affiliated with Jamaat-e-Islami: one was a Union Secretary at the district level, and two had ties to the Islami Chhatra Shibir.<sup>96</sup>

Similarly to individuals affiliated with the BNP, victims of enforced disappearance who were members of Jamaat-e-Islami at the time of their disappearance were well-known and recognised in their neighbourhood, and spoke publicly about the party's positions. Some of them were also actively involved and known in their community, one having been a madrasa teacher and another a professional religious singer.



A relative holds a portrait of a victim of enforced disappearance. (© PHOTO BY FIDH)

95. The main mandate of the Special Security Force (SSF) is to protect Bangladeshi leaders in government. For more information, see the SFF official website: <https://www.ssf.gov.bd/>

96. Cases V13, V27, and V28.

### 2.3.3 Critical and dissident voices

While the majority of victims of enforced disappearance identified in recent years were leaders, members, supporters, and sympathisers of opposition political parties, non-partisan government critics and dissidents were also subjected to enforced disappearance, including intellectuals, academics, journalists, and artists, ostensibly for their outspoken criticism of the Awami League-led administration's policies and actions.

Four notable cases were documented in 2017. An intellectual, who was abducted in the middle of the night in front of his house in Dhaka in early July 2017 and resurfaced after being "rescued" by RAB officers near the border with India the next day, said to FIDH: **"abducting intellectuals is a way of silencing them, as it is probably more difficult to [fabricate and] bring cases against intellectuals than against political activists."**<sup>97</sup>

The case of **Maroof Zaman**, a retired diplomat and former Bangladeshi ambassador to Qatar and Vietnam, is particularly disturbing. Zaman disappeared on 4 December 2017 while driving on his way to the Dhaka international airport to pick up his younger daughter, and was returned to this family a year and four months later on 16 March 2019 by neighbours who found him wandering around near his home.<sup>98</sup> One of Zaman's family members told FIDH that about an hour after Maroof Zaman left his house for the airport, one of the maids received a short phone call from a masked number at the house, during which Zaman told her to let individuals take his IT equipment. Shortly after, three men went to the house pretending to be technicians, and left with the former diplomat's two computers, phones, cameras and external hard drives, without any further explanation and while hiding their faces successfully from CCTV home security cameras during the whole process.

Although his family did not hear from him after his disappearance and until his return on 16 March 2019, it seems that Maroof Zaman's email and social media accounts were accessed and mined for data from the stolen devices for several days starting from 5 December 2017. His car was found empty the day after his disappearance on a small road in the vicinity of the airport, with only some signs of damage on the car starter switch.

Retired since his wife's death in 2012, Maroof Zaman barely went out of his house and spent his time surfing online and sharing other authors' articles and opinions on social media. He only shared a few posts written by others criticising the government through his Facebook account.<sup>99</sup> Others said he was perceived to be "anti-Awami League," likely due to his appointment as Ambassador under the previous BNP government.<sup>100</sup>

The *modus operandi* of the abduction and the house search the day of Maroof Zaman's disappearance, the reactions of several law enforcement agents from the police and DB, as well as representatives from DGFI (including asking family members to keep quiet or refusing to respond to requests concerning the seemingly stalled police investigation), and statements

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97. FIDH interview, 3 July 2018

98. The family has not responded to requests for detail of his release/return. See Dhaka Tribune, *Missing former envoy Maroof Zaman returns home after 467 days*, 16 March 2019, <https://www.dhakatribune.com/bangladesh/dhaka/2019/03/16/ex-envoy-marooof-zaman-returns-home-after-467-days>.

99. Scroll, *A Bangladeshi ex-diplomat is missing for a year. All he did was share anti-government Facebook posts*, 16 December 2018, <https://scroll.in/article/905469/a-bangladeshi-ex-diplomat-is-missing-for-a-year-all-he-did-was-share-anti-government-facebook-posts>. The article shared by Mr Zaman on the day of his disappearance can be found here: The Guardian, *Why will Tulip Siddiq not speak out on Bangladesh's 'disappeared' innocents?*, 4 December 2017, <https://www.theguardian.com/commentisfree/2017/dec/04/tulip-siddiq-bangladesh-disappeared-abducted-prime-minister>.

100. Scroll, *supra* note 99.

issued by family members and civil society representatives,<sup>101</sup> suggested Bangladeshi authorities were involved in his disappearance.

In similar cases, academic **Mubashar Hasan** and journalist **Utpal Das** resurfaced alive after their disappearance and several weeks of arbitrary detention in 2017. Mubashar Hasan, a private university professor and researcher on Bangladesh anti-terrorism issues who published several articles on political Islam and militancy, was abducted in broad daylight on 7 November 2017. He resurfaced on 22 December 2017, when his abductors dropped him from a microbus on a highway near Dhaka. Media reports indicated that Mubashar Hasan had been held under the custody of the DGFI.<sup>102</sup> Only two days before Hasan returned home, Dhaka-based reporter Utpal Das was released after spending 71 days in captivity. He too was kidnapped in broad daylight and dropped off from a microbus on a highway. Das had written news stories about Bangladesh's armed forces.<sup>103</sup>

### 2.3.4 Persons targeted in the framework of the anti-terrorism policy

Over the past several years, the growing threat of terrorism in Bangladesh has been used by the government as a pretext for curbing freedom of expression and freedom of religion or belief. After the terrorist attack on the Holey Artisan Bakery in Dhaka in July 2016, **Hasnat Karim**, a businessman with dual British and Bangladeshi citizenship who had been present at the bakery during the attack with his wife and two children, was held in incommunicado detention for several days, and subsequently held without charge for two years.

**Yasin Talukder**, a British-Bangladeshi dual citizen, disappeared on 14 July 2016, shortly after returning to Bangladesh from the UK. His family explained to FIDH that Yasin, a physics and maths teacher, was a religious man, who enjoyed translating the Koran and teaching others about Islam, but denied any links to extremist groups, or to political parties.

On 4 August 2016, **Mokhlesur Rahman Jony**, a homeopathic doctor from Satkhira District in Southwestern Bangladesh, was taken into police custody and held at the Satkhira Sadar police station for several days, during which the family was told that his detention was due to his alleged involvement with "Islamic extremists." However, on 8 August 2016, the family was no longer allowed to make contact with him and the police refused to provide information on his fate or whereabouts. He remains missing.

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101. A relative told FIDH that the day after Maroof Zaman's disappearance and right after some declarations of Zaman's family to the media, representatives from the police, DB, and the special branch told Zaman's family members to "keep quiet". Another family member hinted to the involvement of the DGFI. The relative told FIDH that a DGFI field officer also came to Zaman's house to "enquire" and asked Zaman's family for the CCTV footage; he was told to get in touch with the police who had a copy of the video footage. Since then, the family did not hear from DGFI, nor from the police.

102. The Communication regarding Mr. Maloof Zaman's disappearance sent to the UN WGEID on 8 December 2017 mentions Mubashar Hasan's case and DGFI's possible involvement.

103. Al Jazeera, *Bangladesh disappearances 'a matter of grave concern'*, 25 December 2017, <https://www.aljazeera.com/news/2017/12/bangladesh-disappearances-matter-grave-concern-171225173459205.html>

### 2.3.5 Other individuals targeted as a result of the culture of impunity

Several cases of enforced disappearances documented by FIDH concern people who were not particularly involved in politics or even critical of the government. These seemingly random individuals appear to be victims of a criminal practice among law enforcement agencies, which has gone unpunished because of the culture of impunity that persists in Bangladesh.

Widespread impunity for perpetrators of enforced disappearances has enabled law enforcement agencies to conduct the same acts against seemingly random individuals, with requests for ransom, blackmail or extortion, ostensibly for personal gain. Nevertheless, in these cases, the same *modus operandi* can be observed, albeit with the particular political motivation missing.

- ➔ Mohammad Imam Hassan was abducted in March 2012 by thieves and subsequently rescued by officers of the RAB-2 battalion in Dhaka. However, relatives of the victims were told by RAB officers to not “come empty-handed” when they were going to retrieve Hassan if they wanted him back. The Sub-Inspector of RAB 2 told relatives: “*We have arrested Zaid and Babul [two of the thieves], others flew away when we were trying to catch them [...] Come to RAB 2, but not empty handed*” before adding: “*We want full, we don't want half.*” RAB 2 officers attempted to extort BDT 100,000 (approximately EUR 1,050) from the relatives, but as the family could not afford that amount, they were only able to give BDT 40,000 (EUR 420) to the RAB officer, who promised them they would be able to see Hassan. Family members were able to see him a few times, each time very rapidly, before communications stopped. Hassan remains missing at the time of publication.

### 2.3.6 Persecution and threats against those who speak out

#### *Repercussions against family members of victims*

In some cases, relatives of victims of enforced disappearances organised press conferences, human chains, or contacted media that published stories about their disappeared relatives.<sup>104</sup> This triggered reactions from law enforcement agencies, which either refused to further communicate with the relatives, threatened them in person or through phone calls, and warned them of the consequences of their persistence to go public and to further enquire about the fate or whereabouts of their disappeared relatives.

- ➔ After relatives of Kazi Farhad, who disappeared in December 2013, talked to journalists, articles appeared in the media on his disappearance and on the alleged involvement of the police. Shortly after the articles were published, unknown individuals broke the window of Farhad's relatives' house at night, causing fear and pushing them to stop talking about the case publicly.
- ➔ A relative of Mohammad Zahirul Islam, who disappeared in December 2013, was monitored and threatened by the police, and police officers warned him to keep silent if he wanted to see his disappeared relative again.

Many family members of disappeared persons felt pressured and were threatened by law enforcement agents, who made frequent house visits, often at night, and sometimes used violence against them. Several relatives of individuals who disappeared, were detained and threatened to

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104. See Chapter 5, Section 5.1.4 [*Use of media and public discourse*].

be killed or subjected to enforced disappearance if they reported the cases to the media and relevant authorities.

In 2014, a relative of Mohammad Imam Hassan, who disappeared in March 2012, sought to determine his fate or whereabouts. He was forced into a police vehicle by police officers, who took him in an underground location under a market and threatened to make him disappear. In an off-guard moment, the relative managed to escape. He reported the incident to the police headquarters and filed a complaint to the National Human Rights Commission (NHRC), without any response to date.

### ***Retaliation against human rights defenders and journalists***

***“As a human rights activist, you can’t help but think about those who are still missing or who were killed and suffered torture before they were killed” - Artist.***

Human rights defenders face many challenges and risk when they take up cases of enforced disappearances in Bangladesh. They are subjected to intimidation and threats, including surveillance and harassment by State intelligence services, law enforcement agencies, and leaders of the Awami League.<sup>105</sup>

In some cases, the government resorted to intimidation to stifle freedom of expression of journalists and human rights defenders for their work on cases of enforced disappearances. Such acts of intimidation included phone calls by security agencies to news or TV talk show editors, pressuring them not to invite people who are overly critical of the authorities or the security agencies to contribute or appear on talk shows.<sup>106</sup> Civil society representatives and journalists interviewed by FIDH explained that because of these threats, there was growing a self-censorship among journalists and editors-in-chief with regard to the coverage of enforced disappearances in Bangladesh. The same applies to human rights organisations and human rights defenders in Bangladesh.

The editor of the daily newspaper *New Age*, Nurul Kabir, confirmed he had been subjected to threats following the publication of an investigative report that analysed eight cases involving 19 disappeared persons.<sup>107</sup> The report alleged involvement of members of law enforcement agencies in the enforced disappearances and was particularly critical of the government of Bangladesh. *New Age* reporters who co-authored the article said they had been also subjected to threats for reporting on enforced disappearances. Mr. Kabir was convinced that the persons responsible for the threats were members of law enforcement agencies.<sup>108</sup>

## **2.4 Alleged perpetrators**

### **2.4.1 Law enforcement agents and intelligence officers**

In almost all cases of enforced disappearances documented by FIDH, perpetrators belonged to

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105. FIDH & OMCT, *Bangladesh: human rights defenders trapped in a polarised political environment*, November 2013, [https://www.fidh.org/IMG/pdf/obs\\_rapportbangladeshuk-ld.pdf](https://www.fidh.org/IMG/pdf/obs_rapportbangladeshuk-ld.pdf)

106. Amnesty International, *supra* note 12, p.18.

107. *New Age*, *Picked up a year ago, they're yet to return*, 28 November 2014, <http://archive.newagebd.net/71268/picked-up-a-year-ago-theyre-yet-to-return/>.

108. FIDH interview, 27 April 2016.

**law enforcement agencies**, more specifically to either the **police**,<sup>109</sup> the **Detective Branch (DB)** of police<sup>110</sup> or **RAB**.<sup>111</sup> Some interviewees indicated an involvement of intelligence officers from the **DGFI** (the military intelligence of the Bangladeshi armed forces), or the **NSI**.<sup>112</sup>

***Number of cases attributed to each law enforcement agency***

Detective Branch	RAB	DGFI	NSI	Unidentified Law Enforcement
16	14	4	1	6

*Statistics of cases documented by FIDH*

The perpetrators normally acted in groups and, in almost all instances, did not attempt to conceal their identities. Sometimes they identified themselves as government administration officials, law enforcement agents, police, DB or RAB officers, or wore their uniforms. RAB uniforms are quite recognisable as they are generally black or yellow with RAB letters on them. In many instances, abductors wore civilian clothing.

In some cases, when relatives who were present during the incident asked for explanations, the officers would tell them to contact the local police station for further information. However, when relatives did so, police officers responded that no team had been out undertaking operations during that time and that their relative was not in their custody.

In the vast majority of cases, the abductors were armed, and acted and communicated in a concerted and well-organised manner, implying a certain level of coordination behind the abduction.

Moreover, the vehicles used for the abductions were generally minivans or minibuses known to be largely used by law enforcement agencies - some of them even showing signs or logos identifying them with RAB. When family members could gather information on the immediate whereabouts of their relatives, RAB offices were mentioned, as well as DB police detention facilities.

All eyewitnesses, journalists, and human rights defenders rejected the possibility that the perpetrators could have simply pretended to be law enforcement agents. This strong conviction regarding the identity of the perpetrators is based on: their previous investigative work; witness statements (family members of disappeared but also inside witnesses); corroborating elements (such as uniforms or vehicles commonly used by law enforcement agencies); and the fact that abductors exhibited behaviour that witnesses felt to be that of law enforcement officers, including DB and RAB.

109. Relatives of V8, V10, V19, V21, V24, and V28 referred to law enforcement agents or police officers without being able to identify specific agencies.

110. Relatives of V3, V4, V5, V6, V9, V13, and V20 directly referred to DB's involvement ; relatives of V11, V14, V15, V16, V17, V22, V23, V27, and V29 referred to DB's implication alongside RAB and others (relatives of V11 also referred to RAB and DGFI ; V15 to DGFI).

111. Relatives of V1, V2, V12, V18, V25, and V26 referred only to the involvement of RAB members ; relatives of V11, V14, V16, V17, V22, V23, V27, and V29 referred to RAB's involvement alongside DB and others.

112. Relatives of V7, V15, and V30 only referred to DGFI's possible involvement and relatives of V11 of DGFI's implication alongside others (DB and RAB) ; relatives of V4 referred to NSI's possible implication alongside DB. For further information on the mandate and organisation of law enforcement agencies and intelligence bodies in Bangladesh, see Chapter I – Context, section E – Actors.



Members of the Rapid Action Battalion (RAB) (Photo by Mehedi Hasan/NurPhoto)

#### 2.4.2 Responsibility of the executive branch

Enforced disappearances were executed by personnel belonging to law enforcement or intelligence agencies, which are under the ultimate supervision and responsibility of the executive branch. In late March 2019, *Al Jazeera* published an article detailing allegations that Prime Minister Sheikh Hasina's most senior security adviser, Major General Tarique Ahmed Siddique, who effectively controls Bangladesh's armed forces and intelligence agencies, used DGFI and RAB officers under his control to abduct at least four men to resolve a business dispute.<sup>113</sup> Hours following the release of the article, the media's website had been blocked by the government.<sup>114</sup>

Despite the numerous and well-documented cases of enforced disappearances, Bangladeshi government officials have repeatedly denied the occurrence of such crime in Bangladesh and instead qualified these incidents as cases of missing persons or persons who were hiding from legal prosecution or debts.

In November 2017, Asaduzzamn Khan Kamal, the Minister for Home Affairs, said: "***[S]ome people are disappearing because they are unable to clear debts [...] some are disappearing for some social reason. Some disappear also after they know that they have committed serious crimes***

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113. Al Jazeera, *Exclusive: Bangladesh top security adviser accused of abductions*, 20 March 2019, <https://www.aljazeera.com/news/2019/03/exclusive-bangladesh-top-security-adviser-accused-abductions-190319114412895.html>.

114. Al Jazeera, *Bangladesh blocks access to Al Jazeera news website*, 22 March 2019, <https://www.aljazeera.com/news/2019/03/bangladesh-blocks-access-al-jazeera-news-website-190322083809377.html>.

*and the law enforcement agencies are trailing them.*"<sup>115</sup> These claims have been echoed by Prime Minister Sheikh Hasina and members of her family.

In May 2018, Sheikh Hasina's son, Sajeeb Wazed, published an opinion piece in the online website *Diplomat*, in which he directly refuted claims by civil society organisations of government involvement in enforced disappearances, and stated that *"the Bangladesh police have investigated every instance of a reported disappearance. They have not uncovered any evidence that suggests the government is behind them. Rather, the police have located many of the "disappeared" in hiding. They were wanted by Bangladeshi authorities for violent felonies, including the rampant fire bombings around the time of the last national election.*"<sup>116</sup>

In addition to denying the occurrence of enforced disappearances, the Bangladeshi government has consistently refused to condemn such practices, conduct adequate investigations in order to determine the fate or whereabouts of the disappeared persons, and hold the perpetrators accountable. This behaviour has led to a climate of complete impunity that has allowed such criminal acts to continue.<sup>117</sup>

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115. Guardian, *Bangladesh PM claims 'forced disappearances take place in UK and US,'* 25 November 2017, <https://www.theguardian.com/world/2017/nov/25/bangladesh-pm-sheikh-hasina-claims-forced-disappearances-take-place-in-uk-and-us>.

116. Diplomat, *Bangladesh : 'Disappeared' Reappear All the Time*, 23 May 2018, <https://thediplomat.com/2018/05/bangladesh-disappeared-reappear-all-the-time/>.

117. For a full analysis of the lack of remedies, see Chapter 5 [*Lack of remedies for the victims*].

### 3. Crime of enforced disappearance: Impact

The International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED) defines as a victim not only the disappeared person but also “any individual who has suffered harm as a direct result of an enforced disappearance” (Article 24). As such, in order to determine the gravity of the crime of enforced disappearance, it is also important to demonstrate what its impact is on the victims and other members of the community.<sup>118</sup> In Bangladesh, the impact of enforced disappearances on family members, relatives, and friends of those who have been subjected to enforced disappearances has been far-reaching and involves multiple dimensions: emotional, psychological, physical, social, and economic.

#### 3.1 Economic damage and increased vulnerability, especially for women

In the majority of cases documented by FIDH, victims of enforced disappearance were the primary or sole income earner of their families, be it the husband, father, brother, or son. Wives and children of the disappeared struggled to fill the gap left and to make ends meet. Many of the wives of men who disappeared told FIDH that they had to move back in with their parents or with their in-laws following their husbands' disappearance and that they became dependent on them. Others had to rent out rooms in their homes to earn supplemental income.

***“My husband was the only person providing for the family. Since his disappearance, it has been really hard, especially financially. He had no savings and we lived in a rented house. I’ve had to sublet a room to a family member.” - Wife of victim of enforced disappearance.***

The socio-economic impact of enforced disappearances is exacerbated by widespread gender inequality, stereotypes, and discrimination in Bangladesh. In the great majority of cases documented by FIDH, the wives of men who disappeared only received basic levels of education and had little, if any, work experience. This situation made it difficult for them to find ways to supplement their income after their husbands disappeared. This situation was compounded because of their families' – or their in-laws' – socio-economic status as it was considered generally unacceptable for them to take up employment in unskilled labour.<sup>119</sup>

The financial constraints suffered by the wives of individuals who disappeared were magnified by the fact that many of them were either unwilling or unable to have their disappeared partner declared dead – depriving them of social benefits, inheritance, or access to the disappeared person's property. Because homes in Bangladesh are often owned by the male members of the family, the wives of the disappeared were not able to sell their homes to make ends meet. Many women ended up in a state of limbo, neither a wife nor a widow, and were vulnerable to being ostracised by their community.

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118. To learn more on the assessment of the gravity of crimes, and in particular the impact of the crimes on victims, by the Office of the Prosecutor (OTP) of the International Criminal Court, see OTP Policy Paper on Preliminary Examinations, November 2013, especially para. 59-66: [https://www.icc-cpi.int/iccdocs/otp/OTP-Policy\\_Paper\\_Preliminary\\_Examinations\\_2013-ENG.pdf](https://www.icc-cpi.int/iccdocs/otp/OTP-Policy_Paper_Preliminary_Examinations_2013-ENG.pdf)

119. In-depth research on how enforced disappearances impact female relatives specifically has found that, if perceived as an economic burden on their family and their in-laws family, women then face the risk of suffering from inter-familial harassment and societal isolation; see: International Center for Transitional Justice (ICTJ), *Eight Ways Women are Impacted by Disappearances*, 3 September 2015, <https://www.ictj.org/news/eight-ways-women-are-impacted-disappearances>.

The economic consequences of enforced disappearances were often compounded by significant expenses in trying to find answers regarding the fate or whereabouts of the disappeared relatives. In many cases documented by FIDH, family members spent large amounts of money trying to find the person who disappeared, including by bribing police officials and prison and security guards, and making repeated travels to Dhaka or other places to attempt to meet officials.<sup>120</sup> Women were often at the forefront of the search for truth about the disappeared, which put them at greater risk of abuse and extortion. Sometimes, their efforts to find answers came at the expense of working, creating further financial strain on their families.

***“I have spent a lot of money searching for my son and now I am facing problems: financially, psychologically, and emotionally. Since my son disappeared, his father passed away. [...] Now I survive with what is left. No one can understand the pain of a mother who has lost a son. Only the almighty knows how I can deal with this pain.” - Mother of a victim of enforced disappearance.***

### 3.2 Psychosocial impact

The clearest impact on all relatives of victims of enforced disappearance interviewed by FIDH was psychological. Almost all of the people interviewed by FIDH mentioned how difficult it was to live without knowing what had happened to their relatives. In some cases, family members continued searching for answers for years despite not having any new leads, because they continued to hope that their loved ones were still alive.

***“My mother is completely broken. She looks strong but she is completely shattered inside. Whenever she hears the sound of a car, or a vehicle moving in front of the house, she checks to see if it is her son who is back. She always keeps the keys nearby to open the gate and [be ready to] hug her son, and leaves the lights on at the entrance.” - Sister of victim of enforced disappearance.***

The situation was not necessarily easier for the few who had lost all hope and believed their loved ones were dead, as they were still unable to move on with their lives - some unable even to conduct religious burial rites without an official confirmation or a dead body.

***“I still hope that my son is alive and I just hope that the government will return him. If he is dead, then we want to have his body back so we can cremate him and arrange prayers for him. But because we don't know if he is alive or not, we can't do anything.” - Father of victim of enforced disappearance.***

Many relatives of victims of enforced disappearances, particularly siblings, mentioned that the disappearance had a significant impact on the health of the parents of the victims and reported that the parents had a difficult time after the disappearance. Relatives described parents whose health had degraded due to a lack of sleep, inability to eat, lack of desire to leave the house, and other symptoms typically associated with severe depression.<sup>121</sup> These findings match those of other research conducted into the psychosocial impacts of enforced disappearances, which found that family members often suffered from “ambiguous loss,” a term that encompasses the

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120. For more information on this aspect, see Chapter 5 [*Lack of remedies for the victims*].

121. Psychological stress expressed somatically by relatives of victims of enforced disappearances has been observed in multiple countries, including South Africa, Nepal and Guatemala. See ICTJ, *The Disappeared and Invisible: Revealing the Enduring Impact of Enforced Disappearances on Women*, March 2015, p.11, <https://www.ictj.org/sites/default/files/ICTJ-Global-Gender-Disappearances-2015.pdf>.

external and ongoing source of stress, as opposed to more typical forms of post-traumatic stress disorder, which stem from one or more distinct and past traumatic event.<sup>122</sup>

***“My father has had a cardiac arrest, my mother is suffering from diabetes and crying all the time for her son who is missing.” - Brother of a victim of enforced disappearance.***

Enforced disappearances also have a severe impact on the young children of those who have disappeared. Families with whom FIDH spoke expressed they struggled to explain the disappearance to their young children, and sometimes reported lying to them, such as by saying that their father had gone abroad for work or telling them their father would return very soon.

### 3.3 Climate of fear and insecurity

Enforced disappearances also created a climate of fear that pervaded the lives of the family members of the disappeared, sometimes for years following the disappearance. Several relatives of individuals who disappeared told FIDH that they received threats from local authorities and felt that they were under surveillance, which they believed was due to their efforts to find their disappeared relative. One person interviewed by FIDH said that someone had broken into his house after reporting the case to a local media outlet that published an article on the disappearance.<sup>123</sup> This made the family too scared to continue talking about the disappearance of their relative publicly.

Another interviewee told FIDH that a few days after the disappearance of his relative, who was a BNP activist, law enforcement agents installed a camera at the entrance of his house, supposedly for the family's own security.<sup>124</sup> Over the next year, police officers regularly retrieved video footage from the camera, for what the interviewee suspected being surveillance purposes, given that officers asked mainly about visits of other BNP leaders to the house instead of addressing the issue of the relative's disappearance.<sup>125</sup> House visits and searches, mostly at night and sometimes involving the use of violence, continued afterwards, which compelled the family to send the two sons of the disappeared relative outside the country for security reasons.

In other cases, relatives reported they had been frequently harassed by local authorities, who repeatedly visited their houses, sometimes on the pretext of searching for the disappeared individual, or to question relatives who attended public events related to enforced disappearances. In one case, relatives of a disappeared person told FIDH that an imam who had conducted a prayer at a public event related to the his disappearance was threatened by the authorities and questioned regarding his ties to the victim's family.<sup>126</sup> Another interviewee explained that one of the three sons of a disappeared person was arrested by the police and kept in jail for one month in an act of apparent retaliation for his father's political engagement with the BNP. ***“We are facing the impacts of our father's political engagement, even if we are not BNP,”*** the son said. Family members of the disappeared were directly told by law enforcement agents to keep silent about their relative's disappearance if they wanted to see them again.<sup>127</sup>

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122. ICTJ, *supra* note 121.

123. Case V5; FIDH interview, 4 July 2018.

124. Case V11; FIDH interview, 6 July 2018.

125. FIDH interview, 6 July 2018.

126. Case V22; FIDH interview, 5 July 2018.

127. Cases V14 and V17 for example.

### 3.4 Requests of families: the right to truth and to justice

The families of victims of enforced disappearances told FIDH they only wanted to know what happened to their relatives. As mentioned above, the lack of information - in some cases for years - regarding their disappeared relatives' fate or whereabouts caused deep emotional trauma and relatives in general told FIDH that only by obtaining answers to their questions would they be able to overcome the trauma.

***"If it is possible, then please give us their dead bodies. At least the families will know that they are dead. It makes us traumatized because we don't know about our dear ones, where they are, if they are still alive or not. This is a life-long trauma." - Wife of a victim of enforced disappearance.***

***"We have the right to know at least where their grave is. First I want the truth, and then accountability. It is my right." - Sister of a victim of enforced disappearance.***

Few relatives of victims of enforced disappearance interviewed by FIDH expressed a desire for justice, mostly because many had lost hope in the capacity of the Bangladeshi judicial system to deliver it.<sup>128</sup> Nevertheless, the belief that pressure from outside Bangladesh could impact the situation was widespread among interviewees, and several family members requested that the international community speak out about enforced disappearances in Bangladesh and help them find their missing relatives.

***"If the case [of enforced disappearances in Bangladesh] goes to the International Criminal Court, I will feel relief, because I have not gotten any justice in my country." - Father of a victim of enforced disappearance.***

***"The government of Bangladesh hasn't done anything [to solve the issue], so we want the international community to do anything they can to bring them [victims of enforced disappearance] back." - Wife of a victim of enforced disappearance.***

As mentioned above, victims of enforced disappearances who have been released and their relatives very rarely speak to the media or civil society organisations following the release, due to fears of reprisal, and do not seek remedies or justice. The sole person who had been released following a period of enforced disappearance with whom FIDH was able to speak said: *"My release is a miracle [but] if I ask for justice, then I will be killed."*<sup>129</sup>

This fear of speaking out is reflected by relatives of men who are still disappeared. Many of these relatives told FIDH they would not file charges or pursue other public actions if their relatives were to be returned to them alive.

***"I do not want justice. I just want my husband back." - Wife of a victim of enforced disappearance.***

***"I do not want anything else than to bring my husband back. I would go anywhere, even if they asked me to leave Bangladesh, as long as I know the truth about what happened to my husband." - Wife of a victim of enforced disappearance.***

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128. See Chapter 5 [Lack of remedies for the victims].

129. FIDH interview, 6 July 2018.

## 4. Enforced disappearance as a crime against humanity

The enforced disappearances committed in Bangladesh since cases began to be systematically recorded in 2009 can be qualified as crimes against humanity in accordance with Article 7(1)(i) of the Rome Statute of the ICC. The vast majority of the victims were members of political opposition parties or individuals perceived to be political opponents to the government, and were targeted because of their political beliefs. As a result, the criminal conduct can also be qualified as persecution on political grounds, in accordance with Article 7(1)(h) of the Rome Statute.

### Definition of the crime of enforced disappearance

In accordance with the ICC Statute, "**enforced disappearance** of persons means the arrest, detention or abduction of persons by, or with the authorization, support or acquiescence of, a State or a political organization, followed by a refusal to acknowledge that deprivation of freedom or to give information on the fate or whereabouts of those persons, with the intention of removing them from the protection of the law for a prolonged period of time."<sup>130</sup>

### The elements of the crime of enforced disappearance

As established by the ICC Elements of Crimes, in order to satisfy the elements of this crime, the perpetrator, intending to remove a person or persons from the protection of the law for a prolonged period of time has:<sup>131</sup>

- (a) Arrested, detained or abducted one or more persons; or
- (b) Refused to acknowledge the arrest, detention or abduction, or to give information on the fate or whereabouts of such person or persons.

The Elements further require that:

- (a) Such arrest, detention or abduction be followed or accompanied by a refusal to acknowledge that deprivation of freedom or to give information on the fate or whereabouts of such person or persons; or
- (b) Such refusal be preceded or accompanied by deprivation of freedom and that the perpetrator was aware of it.<sup>132</sup>
- (c) Furthermore, such arrest, detention or abduction or the refusal to acknowledge that deprivation of freedom or to give information on the fate or whereabouts of such person or persons was carried out by, or with the authorisation, support or acquiescence of, a State or a political organisation.<sup>133</sup>

130. Rome Statute, Art. 7(2)(i). This definition is very similar to the definition in Article 2 of the ICPPED, which entered into force on 23 December 2010.

131. Elements of Crimes of Enforced Disappearances, Crime against humanity of enforced disappearance of persons p. 11, paras. 6.

132. Elements of Crimes; Crime against humanity of enforced disappearance of persons, p. 11, paras. 1-3.

133. Elements of Crimes; Crime against humanity of enforced disappearance of persons, p. 11, paras. 7-8.

## Definition and elements of the crime of persecution.

The Rome Statute defines the crime of persecution as “the intentional and severe deprivation of fundamental rights contrary to international law by reason of the identity of the group or collectivity.” In its Article 7(1)(h), the Rome Statute recognises as a crime against humanity the crime of “**persecution** against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender (...) or other grounds that are universally recognized as impermissible under international law, in connection with any act referred to in this paragraph or any crime within the jurisdiction of the Court.”<sup>134</sup>

To demonstrate that certain acts amount to crimes against humanity, proof of contextual elements must also be provided, in addition to proving that any of the acts listed in Article 7(1) of the Statute (“underlying acts”) were committed. What is required then is the proof that the underlying acts, in this case the crimes of enforced disappearance and persecution, were committed as part of a widespread or systematic attack directed against a civilian population, and that the perpetrator had knowledge of the attack.<sup>135</sup>

FIDH believes that the following contextual elements, whose presence has been identified by the ICC Pre-Trial Chamber in the *Kenya Situation* as necessary for acts to constitute crimes against humanity, are present in the situation of enforced disappearances in Bangladesh:<sup>136</sup>

- An attack directed against any civilian population;
- A State or organisational policy;
- An attack of a widespread or systematic nature;
- A nexus between the individual act and the attack; and
- Knowledge of the attack by the perpetrators.<sup>137</sup>

### 4.1 Attack directed against any civilian population

The requirement of an attack to be directed against any civilian population entails that crimes should be conducted against civilians. An “attack” is “a course of conduct involving multiple commissions of acts referred to in Article 7(1) of the Statute”<sup>138</sup> and does not need to be of military nature.<sup>139</sup> A combination of the enumerated crimes consisting of the underlying acts referred to in Article 7(1) of the ICC Statute may be present within a single attack.<sup>140</sup>

Furthermore, the use of the term “directed against” implies that the civilian population must be the primary object of the attack, and not just its incidental victim.<sup>141</sup> The targeted group must be

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134. Article 7(2)(g) of the Rome Statute ; Elements of Crimes, Article 7(1)(h) : Crime against humanity of persecution.

135. Situation in the Republic of Côte d'Ivoire, “Decision Pursuant to Article 15 of the Rome Statute on the Authorisation of an Investigation into the Situation in the Republic of Cote d'Ivoire”, 3 October 2011, ICC-02/11-14-Corr (hereinafter ‘Cote d'Ivoire Decision’), p. 14, para. 29.

136. Situation in the Republic of Kenya, “Decision Pursuant to Article 15 of the Rome Statute on the Authorisation of an Investigation into the Situation in the Republic of Kenya”, 31 March 2010, ICC-01/09-19-Corr (‘Kenya Decision’), para. 79.

137. *Cote d'Ivoire Decision*, p. 14, para. 29.

138. Elements of Crimes, Article 7, Introduction, para. 3.

139. Elements of Crimes, Article 7, Introduction, para. 3.

140. *The Prosecutor v. Clément Kayishema and Obed Ruzindana* (Trial Judgement), ICTR-95-1-T, International Criminal Tribunal for Rwanda (ICTR), 21 May 1999, para. 122.

141. *Cote d'Ivoire Decision*, p. 14, para. 29.

of sufficient size to form a collective and not simply a randomly selected number of individuals.<sup>142</sup>

The information provided in this report demonstrates that the victims of enforced disappearances were only civilians: BNP or Jamaat-e-Islami members, activists or sympathisers; leaders or members of their respective student or youth wings; government critics or dissidents within civil society; and suspected Islamic extremists.

On the basis of the conduct of the attacks and the number of victims who belonged to opposition party members and activists, it can be concluded that: 1) the attacks have been motivated by the victims real or perceived political affiliation; and 2) the victims were not randomly selected individuals.

In addition, the pattern of the acts and the concerted manner in which they were conducted excludes their random occurrence. On the contrary, it illustrates that the acts represented a standardized course of conduct that amount to an "attack" under the definition set by the Rome Statute of the ICC.

## 4.2 State or organisational policy

Another key element that distinguishes crimes against humanity from ordinary crimes is the existence of a State or organisational policy to commit an attack. The Elements of Crimes provide that a "policy to commit such attack" requires that the State or organisation actively promote or encourage such an attack against a civilian population.<sup>143</sup> In addition, the government's failure to initiate an investigation into the crimes committed may qualify as "a deliberate failure to take action, which is consciously aimed at encouraging such attack." This reinforces the element of the existence of a State or organisational policy.<sup>144</sup>

As illustrated by statements made by eyewitnesses and corroborated by other information collected by FIDH, enforced disappearances in Bangladesh have been conducted in a similar manner by a large group of perpetrators who acted in a concerted manner and who, in almost all cases, identified themselves as members of the Bangladesh police, DB or RAB, or were easily identified as military intelligence officers. According to the individuals interviewed by FIDH, the perpetrators were using the same type of vehicles known to be used by law enforcement agencies, demonstrated similarities as to their conduct and way of speaking, and had the same type of appearance - including their clothing and uniforms. In addition, different government controlled detention facilities, such as individual or collective cells within RAB offices, within DB offices, or official jails, were mentioned by family members, victims, and researchers, as likely locations of arbitrary detention of persons who disappeared. At least four RABs were expressly mentioned by

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142. Situation in the Central African Republic, Prosecutor v. Jean Pierre Bemba Gombo, "Decision Pursuant to Article 61(7)(a) and (b) of the Rome Statute on the Charges of the Prosecutor Against Jean Pierre Bemba Gombo", 15 June 2009, ICC-01/05-01/08-424, (hereinafter 'Bemba Decision'), para. 77.

143. Elements of Crimes, Article 7, Introduction, para. 3.

144. Footnote 6 in the Elements of Crimes. Despite the absence of a definition of the term "state or organisational policy" in the Statute of the ICC and the Elements of Crimes, this element can be interpreted in light of the Pre-Trial Chambers finding that a "policy": **(a) must be thoroughly organised and follow a regular pattern; (b) must be conducted in furtherance of a common policy involving public or private resources; (c) must be implemented either by groups of persons who govern a specific territory or by any organisation with the capability to commit a widespread or systematic attack against a civilian population; and (d) it need not be explicitly defined or formalised by the organizational group. Indeed, an attack, which is planned, directed or organised - as opposed to spontaneous or isolated acts of violence - will satisfy this criterion.**

FIDH interviewees as locations of illegal detention.

In addition, journalists who reported on the involvement of the government and law enforcement agencies in enforced disappearances received death threats and attacks by members of law enforcement agencies - an indication of efforts taken by the perpetrators to cover up the alleged crimes.

The degree of organisation in the commission of enforced disappearances, the level of the coordination between the actors involved, the same *modus operandi* against the same targeted groups (who were often pre-identified and monitored), and the efforts taken by the perpetrators to cover up alleged crimes, demonstrate that the attacks had been planned in advance and followed a common pattern in furtherance of a common policy.<sup>145</sup> In addition, the frequency of the incidents and the long period over which they occurred prove that these acts were not spontaneous and arbitrary acts.

The information collected by FIDH substantiates both the indirect and direct involvement of government and State officials of Bangladesh in the commission of the crimes. The indirect involvement stems from the effective authority and the control that the government and State officials exert over personnel from law enforcement agencies. All the members of the various branches of law enforcement agencies form part of the Bangladesh police and/or the military. The Bangladesh police is under the Ministry of Home Affairs, which is part of the government headed by the Prime Minister, who is also the Minister of Defence and thus the head of the military. The direct involvement stems from the fact that the Prime Minister is aware of the reports of the ongoing crimes, proven by the various statements she made to deny these reports, and from the fact that there has not been any investigation ordered by high-level officials to shed the light on the fate of the disappeared and the responsibilities engaged, despite the numerous complaints concerning enforced disappearances that have been made to government agencies directly under the control of the Prime Minister. In addition, it is highly unlikely that law enforcement officials would be able to act in such a concerted and organised manner without the knowledge and support of the highest ranking government officials.

Similarly, given the frequent occurrence of enforced disappearances and the ongoing allegations made against law enforcement personnel of their involvement in such crime, the heads of police, DB, and RAB should have been aware of such criminal acts. Along the same lines the Minister of Home Affairs should have been aware of the ongoing crimes committed by law enforcement personnel, given that the law enforcement agencies fell under his effective authority and control.

The Minister of Home Affairs and the heads of the police and RAB received frequent complaints that alleged that enforced disappearances had been committed by members of law enforcement agencies. Despite this, they have either denied the occurrence of enforced disappearances or failed to conduct adequate investigations into such allegations. Only in one case, following pressure by human rights organisations and outrage of the society, were law enforcement agents held accountable.<sup>146</sup>

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145. *Katanga et al.* (ICC-01/04-01/07), Decision on the Confirmation of the Charges, 30 September 2008, paras. 397-398.

146. See case study in Chapter V, Section 5.1.1 [*Police investigations*].

### 4.3 Attack of a widespread or systematic nature

There are reasonable grounds to determine that the commission of enforced disappearances in Bangladesh amounts to an attack that is widespread or systematic.

The expression "widespread or systematic" in Article 7(1) of the Statute of the ICC excludes random or isolated acts of violence. The term "widespread" connotes the large-scale nature of the attack and the number of targeted persons.<sup>147</sup> The term "systematic" refers to the "organised nature of the acts of violence and the improbability of their random occurrence."<sup>148</sup> "Widespread" and "systematic" under Article 7 are alternative criteria.<sup>149</sup> It is only the attack itself, and not the alleged individual acts that are required to be widespread or systematic.<sup>150</sup> This, according to jurisprudence, does not mean that in order to constitute a crime against humanity, underlying acts such as enforced disappearances only need to be carried out against a large number of victims.<sup>151</sup>

In order to determine whether the crimes of enforced disappearances committed in Bangladesh since 2009 satisfy the element of "widespread or systematic," they should be assessed in light of the broader context of the reported State-sponsored violence. Between January 2009 and December 2018, in addition to at least 507 instances of enforced disappearances, the State-sponsored violence has been reported to encompass 1,920 instances of extra-judicial killings. These crimes have been carried out mainly by RAB, police, and DB, with the tacit approval by officials from government and State institutions. These figures of reported victims contribute to prove the widespread nature of the ongoing attack referring both to the large scale nature of the attack and the number of victims which qualifies the attack as "massive," "frequent," or "carried out against a multiplicity of victims."<sup>152</sup>

As it has been already argued in this report, enforced disappearances and extrajudicial killings by Bangladeshi authorities have been conducted pursuant to a State policy, which is an element

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147. The term "**widespread**" has been found by the Pre-Trial Chambers to encompass "the large scale nature of the attack, which should be massive, frequent, carried out collectively with considerable seriousness and directed against a multiplicity of victims". It refers "both to the large scale nature of the attack and the number of victims"(Situation in the Republic of Côte d'Ivoire, "Decision Pursuant to Article 15 of the Rome Statute on the Authorisation of an Investigation into the Situation in the Republic of Côte d'Ivoire," 3 October 2011 (notified on 15 November 2011), ICC-02/11-14-Corr, pp. 22-23, para. 53, quoting the "Kenya Decision" para. 95), including "an attack carried out over a large geographical area or an attack in a small geographical area, but directed against a large number of civilians." (Situation in the Democratic Republic of the Congo, *the Prosecutor v. Germain Katanga and Mathieu Ngudjolo Chui*, "Decision on the confirmation of charges", para.395; Situation in the Central African Republic; *Bemba Decision*", para. 83)

148. Situation in the Democratic Republic of the Congo, *the Prosecutor v. Germain Katanga and Mathieu Ngudjolo Chui*, "Decision on the confirmation of charges", para.394; Situation in the Central African Republic, *Bemba Decision*, para.83; Situation in the Republic of Kenya, *the Prosecutor v. William Samoei Ruto, Henry Kiprono Kosgey and Joshua Arap Sang*, "Decision on the Confirmation of Charges Pursuant to Article 61(7)(a) and (b) of the Rome Statute", para. 179. According to ICC Pre-Trial Chamber I, the term "**systematic**" has been understood as either: 1) an organised plan in furtherance of a common policy, which follows a regular pattern and results in a continuous commission of acts; or 2) "patterns of crimes" such that the crimes constitute a "non-accidental repetition of similar criminal conduct on a regular basis." (*Katanga et al.* (ICC-01/04-01/07), Decision on the Confirmation of the Charges, 30 September 2008, paras. 397-398).

149. *Bemba Decision*, para. 82.

150. *Kenya Decision*, p. 41, para. 94. See also: *Bemba Decision*, pp. 28-29 para. 83

151. *Prosecutor v. Blaškić*, ICTY (Appeals Chamber) judgment of 15 July 1999, para. 101; *Prosecutor v. Kordić and Čerkez* ICTY (Appeals Chamber), judgment of 17 December 2004, para. 94.

152. See in particular *Prosecutor v. Blaškić*, ICTY (Appeals Chamber) judgment of 15 July 1999.

from which the systematic nature of an attack can be inferred.<sup>153</sup> As a result, this factor could serve as supporting evidence to satisfy the contextual element of a "systematic attack."

The fact that a high number of victims of State-sponsored crimes were reported over an extended period of time implies that such crimes constituted a continuous commission of acts, demonstrating the non-accidental repetition of similar criminal conduct on a regular basis against a multiplicity of victims. In addition, enforced disappearances have been documented as a widespread conduct against individuals of the opposition and other government critics.

#### 4.4 Nexus between the individual act and the attack

To determine whether an individual act is a part of the attack, the similarities between the "characteristics, the aims, the nature or consequences"<sup>154</sup> of the individual acts are to be taken into consideration. This excludes criminal acts that are isolated, random, and unrelated to the attack.<sup>155</sup>

The evidence gathered by FIDH demonstrates that the acts of enforced disappearance carried out by the perpetrators were conceived as a part of an overall attack conducted in furtherance of State-sponsored violence.<sup>156</sup> The political environment in which the acts occurred - in particular, the fact that the crimes were mostly committed against the members of the opposition and that their occurrence intensified in the context of elections - supports the allegation that the acts were carried out with the intention to suppress the political opposition.

#### 4.5 Knowledge of the attack by the perpetrators

Evidence gathered by FIDH supports the allegation that high-ranking officials from Bangladesh's law enforcement agencies were not only aware of the ongoing acts of enforced disappearances but also tacitly endorsed them.

According to Elements of Crimes of the Statute of the ICC, the element of knowledge of the attack does not need to be interpreted as requiring proof that the perpetrator had knowledge of all characteristics of the attack or the precise details of the plan or policy of the State or organisation. In the case of an emerging widespread or systematic attack against a civilian population, this element is satisfied if the perpetrator intended to further such an attack.<sup>157</sup>

The evidence collected indicates that high-ranking officials from law enforcement agencies had knowledge of the ongoing attacks. Such conclusion stems from the following factors:

- The position of the high-ranking officials in the State hierarchy, with the effective authority

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153. Situation in the Central African Republic, Prosecutor v. Jean Pierre Bemba Gombo, "Decision on the Prosecutor's Application for a Warrant of Arrest Jean Pierre Bemba Gombo", 10 June 2008, ICC-01/05-01/08-14-tENG, p. 15, para. 33

154. Kenya Decision, paras. 97-98.

155. *Prosecutor v Tadic*, Case No. IT-94-1-T, Opinion and Judgment, Trial Chamber, 7 May 1997, paras 629-633.

156. In line with the requirements stipulated in *Prosecutor v Blaskic*, Case No IT-95-14-A, Judgment, P 120 (July 29 2004), para. 124-127.

157. *Elements of Crimes*, Introduction, para. 2

and control over the direct perpetrators.<sup>158</sup>

- The receipt of allegations and official complaints against the members of law enforcement agencies and the failure to address them with proper measures, including the failure to undertake adequate investigations.<sup>159</sup>

In conclusion, an analysis of the trends and *modus operandi* of law enforcement agents in the commission of enforced disappearances in Bangladesh necessarily leads to a determination that the crimes fit the definition of crimes against humanity as defined in the Rome Statute, that is: that the crimes constitute an attack directed against a civilian population; that they indicate a state or organisational policy; that they constitute an attack of a widespread and systematic nature; that there is a nexus between individual acts and the attack; and that perpetrators had knowledge of the attack. In addition, given the scale, nature, and manner of commission of the crimes, and especially their impact on victims and their families,<sup>160</sup> these crimes against humanity are of particular gravity.<sup>161</sup>



A relative holds a portrait of a victim of enforced disappearance. (© PHOTO BY FIDH)

158. See Chapter 1, Section 1.5 [**Actors**] and Chapter 2, Section 2.4 [*Alleged Perpetrators*].

159. See Chapter 5 [*Lack of remedies for the victims*].

160. See Chapter 3 [*Crime of enforced disappearance: Impact*].

161. As stipulated in Regulation 29(2) of the Regulations of the ICC Office of the Prosecutor, the factors that guide the assessment of the "gravity" of a situation or case of international crime, include the "scale, nature, manner of commission of the crimes, and their impact".

## 5. Lack of remedies for the victims

One of the defining factors of enforced disappearances in Bangladesh is the virtual lack of remedies for victims, who are unable to obtain any information or answers from national authorities. In this regard, international mechanisms have so far been largely unsuccessful in pressuring Bangladeshi authorities to address the issue in a satisfactory manner.

### 5.1 National level

Victims of enforced disappearances, and their relatives alike, have consistently been denied access to justice. Relatives' efforts to find the missing person have almost always been obstructed by the authorities, who have made no visible effort to investigate the allegations or provide the families with information. The courts have been similarly unable or unwilling to provide remedies. A few judgements rendered on cases of enforced disappearances served more to keep families quiet rather than addressing their claims. While this can be explained in part by a lack of capacity in Bangladesh's law enforcement and criminal justice system, it also points to a concerted lack of willingness on the part of the authorities to investigate allegations of State-sponsored human rights violations.

#### 5.1.1 Police investigations

##### *Filing complaints*

Relatives of victims of enforced disappearances told FIDH that their attempts to file General Diaries (GD) at local police stations were often hindered by the authorities. In almost all cases, police officers only agreed to file a GD if it did not mention the alleged involvement of personnel from law enforcement agencies. If relatives insisted on including mentions of potential law enforcement personnel - particularly RAB and DB - as suspects, the police officers refused to record a GD. As one activist told FIDH, ***"When people go to the police station, [the officers] don't want to hear witness testimonies that the people who came to the house had badges. They see it as a political case and want to stay away from it."***

##### **General Diaries vs First Information Reports**

General Diaries (GDs) are record-keeping books required to be kept in each police station, to be used by officers-in-charge to record any noteworthy events. First Information Reports (FIRs) are police reports that are to be filed upon receiving information that a cognisable offence<sup>162</sup> has been committed. In the case of cognisable offences, police officers must begin investigations and are empowered to make arrests once an FIR has been filed, without requiring prior permission from a judge.

While all FIRs should be recorded in the GD, a GD entry – which can include complaints of non-

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162. Under Bangladeshi law, cognisable offences include serious crimes such as rape, murder, theft or kidnapping, whereas non-cognisable offences include less serious crimes, such as misbehaviour, public annoyance, cheating or defamation.

cognisable offences – does not require an FIR to be filed nor does it require police to take any particular action. Based on the information provided by interviewees, it appeared that the majority of police records of reports of disappearances were solely in the form of GD entries, and not FIRs. It is therefore particularly relevant to the argument made in this report that very few FIRs were filed in cases of disappearances, even when additional information was reported to the police or when the information provided amounted to a cognisable offence.

In at least 23 of the 30 cases (77%) documented by FIDH, the resulting GD mentioned the disappeared individual solely as “missing,” without any mention of elements of the enforced disappearance that would permit to identify it as such.<sup>163</sup> In cases where several individuals were subjected to enforced disappearance at the same time and place, police officers suggested the filing of a joint GD.

- ➔ Relatives of Mofizul Islam Rashed, who disappeared in April 2013, were unable to file a GD that mentioned the case as a potential disappearance, despite eyewitnesses' claims that the people who had taken him clearly identified themselves as police officers. The GD only mentioned the victim as “missing.”
- ➔ In the case of Saifur Rahman, who disappeared in February 2015, the family filed a GD, but the police officers refused to even list him as “missing” and instead recorded that he had simply left his house and never returned.
- ➔ Relatives of Mohammad Imam Hassan were able to file a GD that stated that two persons had threatened the victim before he disappeared in March 2012. However, the relatives could not include in the GD information they had regarding his possible detention at the RAB-2 compound in Dhaka, or a specific mention that he had been abducted and was not just missing.

In many cases, the GD was only filed several days – or sometimes after even longer periods of time – following a disappearance. In the majority of cases, this was due to the reluctance of police officers to record a GD. In some cases, though, it was the result of families spending time and resources to find the person and only going to the police as a last resort.

- ➔ In the case of Somrat Molla, who disappeared in 2013, police officers delayed recording a GD many times using what the family perceived to be false pretexts. At one point, after discovering that the victim had been involved in politics with the opposition, police told family members: **“You did not tell us that your brother was involved in politics! So no GD!”** The family was finally able to file a GD in 2016, under the condition that it only referred to the victim as “missing.”
- ➔ In the case of the disappearance of AM Adnan Chowdury in December 2013, the family members were unable to file a GD the day following his disappearance because they insisted on reporting that the individuals who picked up the victim were wearing RAB uniforms. A GD was only filed several days later collectively with the names of seven other people who had disappeared on the same day.
- ➔ In the case of Zakir Hussain, who disappeared in April 2015, the police initially refused to record a GD, making jokes in front of family members that the victim might have run

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163. Cases V2, V3, V4, V5, V6, V7, V8, V9, V10, V12, V14, V15, V16, V17, V18, V19, V20, V21, V22, V23, V24, V27, and V28.

away with a girl and asking them if he had been involved sentimentally with anyone. The family was able to file a GD only in June 2015, with the victim being listed as "missing" since that month (instead of April) and without any information about the abduction.

- ➔ In the case of Mohammad Rezoun Hossen, the family went to the police station and filed a GD on the day following his disappearance in August 2016. However, a day later, the police called the family and told them the original GD had been lost and asked them to return to the police station to sign a new copy of the GD. They were not allowed to read it before signing and, when they were finally given a copy, realized that it was a different document from the first one and that it included wrong information. It also mentioned that the family of Hossen was "involved with Jaamat-e-Islami."

In some other cases, relatives refused to file a GD that did not accurately reflect the situation or were not able to file a GD at all.

- ➔ Relatives of Sajedul Islam Shumon declined to file a GD after the police refused to include a information (including an eyewitness account) that RAB officers might have been involved in the abduction of the victim in December 2013 and only that the victim had been "kidnapped."
- ➔ In the case of the disappearance of Idris Ali in August 2016, police officers who were familiar with the victim refused to record a GD and told his relatives: **"He is a big man, so he is not lost."**

In very few cases, family members were able to file a GD that mentioned more details, including the possibility that what had occurred to their relatives was an enforced disappearance, and in some cases were assigned case numbers. However, having such level of specificity in the GD did not necessarily result in more action being taken by the police or in any concrete results. In the case of the March 2014 disappearance of Mohamad Mahabubur Rahaman, his relatives were only able to file a GD almost a week after the disappearance and to convince the police officers to attribute it a case number. Despite this, the case was officially closed several years later without any results.

A majority of relatives interviewed by FIDH said they preferred filing something, even if they were aware that the GD did not reflect the situation accurately, rather than nothing at all, in order to have at least an official record that the victim had disappeared.

### ***No investigation***

Even when complaints were filed, cases of disappearances were rarely investigated by police officers in an adequate manner. Many relatives of individuals who disappeared told FIDH that police officers, when going to their houses, usually questioned relatives about the victim's political activities, religious leanings, or other personal details, without providing any information on leads they might have pursued or indicating that they were making concerted efforts to find the missing persons. When specifically asked by family members about the progress of their investigations, police officers often evaded the questions or simply answered that there had been no progress, without providing any specific details. In some cases, family members were never contacted by the police again after filing a GD.

- ➔ In the case of the December 2017 disappearance of former Ambassador Maroof Zaman, one of his daughters called the police regularly during the first six months after the disappearance. During that period, two police officers who were initially in charge of the

case were transferred and replaced by new officers. No information about the progress of the investigation was shared and when the daughter got upset about the lack of progress, the police officers hung up the phone on her.

- In the cases of Saifur Rahman and Zakir Hussain, who disappeared in February and April 2015 respectively, the police never contacted their families after the filing of the GD.
- In the case of the disappearance of Mohammad Mahfuzur Rahman, who disappeared in December 2013, the family told FIDH the police took no steps to find the victim and did not provide any information to them.
- In the case of the disappearance of Mohammad Rezoun Hossen, who disappeared in August 2016, the family said they were not able to obtain any cooperation from the police, and that no investigation had been undertaken since the filing of the GD. The family received threats whenever they went to the police station to try to receive updates, and, after that, they only followed up through phone inquiries.

Sometimes the police accused family members of hiding their disappeared relatives to enable them to escape criminal charges that had been filed against them.

- In the case of the disappearance of Nur Alam in February 2010, the Police Superintendent in Gazipur told a relative in 2015: ***"You are saying the police picked him up but you are hiding him because of the cases against him."***
- Relatives of Mohammad Zahirul Islam, who disappeared in December 2013, reported that police officers went to their house several times and accused them of hiding the victim, giving this as a reason for not investigating the case.
- Police officers repeatedly went to the house of relatives of Saifur Rahman, who disappeared in February 2015, after the GD was filed to ask each time if the victim was really missing or if he was just in hiding.
- In the case of Tariqul Islam Tara, who disappeared in August 2012, the police repeatedly accused the family of hiding the victim.

Family members of at least seven individuals who disappeared reported being subjected to extortion or attempted extortion by police officers or persons who claimed had knowledge of the fate or whereabouts of the victims after a GD had been filed.

- Police officers visited the home of relatives of Kazi Farhad, who disappeared in December 2013, and offered to remove his name from pending cases filed against BNP members in exchange for money.
- Police asked a relative of Idris Ali BDT 10,000 (EUR 106) in exchange for looking for information on the victim's fate or whereabouts after he disappeared in August 2016. Despite receiving the bribe, the police did not provide any information.
- Relatives of Zakir Hussain, who disappeared in April 2015, contacted a DB and RAB informant from the same area where Zakir was abducted. The informant asked the family for BDT 500,000 (EUR 5,200) as ransom. The family paid half of the amount but never heard from the informant again. They did not file a complaint or pressure him to return to money due to fears they would be harassed.

- ➔ Police officers allegedly investigating the December 2013 disappearance of Mohammad Zahirul Islam asked the family of the victim for BDT 2,000-3,000 (EUR 21-31) to cover “transportation costs” approximately two to three months after the disappearance, when police officers visited the family’s house carrying an arrest warrant for the victim. Similarly, the family was introduced to an officer ostensibly from the Special Security Force (SSF), who told the family that the victim was being held by RAB and that he could help free him in exchange for BDT 1.5 million (EUR 15,907). After paying him BDT 600,000 (EUR 6,363), they were told that his efforts to free the victim had failed and the SSF officer subsequently disconnected his phone and became unreachable.
- ➔ More than a year after the December 2013 disappearance of Parvez Hossain, police officers visited the house of the victim’s father to seize his furniture, allegedly for “paying” for the ongoing cases against the victim. The father was able to pay BDT 5,000 (EUR 53) to keep his furniture.
- ➔ In the December 2013 disappearance of Nizam Uddin Munna, many police, including DB, officers asked his relatives for money to help find him. In total, the family spent about BDT 500,000 (EUR 5,300) but never received any information in return.
- ➔ About a week after the disappearance of Yasin Talukder in July 2016, a man who identified himself as a local Awami League representative told the victim’s relatives that if they did not pay any money, Yasin would be “put in a crossfire.” The family paid close to BDT 1.7 million (EUR 18,026) before the man disappeared. He was later found by RAB, who claimed he was a thief.

In some instances, the police issued reports that concluded that the cases had been closed but without providing any information to substantiate their decision.

- ➔ In the case of the disappearance of Nur Alam in February 2015, the police submitted a final report several months later, which stated that the case had been closed but without providing any information as to why it had been closed or what any investigation might have unearthed.
- ➔ In the case of the April 2012 disappearance of Ilias Ali, the High Court, following a writ petition submitted by his family only days after the disappearance, ordered the police to submit regular reports over a six-month period. Although the police complied with the court order, the reports did not provide any substantial information and, as a result, the case was closed at the end of the six-month period.

### **The only case of enforced disappearances leading to convictions – “The seven of Narayanganj”**

The vast majority of enforced disappearances in Bangladesh have not been adequately investigated and perpetrators have gone largely unpunished. However, one case received considerable public attention<sup>164</sup> and was followed by an investigation and the conviction of 35 people who were found to be responsible for the disappearances.

On 27 April 2014, seven men - Mr. **Nazrul Islam**, a local Awami League politician; three of his

164. For media reports, see e.g. Al Jazeera, *Bangladesh forces under scrutiny for killings*, 30 April 2014, <http://www.aljazeera.com/indepth/features/2014/05/bangladesh-forces-under-scrutiny-killings-201453035232376184.html>

associates, Mr. **Tajul Islam Rasel**, Mr. **Muniruzzaman Swapan** and Mr. **Sirajul Islam Liton**; and his driver, Mr. **Jahangir Alam** – were kidnapped as they were leaving the premises of the Narayanganj District Court following a hearing in a case in which Nazrul Islam was a defendant. Around the same time, a lawyer, Mr. **Chandan Kumar Sarkar**, and his driver **Mohammed Ibrahim** were also abducted near the court.<sup>165</sup>

The seven men were abducted by RAB-11 officers after their cars were stopped north of the Dhaka City gate on the Dhaka-Narayanganj link road. According to eyewitnesses, there were two pick-up trucks belonging to RAB,<sup>166</sup> one microbus with black-tinted windows, and two private cars on the road. They reported seeing four to five armed men standing on the right side of the road, while other men on the left side of the road were forcefully taking people out of the cars and transferring them to the microbus. Some of the men, whom witnesses identified as RAB officers, were seen hitting the victims on the back of their heads with pistols.

When the relatives of the disappeared went to the Fatullah Model Police Station to file a GD, the Officer-in-Charge (OC) refused to record it. Soon after, when approached by relatives, the Commander of RAB-11 denied having any knowledge of the disappearances. When the father-in-law of Nazrul Islam returned home from the RAB-11 office, he received several calls on his cell phone threatening him with dire consequences if he told people about Nazrul Islam's disappearance.<sup>167</sup> Between 27 April and 30 April 2014, many people held rallies, organized human chains, and protested against the disappearances, demanding the return of the disappeared persons.

On 30 April, six dead bodies were spotted floating on the river and were recovered, while the seventh was recovered on 1 May. They were subsequently identified as the bodies belonging to the seven men who had disappeared. The bodies had been tied to two or three sacks containing bricks, with ropes that were not commercially available and that were typically found in police and RAB barracks and known to be used by law enforcement agencies. The bricks were the same as those found at a construction site adjacent to the RAB-11 camp.<sup>168</sup>

Following public outcry in reaction to the discovery of the seven bodies, Prime Minister Sheikh Hasina ordered the Home Ministry to arrest those responsible for the abductions and murders. This statement was followed by the constitution of various investigation committees, including by the police and RAB. By 11 May 2014, Justice Mirza Hossain Hyder and Justice Khurshid Alam Sharkar had ordered by the arrest of three former RAB officers, and by 18 May 2014, RAB-11 officers Lieutenant Colonel Tarek Sayeed Mohammad, Major Arif Hossain, and Lieutenant Commander SM Rana had been arrested and brought before the Narayanganj Court.<sup>169</sup> Noor Hossain, a local councillor in Narayanganj, was also arrested in India, where he had fled.

On 10 December 2014, Attorney General Mahbubey Alam submitted to a High Court bench

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165. A team of human rights investigators carried out a fact-finding mission and analysed the case on the basis of on-site investigation, and interviewed relatives of victims and eye-witnesses, police and RAB officials, lawyers, from information gleaned by local human rights defenders as well as from news reports published between 11 May and 21 June 2014.

166. On the basis of having interviewed eye-witnesses, journalists and human rights activists, it appears that RAB uses a specific type of vehicles which are distinguishable from common civil vehicles, especially by their bigger size and usually black-tinted windows.

167. BDNews 24, *Nazrul's father-in-law gets 'death threat'*, 21 May 2014, <https://bdnews24.com/bangladesh/2014/05/21/nazruls-father-in-law-gets-death-threat>.

168. Odhikar, *Disappeared by Force*, 2015, p. 62-63; also reported on 8 May 2014 in the daily newspaper The Jugantor.

169. BDNews 24, *RAB reveals how Narayanganj seven murders were written*, 11 December 2014, [bdnews24.com/Bangladesh/2014/rab-reveals-how-narayanganj-seven-murders-were-written](http://bdnews24.com/Bangladesh/2014/rab-reveals-how-narayanganj-seven-murders-were-written).

an investigation report claimed that the RAB officials had carried out the abductions and assassinations following orders from Tarek Sayeed Mohammad, the son-in-law of Minister Mofazzal Hossain Chowdhury Maya.<sup>170</sup> By that time, 16 RAB officials, including Tarek, Arif and Rana, had confessed in court to their involvement in the crimes. Nine other RAB personnel were also summoned in court as witnesses.<sup>171</sup>

On 8 February 2016, 35 people, including RAB-11 Officers Noor Hossain, Tarek Sayeed Mohammad, Arif Hossain, and SM Rana, were charged with the abduction and murder of the seven men.<sup>172</sup> Almost a year later, on 16 January 2017, the Narayanganj Court convicted 15 of the accused, including Noor Hossain and the three former RAB officers, on charges of conspiracy, abduction and murder, and sentenced them to death. On 22 August 2017, the High Court upheld the verdict and death sentences for the four, but commuted the death sentences of 11 others to life imprisonment, in addition to upholding jail sentences ranging from seven to 17 years for nine others.<sup>173</sup>

While the media coverage of the abduction and killing, which directly mentioned RAB's involvement since the very beginning, was credited as one of the reasons for the swift response by the authorities, it is likely that the fact that some of the victims were affiliated with the ruling Awami League party played a significant factor in forcing the authorities to take action.

### ***Complaints to other law enforcement agencies***

In a few cases, relatives of individuals who were subjected to enforced disappearances filed complaints with police departments other than their local police stations. However, the results of these attempts were, by and large, unsuccessful. For example, relatives of Nur Alam, who disappeared in February 2015, filed a complaint with the Criminal Investigation Department (CID) of the police, which ultimately issued the same report that had been issued by the Gazipur District police, which had declared the case closed without providing any information on the investigative measures that had been taken.

In many cases, relatives of victims of enforced disappearances side-stepped the local police authorities and attempted to find their relatives, or, at the very least, information regarding their fate or whereabouts, directly from agencies suspected of being responsible for the disappearances. A large percentage of relatives reported attempting to make inquiries directly at both the headquarters and battalion complexes of RAB, as well as DB offices. Sometimes this was a way for relatives to follow up on leads, such as eyewitness' statements that the officers who conducted the abduction were wearing RAB uniforms, or information related by people claiming to be police informants. For others, this decision was based on a common belief that these specific agencies were responsible for enforced disappearances and other human rights violations in Bangladesh. The repeated efforts by relatives to obtain even the smallest piece of information about the victim's fate or whereabouts denoted a general lack of trust in the police's ability or willingness to conduct adequate investigations.

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170. BDNNews 24, *supra* note 169.

171. BDNNews 24, *supra* note 169.

172. New Age, *NARAYANGANJ 7 MURDERS: 35 including Noor Hossain, 25 RAB men indicted*, 9 February 2016, <http://newagebd.net/201103/narayanganj-7-murders-35-including-noor-hossain-25-rab-men-indicted/>

173. Daily Star, *Death for 15, life term for 11*, 23 August 2017, <https://www.thedailystar.net/frontpage/narayanganj-7-murder-verdict-high-court-bangladesh-death-reference-appeal-death-15-life-term-11-1452607>

However, the efforts were often fruitless and resulted in either no answers at all, or very similar answers to those given by local police stations. In some cases, RAB and DB officers went to relatives' houses to ask follow-up questions. However, the types of questions asked were very similar to those asked by the local police and did not lead to any substantive investigation afterwards.

For instance, relatives of Tariqul Islam Tara, who disappeared in August 2012, after going to the offices of multiple law enforcement agencies, including RAB and DB, and to the Ministry of Home Affairs, and the filing of official complaints there, received visits to their house from RAB and DB officers and from officials from the Ministry, who asked questions about the victim. However, no progress was made on the case after the visit.

In a few instances, relatives felt that the attitude of the RAB or DB officers with whom they spoke gave indications that they had the victim in their custody, albeit without directly confirming it. For example, in the case of Yasin Talukder, who disappeared in July 2016, when RAB officers went to collect his laptops from his house, as well as to question the family regarding his religious beliefs, his mother asked the RAB officers if they were detaining her son. While the RAB officers did not expressly confirm it, they did not deny it either, which left the mother with the impression that they had responded "positively."

In February 2012, a relative of Al Mokkaas called in to ask a question during a television programme, during which the director of the media wing of RAB was answering phoned-in questions. The relative directly questioned the RAB representative regarding the numerous cases of enforced disappearances that had been reported in Bangladesh up to that date and asked what RAB had done to rescue the victims. The RAB representative answered that they had been 99% successful in rescuing the victims but refused to answer specific questions about Al Mokkaas, and instead asked the relative to go to his office to discuss the case further. When the relative went to his office, the RAB representative repeatedly denied knowing anything about the case or regarding eyewitness' accounts that RAB officers had been involved in the disappearance.

Following the disappearance and subsequent murder of seven people in Narayanganj in 2014 (see box above), the Dhaka Metropolitan Police (DMP) formed a 40-member "anti-kidnapping team,"<sup>174</sup> which appeared to fall under the authority of the DMP's DB.<sup>175</sup> Several victims' families who learned about this anti-kidnapping squad attempted to have this special investigation body enquire about the enforced disappearance of their relatives. However, they were confronted with the same lack of genuine investigation efforts and did not receive any information about their relative's whereabouts.

- In May 2014, relatives of Khaled Hasan Sohel filed a complaint regarding his disappearance in November 2013, along with relatives of Selim Reza Pintu, who disappeared two weeks later. Theirs were one of the first complaints to the newly formed anti-kidnapping squad. The family was not provided a copy of the complaint, and despite going to their offices several times, nothing was done.

174. Daily Star, *DMP forms anti-kidnapping squad*, 3 May 2014, <https://www.thedailystar.net/dmp-forms-anti-kidnapping-squad-22540>.

175. See: Bangla News 24, *17 complaints at Anti-Kidnapping Squad*, 5 May 2014, <https://m.banglanews24.com/national/article/20339/17-complaints-at-Anti-Kidnapping-Squad>.

## ***Enquiries in prison facilities***

In their quest for truth, a few family members of victims of enforced disappearance also tried to approach various prison facilities to check if their relatives were detained there. Confronted with the refusal of prison administration to provide any information on whether their relatives were detained in the facilities, family members turned to prison guards to gather information or to gain access to visitors' areas.

- ➔ Relatives of Somrat Molla, who disappeared in front of the Dhaka central jail gate in November 2013, went to at least two prisons in and near Dhaka (Dhaka central jail and Kashimpur central jail in Gazipur) to find him. In exchange for some money, they asked prison guards to announce the name of their relative on a megaphone and ask him to go to the visitors' gate, as it was usually done when family members visited their relative in prison. Their various attempts were unsuccessful.

### **5.1.2 Judicial response**

Despite the lack of investigative actions taken by law enforcement agencies and the absence of prosecutions by the judiciary, relatives of individuals who were subjected to enforced disappearance sometimes directly petitioned courts in an attempt to obtain justice.

With the assistance of civil society organisations and *pro bono* lawyers, families in at least eight cases investigated by FIDH filed writ petitions to the High Court.<sup>176</sup> In several cases, this resulted in the High Court ruling that the law enforcement agencies were bound to submit regular reports detailing the progress of the investigation to the High Court. However, after several months of reports being submitted by law enforcement agencies with no new information, the cases were usually dropped or at least not pursued beyond that by the High Court.

- ➔ In response to a petition by the family of Ilias Ali, lodged days after his disappearance in April 2012, the High Court ordered all security forces to submit weekly reports on the progress of their investigation. Although the agencies in question initially complied with the court order, the reports did not contain any concrete information and, instead, stated that the investigation was ongoing and that no new information had been unearthed. After six months, the reports stopped and the case was dropped.
- ➔ Although the family of Sajedul Islam Shumon, who disappeared in December 2013, filed a petition with the High Court in 2015, the case is still pending at the time of publication of this report.
- ➔ The family of Al Makkadas, who disappeared in February 2012, filed a writ petition with the High Court in February 2012, which resulted in the High Court ruling that nine individuals from law enforcement agencies were to give an explanation to the court within three weeks and to produce the victims. However, the High Court order was stayed by the Appellate Division of the Supreme Court.

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176. Article 102 of the Constitution provides that *"the High Court Division [of the Supreme Court] on the application of any person aggrieved, may give such directions or orders to any person or authority, including any person performing any function in connection with the affairs of the Republic, as may be appropriate for the enforcement of any the fundamental rights conferred by Part III of this Constitution."* This effectively allows individuals to directly petition the High Court (through what are called Writ Petitions) when they believe that their fundamental rights have been violated.

Some relatives of victims of enforced disappearances went directly to magistrate courts because they believed that their relatives had been arrested over fabricated charges against them, and thus assumed they would have been taken to court.<sup>177</sup>

Most relatives of victims of enforced disappearances with whom FIDH spoke expressed a deep mistrust in the domestic justice system and in the judiciary, and, as a result, many said they did not even try to file cases in court. In many cases, this mistrust in the judiciary was amplified by a lack of access to information and to legal expertise, with civil society organisations and *pro bono* lawyers unable to pursue every single case or support every family that was unable to afford a lawyer.

### 5.1.3 Ineffective National Human Rights Commission

The National Human Rights Commission (NHRC) of Bangladesh was first established in 2007 during the State of Emergency and reconstituted in June 2010 under the 2009 Human Rights Commission Act. The Act empowers the NHRC to conduct investigations into any complaints of human rights violations, and to make recommendations to the government. The NHRC has no mandate to sanction perpetrators of human rights violations.

#### Composition of the National Human Rights Commission

Although it is meant to be independent from the executive branch of government, the Chairman and members of the NHRC are appointed by the President following the recommendation of a Selection Committee consisting of the Speaker of the Jatiya Sangsad, the Ministers for Law and Home Affairs, the Cabinet Secretary, the Chairman of the Law Commission, and two members of Parliament (one each from the ruling party and the opposition). The current NHRC Chairman, Kazi Reazul Hoque, was appointed in August 2016 after serving two previous terms as NHRC member.<sup>178</sup> The process by which Hoque was selected lacked transparency and meaningful participation by civil society.<sup>179</sup> This lack of independence has severely impacted the NHRC's ability to effectively address human rights violations in Bangladesh, particularly with regards to abuses committed by State actors. The NHRC is currently rated "B" (the second tier) by the Global Alliance of National Human Rights Institutions (GANHRI) due to its failure to fully adhere to the 'Paris Principles'.<sup>180</sup>

Families of victims of enforced disappearances, as well as victims of other human rights violations, have regularly filed complaints to the NHRC with little success. Several families of individuals who were subjected to enforced disappearance told FIDH that there had been no follow-up or concrete action from the NHRC since the filing of their complaint - including complaints that were filed as far back as 2012 and 2013.

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177. Notably, arrested people should be produced before a court within 24 hours; Section 61 of the 1898 Code of Criminal Procedure and Article 33 (2) of the Constitution of Bangladesh.

178. The appointment of Hoque to the Chairmanship was challenged at the Supreme Court on the basis of a provision in the 2009 Human Rights Commission Act which states that no individual can serve as a member or chairperson of the NHRC for more than two terms.

179. US Department of State, *Bangladesh 2016 Human Rights Report*, <https://www.state.gov/documents/organization/265744.pdf>.

180. Global Alliance of National Human Rights Institutions, *Accreditation status as of 21 February 2018*, <https://nhri.ohchr.org/EN/AboutUs/GANHRIAccreditation/Documents/Status%20Accreditation%20Chart.pdf>.

- ➔ Relatives of Mohammad Imam Hassan, who disappeared in March 2012, filed a complaint at the NHRC on 24 April 2012 against two RAB-2 officers with whom he had been in touch and whom had revealed information about the victim in exchange for bribes. The NHRC wrote to the Ministry of Home Affairs regarding the case on 5 May 2012, and although the latter ordered RAB to investigate the case, no one was held to account and the NHRC seemingly did not pursue the case.

Victims attributed the ineffectiveness of the NHRC to its lack of willingness to scrutinize the actions of the authorities and the lack of independence of its members. One relative of a victim of enforced disappearance told FIDH ***"The NHRC is the government's mouth."*** Many relatives told FIDH they had to insist for the NHRC to accept their complaints, after the body's initial resistance.

- ➔ When a relative of Al Mokaddas, who disappeared in February 2012, went to the NHRC to file a complaint, his efforts were initially rebuffed by an Assistant Secretary, who claimed he could not accept the complaint because the Chairman of the NHRC was not present in the office at the time. The relative was only able to lodge his complaint the following day, after interrupting a meeting in which the Chairman was participating and explaining the case in front of everyone, which resulted in the Chairman instructing the Assistant Secretary to accept the complaint.

Many families also told FIDH they did not attempt to file cases with the NHRC or other national-level mechanisms due to a lack of awareness of, and trust in, these procedures. In some cases, this lack of trust stemmed from the families' previous negative experience with the police and other local authorities.

***"Because the police were not cooperating or being effective, we didn't try to go anywhere else because it is the duty of the police to find missing people. Because they couldn't do it, we didn't trust other institutions."*** - Wife of a victim of enforced disappearance.

#### 5.1.4 Use of media and public discourse

Families occasionally turned to the media and public platforms to raise awareness about the cases of their disappeared relatives and to put pressure on the authorities to act, once they felt nothing was being done by the police to conduct genuine investigations. This approach was used especially in the years preceding and following the 2014 general election, although it appears the practice became less frequent in later years. Many families held press conferences, conducted interviews with journalists, and worked closely with civil society organisations to raise awareness of their cases, both locally and internationally. In 2013, a group of families of the disappeared organised a human chain in front of the National Press Club in Dhaka. There was also a series of actions around the International Day of the Victims of Enforced Disappearances, marked on 30 August.

However, several families stopped speaking publicly about the disappearance of their loved ones once they received threats by law enforcement officers who told them to keep silent if they wanted to see their relatives again. In recent years, families of the victims of enforced disappearances have turned less and less to the media and to public venues to speak about the cases.

### 5.1.5 Seeking help from public political figures

When all else failed to result in concrete information or actions by the authorities, relatives of victims of enforced disappearances sometimes sought help from high-level political figures from the executive branch, such as the Minister of Home Affairs, the Minister of Foreign Affairs, and the Prime Minister's Office. In a few instances, this resulted in visits by officials from the executive branch, usually the Ministry of Home Affairs, to the homes of relatives of victims of enforced disappearance. In most cases, however, the responses given to relatives mirrored those given by lower ranking officers, which included telling families that they had no information regarding the case, and that their relatives were likely hiding or "running away from something."<sup>181</sup>

The outcome of these meetings and efforts often reinforced a feeling of hopelessness on the part of relatives and a conviction that there was no will to truly investigate these cases. As one relative told FIDH, "***The government obviously has the knowledge about what happened to these people, but they won't say what happened.***"

Foreign diplomats based in Dhaka told FIDH that they raised the issue of enforced disappearances and other grave human rights violations with their counterparts in the Bangladeshi government but said that they were often, if not always, stonewalled and unable to obtain any sort of concrete information on cases or commitments to address the issue from the government.



A relative holds a portrait of a victim of enforced disappearance. (© PHOTO BY FIDH)

181. For example, cases V9 and V14.

## 5.2 International remedies

Civil society and the families of victims of enforced disappearances in Bangladesh have regularly utilised international mechanisms to seek remedy and justice. These include the UN Working Group on Enforced or Involuntary Disappearances (WGEID), UN human rights reviews, as well as one submission to the International Criminal Court (ICC). Although their efforts have not yet resulted in concrete international actions, families see them as more likely to result in some sort of justice than the national mechanisms. At the very least, relatives feel like they are being heard.

***“If this case goes to the ICC [International Criminal Court], I will feel relief, because I have not gotten any justice in my country.” - Relative of a victim of enforced disappearance.***

***“The government of Bangladesh has not done anything, so we want the international community to do anything they can to bring them back.” - Relative of a victim of enforced disappearance.***

### 5.2.1 UN Working Group on Enforced or Involuntary Disappearances

Civil society organisations have regularly submitted cases of enforced disappearances on behalf of families of the victims to the UN Working Group on Enforced or Involuntary Disappearances (WGEID). According to the 2018 annual report by the WGEID, there were 57 unresolved cases of enforced disappearances in Bangladesh. The government did not provide any information to the WGEID concerning any of these cases. The WGEID has repeatedly expressed its concern over the lack of replies by the government of Bangladesh regarding specific cases pending before the WGEID and three general allegations submitted to the WGEID.<sup>182</sup>

Moreover, the WGEID first requested an invitation to undertake an official visit Bangladesh on 12 March 2013 and sent follow-up reminders on 27 October 2014, 27 November 2015, 18 November 2016 and 19 January 2018. To date, the government of Bangladesh has not responded positively to any of these requests.

### 5.2.2 UN human rights reviews

The issue of enforced disappearances is regularly raised during Bangladesh's reviews before various UN human rights monitoring mechanisms, including the Human Rights Committee, and the Universal Period Review (UPR).

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182. UN Human Rights Council, 39th Session, *Report of the Working Group on Enforced or Involuntary Disappearances*, 30 July 2018, UN Doc. A/HRC/39/46, [http://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/39/46](http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/39/46). The first general allegation was submitted on 4 May 2011, concerning the alleged frequent use of enforced disappearance by law enforcement agencies, and paramilitary and armed forces, as a tool to detain and even to execute individuals extrajudicially - A/HRC/22/45 and Corr.1, para. 33, and A/HRC/30/38, para. 61; the second on 9 March 2016, concerning the reportedly alarming rise in the number of cases of enforced disappearance in the country - A/HRC/WGEID/108/1, para.6 ; and the third on 22 February 2017, concerning allegations of grave human rights abuses and violations committed by the security and intelligence forces, as well as law enforcement authorities - A/HRC/WGEID/111/1, para. 24 and annex II.

In March 2017, in its Concluding Observations on Bangladesh's initial report, the Human Rights Committee, which monitors compliance of State Parties with the provisions of the ICCPR, recommended that Bangladesh effectively criminalize enforced disappearances, investigate all cases of enforced disappearances, prosecute and punish convicted perpetrators with appropriate sanctions, and provide full reparations to the victims. The Committee further recommended that Bangladesh establish the truth about the fate and whereabouts of victims and ensure that victims of enforced disappearances and their relatives are informed about the outcome of investigations.<sup>183</sup>

Similarly, recommendations made during Bangladesh's third UPR in May 2018 included ones to "promptly and thoroughly investigate all allegations of enforced disappearances" and to ratify the ICPPED.<sup>184</sup> Similar recommendations had also been made during Bangladesh's second UPR in April 2013.<sup>185</sup>

The government typically responds to international concern and recommendations by denying that enforced disappearances take place in Bangladesh. During Bangladesh's May 2018 UPR, the government delegation stated that "cases of possible abduction of individuals were reported as enforced disappearances" and that this was done with the "obvious intention of maligning the government and its achievements."<sup>186</sup>

### 5.2.3 International Criminal Court

The International Criminal Court (ICC) has jurisdiction over alleged crimes against humanity, war crimes and genocide committed on the territory of Bangladesh or by Bangladeshi nationals since 1 June 2010. On 4 February 2014, an application was submitted to the Office of the Prosecutor of the ICC by 9 Bedford Row International, a UK-based law firm specialised in international crimes, on behalf of the International Coalition for Freedom and Rights, to request an investigation be opened into crimes committed in 2013 and 2014 in Bangladesh by the authorities against the civilian population, including the widespread and arbitrary arrests of opposition activists, extrajudicial killings, custodial torture, and enforced disappearances.<sup>187</sup> However, at the time of publication of this report, the Office of the Prosecutor had not publicly stated that it was analysing the situation.<sup>188</sup>

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183. UN Human Rights Committee, 3363<sup>rd</sup> meeting, *Concluding Observations on the initial report of Bangladesh*, 27 April 2017, UN Doc. CCPR/C/BGD/CO/1, Para. 20.

184. UN Human Rights Council, 39<sup>th</sup> session, *Report of the Working Group on the Universal Periodic Review*, 11 July 2018, UN Doc., A/HRC/39/12.

185. UN Human Rights Council, 24<sup>th</sup> session, *Report of the Working Group on the Universal Periodic Review*, 8 July 2013, UN Doc., A/HRC/24/12.

186. UN Human Rights Council, 39<sup>th</sup> session, *Report of the Working Group on the Universal Periodic Review*, 11 July 2018, UN Doc., A/HRC/39/12, para. 65.

187. 9 Bedford Row International, "Press Release: 9 Bedford Row International Submits Article 15 Communication to the ICC Prosecutor in Respect to Bangladesh," 4 February 2014, <http://9bri.com/press-release-9-bedford-row-international-submits-article-15-communication-to-the-icc-prosecutor-in-respect-of-bangladesh/>.

188. None of the annual reports of the ICC Office of the Prosecutor on the state of their preliminary examinations refer to the situation of Bangladesh, except the latest report that looks into Rome Statute crimes linked to the Myanmar situation committed since August 2017. See the latest ICC Office of the Prosecutor's annual Report on Preliminary Examinations Activities, 5 December 2018: <https://www.icc-cpi.int/itemsDocuments/181205-rep-otp-PE-ENG.pdf>

## 6. Recommendations

The following recommendations are based on concrete changes that are necessary for Bangladesh to be able to come to terms with its own human rights records and begin to seriously tackle the issues that plague its police and other armed forces, its judiciary, and, ultimately, its executive.

### To the government of Bangladesh

- Acknowledge the existence of enforced disappearances in Bangladesh;
- Disclose the fate and whereabouts of all victims of enforced disappearances;
- Uphold international standards related to enforced disappearances, along with its obligations under the ICCPR and CAT;
- Ratify the ICPPED as soon as possible, incorporate its provisions into national law, and accept the competence of the Committee on Enforced Disappearances (CED) to receive individual cases and inter-State complaints under Articles 31 and 32 of the ICPPED respectively;
- Respond favourably to the pending request for a country visit by the WGEID, immediately extend an invitation to the WGEID, provide substantive replies to all outstanding cases before the WGEID and to its communications, including general allegations, and implement the relevant recommendations made by the WGEID in its reports;
- Amend the Penal Code to introduce a comprehensive definition of enforced disappearance as a stand-alone crime, in adherence with the ICPPED and recommendations made by the WGEID;
- Amend the Criminal Procedure Code and all other laws to remove provisions that grant immunity to law enforcement agencies;
- Make provisions in the legal system for victims of enforced disappearances and their families to seek fair, prompt, and adequate reparation and consider symbolic measures that recognise the suffering of victims;
- Abolish secret places of detention and interrogation and guarantee that any persons deprived of their liberty are held solely in officially recognised and supervised places of detention;
- Guarantee access to all places of detention by authorities and institutions whose competence in this regard has been recognised by the State, maintaining official, accessible, up-to-date registers and/or records of detainees;
- Ensure that detainees are brought before a judicial authority promptly after detention as prescribed by Article 10 of the Declaration on the Protection of All Persons from Enforced Disappearance;

- Abolish secret places of detention and interrogation;
- Conduct full, impartial, and independent investigations into all allegations of enforced disappearances, and ensure that families of the victims are informed at all stages of the investigations, and that perpetrators are held accountable;
- Instruct law enforcement personnel to follow directives from the Supreme Court and the NHRC with regard to investigation into cases of enforced disappearance;
- Strengthen the mandate and ensure the independence of the NHRC by allocating an adequate level of funding in a dedicated budget line and enabling the NHRC to recruit its own staff for all positions, and refrain from interfering with the work of the NHRC;
- Take concrete and effective measures to prevent acts of intimidation, persecution, reprisal or ill-treatment against victims of enforced disappearances, including family members, witnesses, lawyers, and human rights defenders acting against enforced disappearances;
- Provide adequate protection to those working on cases of enforced disappearances and punish the perpetrators, in accordance with Articles 13(1) and (3) of the Declaration on the Protection of All Persons from Enforced Disappearance; and
- Provide information and statistics to UN mechanisms regarding cases of enforced disappearances, including investigations, prosecutions, convictions, and penalties imposed on perpetrators.

#### **To the European Union, its Member States and other foreign diplomats**

- Raise specific cases of enforced disappearances with the government of Bangladesh and demand the release of detailed information regarding these cases, including measures undertaken to determine the fate or whereabouts of the victims;
- Urge the government of Bangladesh to implement its voluntary pledges and commitments in connection with their candidature for membership in the Human Rights Council for 2019-2021, including to: “[c]onsider acceding to the remaining international and regional human rights instruments on the basis of consensus forged through national consultation processes”; “[c]ontinue to enact and/or update, to the extent necessary, national legislation to implement the international human rights instruments to which it is a party”; and “[c]ontinue to cooperate and engage with OHCHR, as well as the special procedures mechanism of the Human Rights Council, with a view to further improving its human rights situation”;<sup>189</sup>
- Call on government of Bangladesh to cooperate fully with all Special Procedures of the Human Rights Council, including the WGEID, as part of the country’s obligation as a member of the Council to “uphold the highest standards in the promotion and protection of human rights” and to “fully cooperate with the Council”;<sup>190</sup>
- Continue to urge the government of Bangladesh to investigate ongoing human rights

189. [https://www.fidh.org/IMG/pdf/bangladesh\\_pledges\\_hrc\\_2018.pdf](https://www.fidh.org/IMG/pdf/bangladesh_pledges_hrc_2018.pdf)

190. A/RES/60/251, para. 9, available at: <https://www2.ohchr.org/english/bodies/hrcouncil/docs/A.RES.60.251.En.pdf>

violations, including enforced disappearances and extrajudicial killings, recognise the existence of enforced disappearances and bring those responsible to justice;

- Systematically issue public statements and use high-level meetings and dialogues to demand accountability for human rights violations, including enforced disappearances, and to follow-up on individual cases;
- Urge the government of Bangladesh to develop an Action Plan to address all aspects of enforced disappearances and provide financial and technical support for its implementation. Offer in the meanwhile training modules to the police on investigating allegations of enforced disappearances, to the judiciary on prosecution of cases of enforced disappearances, and to the NHRC on methods used to investigate allegations of enforced disappearances;
- Ensure financial support is provided to the families and relatives of the disappeared;
- Implement existing and relevant guidelines (including the Guidelines to EU Policy Towards Third Countries on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment), and publicly report on the actions taken in this regard and on their impacts;
- Develop a common result-oriented strategy to tackle enforced disappearances in Bangladesh by using all available instruments and policies, assessing the results, and adapting the strategy, if needed;
- Ensure that enforced disappearances are put at the core of the EU trade preferences scheme and that the maintenance of trade preference is conditional to the respect of human rights;
- Enhance the bilateral dialogue through "enhanced engagement" with the aim of raising the serious and systematic violations documented by civil society;
- Take all necessary measures to prevent the export of information and communications technology (ICT) and surveillance technology that is susceptible to be used to violate the right to freedom of opinion and expression and the right to privacy. Improve the monitoring of exports of ICT and surveillance technology;
- Compile a list of individuals responsible for enforced disappearances and enact restrictive measures, including asset freezes and visa bans, against them; and
- Provide training to members and staff of the NHRC regarding enforced disappearances and methods used for investigating allegations.

#### **To the United Nations High Commissioner for Human Rights**

- Continue intensive efforts to assist Bangladesh in becoming a State party to the ICPPED.

## Appendix: Cases documented by FIDH

Case Number	Name	Alternate Spelling	Date of Disappearance	Location of Disappearance	Interview Conducted On
V1	Sajedul Islam Shumon	Sajedul Islam Sumon	04/12/2013	Dhaka	04/07/2018
V2	Mohammad Abdul Kader Bhuiyan (alias Masum)	Abdul Quader Bhuiyan Masum	04/12/2013	Bashundhara, Dhaka	04/07/2018
V3	Mofizul Islam Rashed		04/04/2013	Dhaka	04/07/2018
V4	Mahabud Hasan Sujon		07/12/2013	Noakandi village, Narayanganj District	04/07/2018
V5	Kazi Farhad		07/12/2013	Noakandi village, Narayanganj District	04/07/2018
V6	Somrat Molla	Samarat Molla	28/11/2013	In front of Dhaka Central Jail	05/07/2018
V7	Maroof Zaman		04/12/2017	Dhaka	05/07/2018
V8	Khaled Hasan Sohel	Khaled Hossain Sohel	28/11/2013	In front of Dhaka Central Jail	05/07/2018
V9	Selim Reza Pintu		11/12/2013	Pallabi thana, Dhaka	05/07/2018
V10	Nur Alam		12/02/2015	Joydebpur thana, Gazipur District	05/07/2018
V11	Ilias Ali		17/04/2012	Sylhet	06/07/2018
V12	Mohammad Imam Hassan (alias Badal)		05/03/2012	Dhaka	07/07/2018
V13	Idris Ali		04/08/2016	Jhenaidah District	07/07/2018
V14	AM Adnan Chowdury	Adnan Chowdury	05/12/2013	Shaheenbag, Tejgaon Dhaka District	04/07/2018
V15	Zakir Hussain		07/04/2015	Gulshan thana, Dhaka	04/07/2018
V16	Mohammad Kawsar	Mohammad Kawser	05/12/2013	Shaheenbag, Tejgaon Dhaka District	04/07/2018
V17	Mohammad Zahirul Islam (alias Habibul Bashar)	Habibal Bashar Zahir	02/12/2013	Shahbagh, Dhaka	04/07/2018
V18	Saifur Rahman		18/02/2015	Dhaka	04/07/2018
V19	Mohammad Mahfuzur Rahman (alias Sohel)	Mahfuzur Rahman Sohel Sarkar	02/12/2013	Shahbagh, Dhaka	05/07/2018
V20	Mohammad Hossain Chanchal	Md Hossain Chanchal	02/12/2013	Shahbagh, Dhaka	05/07/2018
V21	Parvez Hossain		02/12/2013	Shahbagh, Dhaka	05/07/2018
V22	Nizam Uddin Munna		06/12/2013	Dhaka	05/07/2018
V23	Tariqul Islam Jhantu	Tariqul Islam Jhontu	06/12/2013	Dhaka	05/07/2018
V24	Tariqul Islam Tara		14/08/2012	Pallabi thana, Dhaka	05/07/2018
V25	Yasin Talukder		04/07/2016	Banani Model Town, Gulshan thana, Dhaka	06/07/2018
V26	Anonymous		10/02/2015		06/07/2018
V27	Al Mokaddas	Al Mukaddas	05/02/2012	On the road from Dhaka to Kushtia	07/07/2018
V28	Mohammad Rezoun Hossen		04/08/2016	Durgapur Bazar, Jessore District	07/07/2018
V29	Mohammad Mahabubur Rahaman (alias Ripon)		21/03/2014	Dagonbhuiyan, Feni District	07/07/2018
V30	Farhad Mazhar		03/07/2017	Dhaka	03/07/2018





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