Human Rights Violations under the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)

Written by
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1.0 Introduction

The State “People’s Republic of Bangladesh” on November 6, 1984 became a signatory of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW); on September 6, 2000, Bangladesh signed The Protocol to CEDAW. Accordingly, the national government of Bangladesh pledged to respect the statutes of CEDAW related to the equality of women’s human rights.

The main objective of this document is to determine whether the State of Bangladesh has honored its obligation as a signatory to CEDAW that obliged it to promote women’s human rights and protect women from gender discrimination.

It is our conclusion that a thorough analysis of reports, editorials and articles, etc. published in major dailies from September 2001 to July 2003, including the Public Inquiry Commission Report that covers human rights violations committed in Bangladesh against minorities between September 2, 2001 and December 2001 indicate that human
rights violations against Bangladesh’s minority women constitute systemic acts of gender discrimination. These acts locate breaches of the UNHRC and CEDAW attributable to the State of Bangladesh, a signatory. See Appendices 1 and 2.

1.1 Human Rights Violations of the UNHRC

The Human Rights of women are guaranteed under the UN Charter. In Article 55 of the UN Charter, it is stated that human rights includes the respect for equal rights and self-determination of peoples, for the UN to promote economic and social progress, for the universal respect for human rights, and for the fundamental freedoms of all without distinction of race, language, sex or religion. Article 56 states: “All Members pledge themselves to take joint and separate action in co-operation with the organisation to the achievement of the purposes set forth in Article 55.”

Furthermore, States parties are responsible for abuses against women that are systemic in nature. In respect of Article 2-2, the UNHRC describes systemic discrimination as “a complex of directly and / or indirectly discriminatory (or subordinating) practices which operate to produce general … disadvantages for a particular group.”

The UNHRC also recognises that equal rights legislation cannot be cited by states Parties in lieu of addressing the practice of discrimination by government, community and private agents. The UNHRC informs that “when reporting on Articles 2(1), 3 and 36 of the Covenant states Parties usually cite provisions of their Constitution or Equal Opportunities Laws with respect to the equality of persons. While such information is of course useful the committee wishes to know if there remain any problems of discrimination in fact which may be practised both by public authorities, by the community or by private persons or bodies. The committee wishes to be informed about

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legal provisions and administrative measures directed at diminishing or eliminating such discrimination.”

Hence, the UNHRC clarifies the fact that the “intention” to discriminate is not necessary for the establishment of both direct and indirect discrimination. Consequently, indirect or systemic discrimination provides adequate grounds for pursuing forms of systemic discrimination as violations of human rights.

CEDAW compels its signatories to work toward the elimination of prejudices and practices that are based on the idea of gender distinction. Article 5(a) states that signatories must take appropriate measures to “modify ... social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customs and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women.”

1.1.2 Conclusion

We believe that the human rights violations against minority women in Bangladesh should be regarded as a form of “systemic discrimination against women.” It is important to recognise that private and public acts of discrimination prevent minority women from enjoying equal protection under the law. In addition, we believe that systemic abuses committed against women and girl children in the security of their own homes and communities, such as gang rape, sexual assault, kidnapping, and terrorism constitute gender-specific forms of torture that fall under the category of “gender discrimination.” See Appendix 1, Violations 1,2,3,4,5,6,7,8,9,10,11,12,13,14,15,16,17.

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2 Ibid.
2.0 Exhaustion of Local Remedies Pertaining to UNHRC and The Optional Protocol to the ICCPR

The UNHRC stipulates that applicants must have sought legal remedies in their own country. Moreover, the state’s application of local remedies must not be unnecessarily prolonged and must be effective and available. The UNHRC has repeated its view that the availability of remedies that are not reasonably evident cannot be invoked by the government to the detriment of the complainant under the Optional Protocol to the ICCPR.

Bangladesh is a signatory to the Optional Protocol to the ICCPR, and therefore effectively states that it guarantees to their citizens the right to take cases to the UNHRC.

2.1 Conclusion

It is our view that the State of Bangladesh is complicit with and responsible for the human rights violations committed against minority women and girl children. The factual evidence consisting of a history of complaining to the police, examined in news articles and press reports certifies that the State has tolerated human rights violations against women over an extended period of time. The gender-specific violations of the UNHRC, ICCPR and CEDAW covered in this report take place in the period between September 2001 and July 2003. See Appendices 1 and 2.

3.0 Human Rights Violations of CEDAW

We believe that the State of Bangladesh has breached the fundamental human rights of women guaranteed under CEDAW.

3.1 CEDAW Articles Pertaining to Human Rights Violations

Article One of CEDAW states: “For the purposes of the present Convention, the term ‘discrimination against women’ shall mean any distinction, exclusion or restriction made
on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on the basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.”

In Article 2(d) states parties are obliged “To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation.”

Article 3 guarantees that “States Parties shall take … in particular in the political field, all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.”

3.1.1 Conclusion

*We conclude that Articles 1, 2(d) and 3 have been breached by the State of Bangladesh, where gang rape, kidnapping and land confiscation of minority women are repeated acts in which state agents are complicit. See Appendix. Discrimination against women in Bangladesh consists of the lack of protection of human rights guaranteed under CEDAW. As a result, the State is responsible for the powerlessness and exclusion of minority women from obtaining substantive equality.*

*In addition, it is important to recognize that women constitute a gender-specific target of minority oppression.*

CEDAW holds the state accountable for breaches of international instruments that protect women from gender discrimination.

CEDAW understands that the state is not always the agent in abuses. However, CEDAW holds the state responsible for the unequal application of the law, and complicity with those who commit human rights abuses if the state fails to act to eliminate the repetition of these violations. Rebecca Cook writes, “If a state facilitates, conditions, accommodates, tolerates, justifies, or excuses private denials of women’s rights, the state
will bear responsibility. The state will be responsible not directly for the private acts, but for its own lack of diligence to prevent, control, correct, or discipline such private acts through its own executive, legislative, or judicial organs.”

Hence, where there exists a history of complaints to the police, the state is complicit since the state tolerates these acts and does not prevent their recurrence where recourse to state agents has been sought. States are therefore accountable for breaches of the international instruments attributable to them.

3.1.1.2 State’s obligation

The State of Bangladesh is bound to CEDAW and responsible for repeated human rights violations against minority women. See Appendices 1 and 2.

4.0 Further CEDAW Articles Pertaining to Human Rights Violations

In pursuit of the recognition of “gang rape” as a human rights violation, CEDAW is of major importance. Article 2 of CEDAW establishes government responsibilities to eliminate discrimination, which includes the protection of women from laws and customs and practices committed by any person or organization. CEDAW therefore recognises the protection of women’s human rights both in the legal sphere and outside it, particularly within the private sphere. Therefore, violations against women committed in the home and community constitute violations against human rights on an equal footing with those committed in the public sphere. These include violations such as rape and sexual assault committed by any individual or organization. Article 2 states:

State Parties … agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake:

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a. To embody the principle of the equality of men and women in their national constitutions or other appropriate legislation … and to ensure, through law and other appropriate means, the practical realization of this principle;
b. To adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women;
c. To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination;
d. To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation;
e. To take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise;
f. To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women;
g. To repeal all national penal provisions which constitute discrimination against women.

This section of CEDAW pertains to the state’s obligation to eliminate discrimination “outside the public sphere.” A further attribute of CEDAW is its recognition that the formal laws against discrimination are insufficient to redress inequalities. In this regard, the CEDAW committee has reported: “Perhaps the most important obligation of states parties under the Convention is the achievement of de facto equality for women. These obligations are clear from the terms of the Convention. Also apparent are their obligations to ensure that women enjoy this equality in fact.”

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4.1 Conclusion

_In recalling the repeated violations of gang rape, we believe that Article 2 directly relates to the recognition of “rape” as a violation of women’s human rights. It follows that the practical implementation and procedures of CEDAW and institutions designed to monitor them have been neglected by the state. As a result, “de facto” equality for women has not been achieved in the State of Bangladesh. In Bangladesh, minority women lack the legal protection of rights by public authorities. Furthermore, adequate measures have not been taken to abolish existing practices that constitute discrimination against minority women._

5.0 Concerning the Protection of Rural Women from Human Rights Violations of CEDAW

_We believe that the State of Bangladesh has violated Article 14 of CEDAW._

In considering the gang rapes, abductions, and land confiscation of minority women in rural regions (i.e. Bhola, Barisol and Patuathali), Article 14 is of major importance. It reads: “States Parties shall take into account the particular problems faced by rural women and the significant roles which rural women play in the economic survival of their families, including their work in the non-monetized sectors of the economy, and shall take all appropriate measures to ensure the application of the provisions of the present Convention to women in rural areas.”

The Report of PRIP Trust indicates that the most affected areas, in which the systemic rape, gang rape, abduction, terrorism and land confiscation of minority women takes place, are in the rural regions of Bhola, Barisol and Patuathali. See Appendix 2.

5.1 Conclusion

_It is important to acknowledge that rural women are vulnerable to systemic gang rapes and other forms of physical assault. Following the forced departure of men from villages, rural women are vulnerable to attack, and have also been prevented from leaving their homes, where they have faced gender-specific forms of persecution, especially gang rape_
and other forms of cruelty toward women and girl children. See Violation 13, Appendix 1.

Furthermore, Article 14 recognises that the prominent role played by rural women in the livelihood of the community is of major importance, including their role as the providers of the necesssities of life and caring responsibilities within the family sphere. It follows that human rights violations directed against rural minority women in Bangladesh threaten the rights of dependants and the minority communities in general.

Over and above the previously stated violations, we believe that the State of Bangladesh has breached its commitment to Article 15 of CEDAW.

Article 15 reads as follows:

1. States Parties shall accord women equality with men before the law.

2. States Parties shall accord to women, in civil matters, a legal capacity identical to that of men and the same opportunities to exercise that capacity. In particular, they shall give women equal rights to conclude contracts and to administer property and shall treat them equally in all stages of procedure in courts and tribunals.

5.1.1 Observation

We believe that the refusal of police to hear a statement of evidence regarding the sexual assault of a tribal woman violates Article 15.1. In addition, the confiscation of land, and the attempted confiscation of land from a minority female landlord indicate human rights violations. See Violations 16,13,14, respectively, Appendix 1.

Appendix 1. Human Rights Violations against Minority Women in Bangladesh taken from major Daily Papers (The Janakantha Daily and Prothom Alo) and Reports from HRCBM.
Each Violation lists the type of human rights abuse committed, the date and location, and a short description of the gender-specific form of the violation.


   Reported by *The Janakantha Daily (JD)*.

   Harun or Rashid (25) son of Islami political party leader Shah Alam kidnapped a teenage schoolgirl, daughter of Haralal Roy (50). Victim’s father did not filed any case due to Local powerful peoples’ pressure.


   Reported by Babul Sardar on June 8, 2003.

   Sabita Halder, a young minority woman, visiting Bahorbunia Village in Morelganj, Bagerhat was gang-raped and murdered, while visiting her parents’ family home. Her husband Pijush filed a G.D. with the Zianagar police on Saturday, June 7, 2003 on the gang rape and murder of his wife, Sabita Halder, to which he was a witness.

   According to the report, twelve to fourteen armed, masked men broke into the house around two o’clock Thursday morning. Sabita Halder was gang raped and murdered.

   *Moreover, the perpetrators committed acts that violate the terms of CEDAW and ICRC. Halder’s baby son, Pintu, was picked up and hurled onto the hard floor, where he lay unconscious during the gang rape. Recalling that the mother is the primary caregiver and provider for the enfant, the abuse of the enfant is a violation of women’s rights, as well as a violation of the rights of the child.*
Police action: Bagerhat District Magistrate and the Chief of Police visiting the scene of the gang rape, and faxed reports were sent to the Cabinet Division and the Home Ministry Office. Morelganj’s Deputy Police Superintendent Abdul Baten has stated that efforts to apprehend and detain those responsible are ongoing.

4. **Physical and Mental Torture of College Minority Girl:** April 22, 2003:
Surigarta, P.S. Bakarganj, Thana, Chitalmari District, Bagherhat. Reported by Bibha Rani Singha.

A gang kidnapped Bibha Rani Singha, a minority girl, at gunpoint. According to Singha, one of the assailants, named Naren Mazumder, compelled her to get married to him in his uncle’s house. When she refused, the gang threatened her and forced her to sign documents and to dress as a bride. They took away her jewellery and physically assaulted her for a number of days (including cigarette burns, skin slicing, and head injuries resulting in unconsciousness).

On April 24, 2003, they took her to Khulna district at gunpoint, and called her father to tell them they were at Dhaka. Again, on April 29, 2003, the gang called her father and this time ordered him to pick her up. At this time, they forced him to sign a bank document.

Police action: Bibha Rani Singha reported the kidnapping to the Chitalmari Police. A local Magistrate recorded her alibi under section 164.


Brahmin minority girl gang raped by ten people. The assailants restrained her parents and two brothers, who witnessed the rape. During the rape, the mother offered to pay the ransom of 50,000 Taka. However, the rape continued.

According to the mother, someone by the name of Akkas Ali terrorised the family in order to drive them from their land.

6. **Gang rape:** March 9, 2003: Kumorpur Village, Bagerhat.

The Brahmin Thakur family rape and murder. At knifepoint, a gang of men raped three women, including a mother and daughter. One of the raped women, Anima
Battacharjee (34) was raped, while her husband Tapan Battacharjee (43) was murdered in the same location. The result of the rape was severe hemmoraging. His younger brother’s wife (28) and her mother were also raped. The gang also looted the property and demanded a ransom, while threatening to kill Tapan’s elder brother Niranjan Battacharjee, leader of the local Hindu community and a target since the recent parliamentary elections.

Police action: Police minister classified these events under the category of “robbery,” stating that the incident was the result of a family quarrel, thereby negating the systemic nature of these sexual assaults on minority women. Even though Abdur Rahman (35) was arrested in connection with this incident (candidate who lost the election), no rape case has been filed. The Criminal Investigation Department (CID) is conducting an investigation under the supervision of the Home Ministry Monitoring Cell.


Seven armed men terrorised the Hindu community, five of these attackers are named in the report. They tortured men and women for failing to support the “Mujib” member of the Awami League in the U.P election. During the period of terror, the men physically assaulted Sabita Rani by kicking her belly. She later aborted the fetus. In the neigbouring house, they aggressors attempted the rape of fourteen-year-old Lipa Sarkar. The terrorists demanded money and warned the families to leave the country.

Police action: Liton Chandra Sarkar filed Case No. 13 dated April 18, 2003. However, this case does not address the violent repression of a religious minority. In this case, the attacks on the minority were clearly religiously motivated.


Shilpi Rani Chakravorty, aged 17, was gang raped.

9. **Hindu women molested:** May 7, 2003: Kanaipur, visited by Advocate Rabindra Ghosh. Gangs terrorised 26 dwellings and destroyed Hindu religious images in
Manasha Mandir. Several women were molested in this attack on the Hindu Adhibashis residing at “Adhibashi Pally.”


A Hindu garment factory worker, daughter of Sandhya Rani, was taken from her residence by four men, who gang raped her in the nearby hills, where she remained unconscious until found by a search party.

Police action: When the victim’s older sister took her to the Bayejit Bostami Police Station to file a report, the police officer on duty refused to take her statement.

A Human Rights organization called *Bangladesh Manabidhakar Basstubayan Sanghstha* has filed a case against the officer.


A Christian schoolgirl, Parbati Das, was raped and killed in the Kalikapur Christian Village of Autoary Upazilla Sub-district.

Police action: Arrested Manoranjan Das and Ratan Das.


A fourteen-year-old girl of a religious minority family was tortured and gang raped, and left unconscious in the nearby fields, where she was discovered at dawn.

Police action: the girl was subsequently kept at the Daulatpur police station for her own safety. Two of the rapists are known, but the family feels afraid to bring charges against them as they come from well-to-do local families.

Reacting to the laying of temple foundations in the Chakma hill tracts, 150-200 armed men attacked the Chakma community. Since this incident, the Chakmas have been terrorized and evicted from their land. The forced departure of the Chakma men has left the rural women vulnerable to systemic gang rapes and other forms of physical assault. The attackers have also prevented the women from leaving the village.

Chanio Chakma (30), a mother of four children, has testified in the Coxbaazar District court. She has provided detailed accounts of the attacks committed by the ruling coalition. Eleven ruling coalition activists broke into her hut and attempted to rape her.

Chanio Chakma filed a case against eleven of the attackers, citing an act relating to cruelty to women and children.

Police action: The District Administrator and Police Superintendent are known to have visited Madarbania.

14. **At tempted Land Confiscation of Female Landlord**: Satkhira District, Khulna.

    Reported on June 21, 2002 by HRCBM-Dhaka.

    Mrs. Dipti Rani Chatterjee (50) is the only legal heir of her father, landlord Shri Chatterjee’s properties. The High Court declared her to be the legal heir of all zaminder estates. However, a number of men have illegally occupied the land, terrorizing members of the household. According to the female heir, the aggressors produced a fraudulent deed, authorizing a group of men (named as Md. Khalil, Md. Hafizur Rahman, Md. Saifur, Md. Khali, Md. Abdul Hussain, Md. Sattar, Md. Mottar, and Md. Eklash Mia) to sell the entire property of Shri Chatterjee. They have also stated that Mrs. Chatterjee should leave the country. She told HRCBM that Md. Meher, a government official, forcefully took her passport with the intent to render her a non-citizen.

    Police action: SP of the police of Satkhira has stated that the illegal occupants cannot occupy the land unless the “fraudulent” deed is found to be genuine by the courts.

    However, according to HRCBM, the local MP and BNP leader Md. Habibur Islam Habib has sympathetic to the illegal occupants, as is the investigating
officer Mr. Md. Ruhul Amin.

Mrs Dipti Rani Chatterjee has filed a case (Tala P.S Case No. 8, dated 11.06.02) under section 143/447/324/427/379 of the Bangladesh Penal Code for illegal trespassing and assault. However, the above states that the threats against the family have increased.


Moushumi Chatterjee (15) was kidnapped by Sheikh Abdul Alim, son of Md. Abdul Matin of Madrasa para. Her father, Shri Gour Mohan Chatterjee, an Awami League activist, has filed a case (GD no. 683 dated 15/12/2001).

Police action: none taken to date.


Kapana Rani Kundha was unclothed and tortured by three local men (named Khalek, Latif and Rafik). According to an eyewitness, the aggressors entered the house of Mr. Haran Kundha, where they attacked and unclothed her.

Police action: The victim, Kapana Rani Kundha, claims that she was forcefully removed from the local police station when she went to register her accusation against the aggressors.


Mrs. Anjali Hore (62) was gang raped by armed men. According to the victims, there were 30 to 40 men, whom they called Islamic fundamentalists. The aggressors broke into the Aditya Ashram, a minority-owned orphanage.

Ms. Uma Dey (12) and Ms. Rupna Dey (16) were also gang raped during the attack.

Police action: Due to fear of further torture, the girls have not filed police reports. Other locals confirmed that the minorities remain unprotected from known aggressors in the community.

During the HRCBM interviews, the father of the girls confirmed that the aggressors demanded that he leave the country or face further brutalities. In a videotaped interview by Advocate R. Ghosh, the victims asserted that Mr. Zafrul
Islam Chowdhury of the BNP had visited them. The HRCBM saw a temporary police camp set up for their safety.


Mrs. Sujya Mukki Das was gang raped.

Police action: The Das family is reported to have fled the village.


Men have threatened Christian girls in Natoore after the October 1 election. They demand a young girl to gang rape for each night.

Police action: According to HRCBM, the local administration and police had not safeguarded the minorities.

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**Appendix 2. Report of the Public Inquiry Commission**

**COLLECTED BY** MUKTO-MONA **DHAKA SOURCE**

The Public Inquiry Commission analyzed reports, editorials, articles, etc. published in major dailies from September 1, 2001 to December 31, 2001. The Commission concluded that these “reports of repressions on religious and ethnic minority communities such as attacks on their residences, lootings, setting of fires on houses and professional establishments, repression on women and killings have [a] factual basis.”

The Commission indicates that the most affected areas concerning rape are in Bhola, Barisol and Patuathali.

The member-secretary of the Commission reported that in Annada Prasad in Bhola minorities were threatened before the general election on October 1, 2001, particularly in violations against women.
HRCBM (Human Rights Congress for Bangladesh Minorities) is a Human Rights and Humanitarian Organization dedicated to protect the human rights of people in Bangladesh. In particular, we work for minorities in Bangladesh. We stand with victims and activists to prevent discrimination, to uphold political freedom, to protect people from inhumane conduct, and to bring offenders to justice. We investigate and expose human rights violations and hold abusers accountable. We demand government and those who hold power to end abusive practices and respect international human rights law. In general we are working to end xenophobia, human rights abuse, racial discrimination, civil resentment, brutality and oppression against minorities in Bangladesh.

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