

Written Statement – Item Four - Situation of Concern Bangladesh

Joint written statement* submitted by PEN International, Canadian Journalists for Free Expression, Center for Inquiry, Committee to Protect Journalists, Danish PEN, Finnish PEN, Free Muse, Icelandic PEN, International Humanist and Ethical Union, International Publishers Association, Norsk PEN, PEN America, PEN Bangladesh, PEN Melbourne, Reporters without Borders, PEN Sweden

Bangladesh: Urgent, concrete steps required to protect freedom of expression

Recent years have seen a serious decline in respect for freedom of expression and the closely associated rights of freedom of association, assembly and of opinion and belief in Bangladesh, a member of the United Nations Human Rights Council. Deeply entrenched and widening political differences between the ruling Awami League, the opposition Bangladesh Nationalist Party and their allies are leading to a crackdown on freedom of expression, with Bangladesh's vibrant civil society also under attack. Legislative changes, poor law enforcement, lack of governmental support for the principle of freedom of expression, attempts to undermine independent media¹ and a justice system ill-equipped to provide recourse to victims of rights violations have all contributed to the silencing of dissenting voices, through murder and other violent attack, imprisonment, self-censorship or exile.

Urgent and concrete steps are needed to reverse this trend and to provide a climate where political, religious and other views may be debated and discussed in safety and where civil society is both respected and enabled to fulfil its vital function of holding government to account.

Attacks on bloggers, publishers, academics, civil society activists and religious figures

Since blogger-led protests demanding capital punishment for war crimes committed during Bangladesh's liberation war and calling for a ban on religious politics broke out in 2013, radical Islamist groups have claimed the killings of seven bloggers, free thinkers and their publishers, six since February 2015. The first victim was blogger Ahmed Rajib Haider, who had been at the forefront of the protests. Most recently, law student Nazimuddin Samad, who wrote on issues of religious fundamentalism, war crimes, minority issues, corruption and injustice against women was hacked and shot on 6 April 2016. After several months in hiding in 2015, he had returned to his activism, reportedly stating, 'It's better to die rather than living by keeping my head down.'

The attacks have widened to include civil society actors, academics and religious figures with diverse views. University professor Rezaul Karim Siddique was killed on 23 April 2016. Two days later, Xulhaz Mannan, editor of Bangladesh's first and only LGBTI magazine, and his friend were hacked to death at home by unknown assailants. Religious minority figures, including a Christian pastor, a Hindu priest and a Sufi Muslim leader have been attacked or killed since October 2015.

Government reaction

While condemning these violent attacks, the Bangladesh authorities have repeatedly made statements and taken actions implying that the responsibility for avoiding such attacks lies with the victims.

A month after Ahmed Rajib Haider's murder in February 2013 - rather than unequivocally supporting the right to freedom of expression and focusing on bringing the perpetrators to justice - a government committee was formed² to track bloggers and social media users who made allegedly derogatory remarks about Islam and the Prophet Muhammad. The committee sought information from various platforms about certain users, and requested that several blogs be taken down. The committee publicised an email address where complaints about alleged 'blasphemous' content could be submitted, and was later reported to have

¹ <http://www.bbc.co.uk/news/world-asia-35594968>

² <http://bangla.bdnews24.com/bangladesh/article608260.bdnews>

participated in a discussion with Islamic clerics, who submitted the names of 84 bloggers, requesting that their writings be investigated.³ This list was made public, and reportedly became a ‘hit-list’ for those carrying out the attacks. Several of those on the list have been killed and others are in hiding, while many others have left Bangladesh.⁴ The net of those targeted for attack has since widened considerably.

The ambiguous response from the Bangladeshi authorities has continued with each fresh attack. In April 2016, Prime Minister Sheikh Hasina condemned violence in the name of religion, but said that it was not acceptable to write things which hurt the religious sentiments of others, stating, ‘[e]veryone should maintain decency otherwise in case of any uncivilized attitude, the government wouldn’t take the responsibility’.⁵

A legal framework that fails to protect freedom of expression and associated freedoms

Several retrograde amendments to laws affecting freedom of expression have been passed in recent years, with other draft laws still under consideration. Bangladeshi civil society has expressed serious concern at the trajectory of legal reform, highlighting how fundamental freedoms are at risk.

Problematic laws and regulations include:

- The colonial-era Penal Code, which includes the prohibition of insult to the religious feelings of any class of citizens⁶ and which criminalises defamation⁷.

Daily Star editor Mahfuz Anam is facing scores of lawsuits for alleged criminal defamation and sedition after he had admitted on a TV chat show in February 2016 that he had erred in running corruption stories between 2007 and 2008 based on uncorroborated information provided by military intelligence.

- Overbroad restrictions in the Information and Communication Technology (ICT) Act⁸ which criminalise the online publication of material which is false, obscene, likely to harm law and order, prejudices the image of the State or hurts religious belief, attracting a maximum 14-year prison term, more severe than the penalty for offline publication. Content can be removed without a court order.⁹

Mohan Kumar Mondal, the director of a local environmental NGO LEDARS was detained for several weeks in September 2015 following a complaint about his Facebook page after a crowd collapse on 24 September during the Hajj in Saudi Arabia in which over 2,000 people died. He remains on trial for ‘hurting the religious beliefs of Muslims’.¹⁰

In November 2015, citing national security, the government blocked social media platforms for almost a month ahead of the final appeal and subsequent execution of opposition leaders convicted of war crimes in the 1971 war of independence.

³ <http://www.natunbarta.com/si-tech/2013/03/31/18939/>

⁴ In 2015, PEN International received 22 applications from Bangladeshi bloggers, writers and publishers for assistance on behalf of its partner organization the International Cities of Refuge Network out of a total of 104.

⁵ <http://www.bssnews.net/newsDetails.php?cat=0&id=568097&date=2016-04-14>

⁶ http://bdlaws.minlaw.gov.bd/sections_detail.php?id=11§ions_id=3116

⁷ http://bdlaws.minlaw.gov.bd/sections_detail.php?id=11§ions_id=3540

⁸ <https://www.article19.org/data/files/medialibrary/38365/Bangladesh-ICT-Law-Analysis.pdf>

⁹ <http://www.icj.org/bangladesh-information-and-communication-technology-act-draconian-assault-on-free-expression/>

¹⁰ <https://www.article19.org/resources.php/resource/38154/en/bangladesh:-another-victim-of-the-ict-act---mohon-mondal-detained>

- The National Broadcasting Policy,¹¹ which unduly restricts the dissemination of news, photos, or videos.¹²

Problematic draft laws and regulations under consideration include:

- The draft Digital Security Act, which includes many offences categorised as terrorism attracting unduly harsh sentences, a lack of procedural safeguards for human rights protection and the delegation of excessive powers to law enforcement agencies without judicial oversight.¹³
- The draft Foreign Donations (Voluntary Activities) Regulation Act 2014, which would require all NGOs receiving foreign funding to register with the Non-Governmental Organisation Affairs Bureau and to obtain its prior approval for each project undertaken with these resources.¹⁴
- The Online Mass-Media Policy¹⁵ which replicates much of the Broadcasting Policy.¹⁶

A justice system which is failing to protect fundamental freedoms

Successive governments have been accused of conducting extra-judicial executions, enforced disappearances and torture against opponents and critics with impunity. Police recruitment is partisan and inadequate; the prosecutorial system is underdeveloped; there is a lack of independence of the lower levels of the judiciary from the executive and the Supreme Court has been unwilling or unable to prevent executive interference and politicisation of justice.¹⁷ The failure of the state to uphold fundamental rights and freedoms allows extremist groups to spread fear and intolerance and to drive those with opposing views into self-censorship and/or exile through violent acts committed with virtual impunity.

Conclusion and Recommendations

The worsening spiral of violence must be addressed urgently. The signatories to this statement urge the Council to press the government of Bangladesh – which, as a member of the Council, has pledged to ‘uphold the highest human rights standards’ - to:

- Thoroughly investigate the murders of bloggers, publishers, academics, civil society activists and religious minority figures, ensuring sufficient resources are allocated, make public the findings of the investigations and bring to justice those found responsible;
- End the culture of impunity for human rights abuses, whether committed by state or non-state actors;
- Ensure police provide adequate protection for all dissenting and minority voices, however controversial, particularly those who have been publicly targeted for attack; and ensure that all those requiring protection are able to access information about available measures and to request them with ease;
- Unequivocally uphold the right of all to freely express views, in accordance with the Constitution, including of those who disagree with or question the government;
- Release immediately and unconditionally anyone held solely for peacefully exercising their right to freedom of expression, including anyone imprisoned for expressing views about religion;

¹¹ http://old.moi.gov.bd/National_Broadcasting_Policy.pdf

¹² <https://www.cpj.org/blog/2014/08/concerns-following-approval-of-restrictive-broadca.php>

¹³ <https://www.article19.org/data/files/medialibrary/38368/Analysis-Bangladesh-Cybercrime-Act.pdf>

¹⁴ <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=16720&LangID=E>

¹⁵ http://old.moi.gov.bd/Press/Online_Mass_Media_Policy_draft.pdf

¹⁶ <http://en.prothom-alo.com/bangladesh/news/51843/Policy-to-control-online-media-too>

¹⁷ <http://www.crisisgroup.org/~media/Files/asia/south-asia/bangladesh/277-political-conflict-extremism-and-criminal-justice-in-bangladesh.pdf>

- Abolish all forms of censorship, repeal unduly restrictive laws, and allow the free dissemination of information in line with international human rights standards;
- Facilitate dialogue and debate about religious tolerance in line with the Rabat Plan of Action;
- Abide by Bangladesh's obligations under the International Covenant on Civil and Political Rights (ICCPR) to protect the rights to freedom of expression, association, and assembly.