

HUMAN RIGHTS IN BANGLADESH

HEARING BEFORE THE TOM LANTOS HUMAN RIGHTS COMMISSION HOUSE OF REPRESENTATIVES

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CONTENTS

WITNESSES

The Honorable Robert Blake, Assistant Secretary, Bureau of South and Central Affairs, U.S. Department of State	6
The Honorable Eric Biel, Acting Associate Deputy Undersecretary, Bureau of International Labor Affairs, Department of Labor	8
Mr. Tim Ryan, Asia Regional Program Director, American Center for International Labor Solidarity	21
Mr. John Sifton, Director, Asia Advocacy, Human Rights Watch	24

LETTERS, STATEMENTS, ETC., SUBMITTED FOR THE HEARING

Mr. Tim Ryan, Asia Regional Program Director, American Center for International Labor Solidarity	23
Mr. John Sifton, Director, Asia Advocacy, Human Rights Watch	28
Congressman Jim McDermott	41
Signed Letter from the NGOs	42
Toby M. Cadman	45
Documents submitted by the Embassy of the People's Republic of Bangladesh.....	61

APPENDIX

Hearing Notice	80
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THE HUMAN RIGHTS IN BANGLADESH

TUESDAY, JULY 19, 2012

HOUSE OF REPRESENTATIVES,
TOM LANTOS HUMAN RIGHTS COMMISSION,

Washington, D.C.

The Commission met, pursuant to call, at 1:03 p.m., in Room B-318, Rayburn House Office Building, Hon. James P. McGovern [cochairman of the Commission] presiding.

Mr. McGOVERN: The hearing will come to order.

Before I begin my statement, I would like to ask unanimous consent that a statement prepared by Congressman Jim McDermott of Washington State be entered into the record, as well as a statement by Toby Cadman, Foreign Counsel for the defendants before the International Crimes Tribunal. I would like to ask unanimous consent that his statement be part of the record.

Mr. McGOVERN: So good afternoon, everybody. I want to thank everyone for being here today for this important hearing on human rights in Bangladesh. In particular, I want to thank the staff of the Tom Lantos Human Rights Commission for organizing this hearing.

I want to thank our witnesses for their leadership in working to improve human rights conditions in Bangladesh, and I also want to thank Congressman Crowley and Congressman Ellison for encouraging the Commission to hold this hearing.

Although Bangladesh's government has taken some steps to improve the human rights situation within its borders, new reports of torture, arbitrary arrest, and forced disappearances by security forces continue to emerge. The government has increasingly politicized the judiciary, constrained access to justice for activists and members of opposition parties, and limited freedom of association. Some of these abuses are fueled by widespread official corruption.

Violence against women, including rape, dowry related assaults, acid attacks, and sexual harassment is also far too common. Women in Bangladesh remain in a subordinate position in society, and the government needs to do more to protect their rights.

Labor rights are also inadequately protected and have been limited by increasingly stringent laws. Repression against trade unionists and labor rights activists is rampant, and protests are routinely met with violence and arrests. Conditions for workers are awful and include rock-bottom wages, tight labor rights restrictions, and poorly enforced health and safety standards.

Recently, Aminul Islam, a leader of the Bangladesh Center for Worker Solidarity was found dead on a street in Dhaka and showed signs of torture and abuse. His murder remains an open case, and the Bangladesh government has not ordered an independent and impartial investigation into his death.

These human rights violations are compounded by widespread impunity in Bangladesh for criminal behavior. Despite strong evidence, the security forces are continuing to arbitrarily arrest people, often torturing and killing them in custody.

The Bangladesh government has refused to acknowledge the need for accountability. Prime Minister Sheikh Hasina has stated that her government has zero tolerance for extrajudicial killings but has failed to properly investigate allegations and prosecute the perpetrators.

Burma, like neighboring Bangladesh, has also been faced with mounting violence in recent weeks. Rakhine state in the west of Burma has seen an escalation in state-sponsored violence against Rohingya, a stateless community of Muslim minorities who have suffered from persecution and discrimination for decades.

This recent outburst of violence has forced many Rohingya to flee their communities, seeking refuge across the border in Bangladesh. Rather than offering sanctuary for refugees protection for persecution and abuse, Bangladesh has forced members of this community to return back to Burma where they face an immediate threat to life and safety.

I stand with many human rights groups that have called on the government of Bangladesh in recent weeks to abide by its human rights obligations and to open its borders to these refugees.

U.S. policy toward Bangladesh emphasizes support for political stability and democracy development and human rights. The United States has recommended the creation of an independent unit to investigate allegations of torture, disappearance, and extrajudicial killings by the Rapid Action Battalion.

Reconciliation efforts between the Bangladesh government, business, and labor organizations have been encouraged by the international community. Endemic corruption and criminality, weak rule of law, limited bureaucratic transparency, and political polarization have long undermined government accountability. Accountability for abuses is particularly important so that the Bangladeshi people believe that the era of impunity is starting to come to an end.

For its part, the United States should continue to provide Bangladesh with assistance to strengthen the rule of law and advance respect for human rights.

I want to welcome our first panel of witnesses: first, the Honorable Robert Blake, the Assistant Secretary, Bureau of South and Central Asian Affairs at the U.S. Department of State; and the Honorable Eric Biel, Acting Associate Deputy Undersecretary, Bureau of International Labor Affairs, Department of Labor.

Welcome to both of you and happy to be here.

Mr. Blake, why don't we begin with you?

STATEMENT OF THE HONORABLE ROBERT BLAKE, ASSISTANT SECRETARY, BUREAU OF SOUTH AND CENTRAL ASIAN AFFAIRS, U.S. DEPARTMENT OF STATE; AND THE HONORABLE ERIC BIEL, ACTING ASSOCIATE DEPUTY UNDERSECRETARY, BUREAU OF INTERNATIONAL LABOR AFFAIRS, DEPARTMENT OF LABOR

STATEMENT OF THE HONORABLE ROBERT BLAKE

Mr. BLAKE: Well, thank you very much, Mr. Chairman.

At the outset, let me thank you and the Commission for your interest in Bangladesh; and let me also thank Representatives Crowley and Ellison, who have shown a very continuing strong interest in Bangladesh and also great leadership in Congress on that issue.

Mr. Chairman, Bangladesh is a country of strategic importance to the United States. It is the seventh largest country in the world by population, and it has the world's fourth largest Muslim population. It is a moderate, tolerant, secular, mostly democratic alternative to violent extremism. A leader in promoting regional connectivity and improved ties with its neighbors, Bangladesh promotes stability in a troubled region.

As the largest contributor of forces to U.N. peacekeeping missions in some of the world's most dangerous conflicts, Bangladesh helps foster global peace. Bangladesh has been growing at an annual rate of 5 to 6 percent over the last two decades.

It is an increasingly important trading partner and destination of U.S. investment. U.S. exports to Bangladesh doubled during the last year, and we are the largest investor in Bangladesh.

It is also a focus country for all of President Obama's signature development initiatives, including the Global Health Initiative, the Global Climate Change Initiative, and the Feed the Future Initiative.

The United States and Bangladesh cooperate closely on security issues ranging from counterterrorism to counterpiracy and the mitigation of natural disasters, all of which were discussed during the first-ever Bangladesh Security Dialogue in April.

The government of Bangladesh has also consistently prioritized greater regional integration, a key U.S. interest, in a region that remains among the least integrated in the world.

Secretary Clinton visited Bangladesh in May, marking the first visit by a U.S. Secretary of State in 9 years. While there, she and her Bangladeshi counterpart announced the U.S.-Bangladesh Partnership Dialogue to provide strategic direction to the wide array of existing and future partnership activities.

During her trip, Secretary Clinton also raised many serious concerns about human rights issues with the prime minister and the foreign minister, as well as with leading members of Bangladeshi civil society and at events with the press and public at large. The Secretary's public and private remarks underscore this administration's policy of raising human rights concerns with the government of Bangladesh to safeguard Bangladesh's role as a moderate democracy with a vibrant press and dynamic civil society.

Secretary Clinton noted our concern about the murder of labor rights activist Aminul Islam, who you have mentioned, and the disappearance of opposition local leader Ilias Ali.

The rights of workers were also front and center on the Secretary's visit to Bangladesh.

We have urged the government to allow workers to freely form unions and allow organizations that seek to protect workers' rights to operate freely.

This is not only an ethical question but also one that has the potential to have a huge impact on the Bangladeshi economy. The ready-made garments industry employs millions of Bangladeshis, 90 percent of whom are women. America and other foreign buyers are increasingly unwilling to have their valuable brand names associated with abuse of worker rights, and it is clearly in Bangladeshi's interests to make progress on this issue, a point that Secretary Clinton underscored during her visit. My colleague, Eric Biel from the

Department of Labor, will speak more about this.

There continue, as you said Mr. Chairman, to be credible reports that Bangladesh's Rapid Action Battalion, a paramilitary law enforcement group made up of policemen and army soldiers, is involved with extrajudicial killings and disappearances. Due to Leahy vetting requirements we are barred from providing RAB with any form of training other than that related to human rights. To this end, the United States Government embedded a retired U.S. Marshal within RAB for 4 months last year to help stand up and operationalize an international affairs unit that will provide a much-needed mechanism to hold accountable those who commit human rights violations.

Civil society has been Bangladesh's calling card for decades. Home-grown organizations like BRAC and Grameen Bank have gone global, exporting innovative ideas like micro finance to a worldwide audience.

Maintaining the traditional vibrancy of Bangladeshi civil society is a top priority for the State Department. For this reason, we are concerned by reports from some local NGOs that space for civil society is shrinking. Nearly 2 years after the resignation of Dr. Muhammad Yunus, Grameen Bank has been without a permanent managing director at its helm. While the bank has continued its good work, we have emphasized both to the government and the Grameen board the importance of finding a qualified replacement for Dr. Yunus who is acceptable to all sides and who can preserve the integrity and effectiveness of the bank in helping Bangladesh's most vulnerable citizens and fulfilling its commitment to its 8.3 million borrowers, most of whom are women.

We have also been disappointed by Bangladesh's policy of turning away Rohingya and other individuals fleeing ethnic and sectarian violence in Burma since early June. This stands in marked contrast to the country's traditional policy of non-refoulement. The U.S. Government has and will continue to raise concern for the well-being of these individuals at the highest levels.

There is positive news as well to report, Mr. Chairman. We were encouraged this past spring when the government of Bangladesh passed comprehensive anti-trafficking in persons legislation that, when fully enforced, could make a huge difference in protecting some of the country's most vulnerable citizens. While Bangladesh has made progress in protecting women and children victims of trafficking, this law is the first of its kind in Bangladesh that also guards against the exploitation of male laborers.

I want to end by repeating what I said earlier. As a successful, moderate, tolerant, secular, democratic alternative to violent extremism and as a model for lifting millions out of poverty, providing an important voice for regional stability and contributing more than any other country to U.N. peacekeeping, Bangladesh is of strategic importance to the United States, but it still faces many challenges that the U.S. is working with and encouraging Bangladesh to address.

And let me just again extend my greetings to both Representative Crowley and Representative Ellison and I earlier said our appreciation for the leadership both of you have shown consistently with respect to Bangladesh.

Thank you, Mr. Chairman.

Mr. McGOVERN: Thank you very much. Mr. Biel?

STATEMENT OF THE HONORABLE ERIC BIEL

Mr. BIEL: Thank you very much, Mr. Chairman, Congressman Ellison, and Congressman Crowley, for convening this important and timely hearing; and I am honored to join Assistant Secretary Blake on this first panel.

The Bureau of International Labor Affairs central mission is to ensure that workers around the world are treated fairly and can share in the benefits of the global economy. To pursue this objective, we use a range of approaches, ranging from monitoring and reporting on labor conditions, helping enforce the labor provisions in U.S. trade agreements and trade preference programs, providing targeted technical assistance, working with the International Labor Organization, and working with civil society and other stakeholders. My remarks over the next few minutes will summarize how we have used these different tools in Bangladesh.

Now, the concerns about labor rights in Bangladesh are indeed significant, and they cut across key sectors of the economy. They include violations of freedom of association and unsafe working conditions in the ready-made garment sector, similar conditions in the shrimp processing sector, and in the country's export processing zones, or EPZs.

As Assistant Secretary Blake noted, the administration has not hesitated to raise these worker rights issues and concerns with the government of Bangladesh at the highest levels, including during Secretary Clinton's trip in May.

Before highlighting further the ways we have engaged through ILAB, through the Department of Labor, the government of Bangladesh I wanted to first focus on what we really consider to be our most important mission, our most important responsibility, which is engaging directly with those in Bangladesh who are at the forefront of efforts to improve the protection of worker rights.

ILAB, the Bureau of International Labor Affairs, works closely with the U.S.-based Solidarity Center, which will be represented on the next panel, in Dhaka and other labor rights NGOs on a range of labor rights issues.

Now, one of the most important and credible local partners has been the Bangladesh Center for Worker Solidarity, or BCWS, led by Kalpona Akhter. The organization's advocacy for workers has made it a target. As you well know, it was deregistered and criminal charges were filed in 2010 against its leadership. Those charges remain on the books. They have not been dismissed despite, in our view, an absence of clear evidence to substantiate them.

Then in early April, 2012, as you noted, Mr. Chairman, in your opening statement, BCWS labor organizer Aminul Islam was found tortured and murdered. In the aftermath of that killing, we worked closely with Assistant Secretary Blake's team, others at the State Department, and with civil society and notably with business groups as well to convey to the government of Bangladesh our deep concerns and our expectations for a thorough and impartial investigation.

We also hosted Ms. Akhter at the Department of Labor when she visited Washington just weeks after the killing and reaffirmed in those meetings and subsequently our support for her work and that of her colleagues at BCWS.

We join the State Department and the rest of the U.S. Government in the commitment to monitor the ongoing investigation of the Aminul Islam killing in order to ensure transparency, accountability, and justice.

One of the primary approaches we use for engaging Bangladesh on internationally recognized worker rights has been through the generalized system of preferences, or GSP, program through which the United States provides unilateral trade preferences for developing countries. Among the criteria under the GSP program for preferential treatment, the statute mandates that beneficiaries be taking steps to afford such internationally recognized worker rights in order to maintain their eligibility.

GSP review of Bangladesh pursuant to a petition filed by the AFL-CIO in 2007 has resulted in detailed attention to conditions in the large and rapidly growing ready-made garment sector. In particular, GSP has been and will remain a mechanism for sustained engagement and pressure on the government of Bangladesh to address practices that range from unsafe factory conditions to unpaid and excessive overtime to a failure to enforce minimum wage laws.

Now, while engagement with the government of Bangladesh is paramount and obviously critical, it is not enough. To that end, we are also committed to engaging with the private sector, specifically those involved in the garment sector supply chain. Last year, we convened a roundtable on promoting labor compliance in Bangladesh which set the stage for an expanded dialogue with buyers on labor rights compliance and high-priority concerns such as fire safety.

I am pleased to say there has been some progress in this regard the second panel may describe further, including an agreement between PVH, which includes brands like Tommy Hilfiger and Calvin Klein, on a fire safety MOU, although other countries have been slow to pick up the mantle and to join that. That continues to be a work in progress.

We are encouraged that a number of the leading brands that source from Bangladesh have spoken out strongly about unsafe working conditions and other labor rights concerns; and we welcome this direct communication, including after the Aminul Islam killing and through a June 21st letter to the prime minister of Bangladesh.

But, at the same time, it is important to first recognize we need a larger group, a more diverse group of buyers, particularly in the garment sector, to do more to leverage their market power to help improve labor conditions in Bangladesh. And that includes circumstances in which excessive hours and other poor working conditions may be a direct result of the pressure that factories feel in order to fill orders rapidly and meet other conditions established by their supply chain partners.

Finally, we also, in addition to engaging with these global buyers, we work directly to strengthen mechanisms for addressing labor rights and working conditions at the factory level, including in the garment sector. The Bureau of International Labor Affairs, Department of Labor, is currently providing approximately \$1.5 million for an International Labor Organization project called Promoting Fundamental Principles and Rights at Work in Bangladesh, with the objective of addressing specific challenges faced by workers' and employers' organizations by building local capacity to promote freedom of association and collective bargaining.

This program launched in January of this year. It is a 2-year program. The first assessment will be made in January, 2013; and we would be happy to provide more details on the program as progress reports come in.

Another way to engage at the factory level that Assistant Secretary Blake mentioned is through the ILO-IFC, International Labor Organization-International Finance Corporation joint program called the Better Work Programme. Better Work has three core elements: monitoring, remediation including training, and public

reporting. We have supported Better Work in other key garment export markets such as Haiti, Cambodia, Lesotho and others; and stakeholders have increasingly expressed an interest in having Better Work extended to Bangladesh.

To that end, Better Work has gone through a feasibility study review in 2011 last year and is currently finishing up the design phase of a program and will decide in September whether to pursue a formal launch of a Better Work Programme in Bangladesh. Should they do so, we will commit funds to help through the first year of that program to ensure it is launched and can extend the objectives of Better Work to the garment sector in Bangladesh.

Finally, we engage in reporting and monitoring through our Office of Child Labor, Forced Labor, and Human Trafficking. There are three congressionally mandated reports issued each year – they will be coming out in mid to late September this year – dealing with labor conditions.

In addition, we have contracted for two specific reports on Bangladesh.

First, we funded a detailed report on child labor in the informal garment sector, meaning outside formal production channels. It focuses, as I say, on informal sector. That report will be finalized in the next month or two.

We have a second report pending on forced labor issues in Bangladesh's shrimp sector that also will be coming out in the next 1 to 2 months. Those issues have been well documented, including through the course of the GSP process.

So, in sum, that is a snapshot of some of the different programs that ILAB works on to advance the core objective of trying to increase respect for labor rights and improve working conditions in Bangladesh. We have seen some value and some progress through these efforts.

At the same time, we all need to acknowledge that much remains to be done. The record remains largely incomplete. This is a work in progress. Violations in key sectors, as both of us have noted and as you have noted, remain widespread; and the Aminul Islam killing raises concerns that worker rights advocates remain targets.

We will continue to publicize our concerns with violations of labor rights in Bangladesh, while at the same time working with our colleagues in government, with those of you on the Commission, and with other stakeholders through a combination of dialogue, engagement, and support for promising initiatives on the ground.

Thanks very much for the time.

Mr. McGOVERN: I want to thank you very much. I thank you both for your excellent testimony.

As I mentioned at the beginning of this hearing, we are here in large part because of the request of Congressman Ellison and Congressman Crowley; and so I would like to yield to them for any statements and any questions they have first.

So, Mr. Ellison?

Mr. ELLISON: Allow me to thank you, Mr. Chairman, Ranking Member Wolf, and my colleague Joe

Crowley.

Mr. Chairman, I come to this not through reading reports, not through any human rights alerts that I got from various organizations, but from dear, close, personnel friends of mine who find their family roots in Bangladesh.

A close friend of mine, one in particular, but it grew to many, many more, came to me and said, look, Keith, you are in Congress. I have never traded on our friendship before, but I need you to know that I am absolutely beside myself with fear as it relates to my family and the human rights situation in Bangladesh.

These are people who may have immigrated from Bangladesh to the United States. They are Americans, but they love Bangladesh, and they care about Bangladesh, and they believe Bangladesh is a great society and can be a greater one, but not without addressing these important human rights issues.

So I come today with that spirit, one of one friend to another, recognizing the potential, understanding the importance of addressing issues.

And nothing takes away from the greatness of Bangladesh as a nation, certainly not facing a serious human rights problem. America has faced its own internal human rights problems, and it hasn't diminished us as a nation. In fact, it has made us a greater nation. So I say that clearly, clearly believing that these situations can be addressed in effective ways.

I have become particularly concerned about recent reports of forced disappearances and extrajudicial killings that are taking place in Bangladesh. These crimes are targeting opposition leaders, labor leaders, and taking place at an alarming rate. My understanding is that justice is not being brought to the perpetrators of these crimes. If they are, I would like to hear what is in fact being done. I hope the panels here today can help shed light on what the U.S. can do to help.

The fact is that we understand this is an internal Bangladesh issue, but when it comes to the issue of international human rights, human rights violations are the issue of everyone across the globe.

I am also concerned about labor rights in Bangladesh. The United States buys a large amount of merchandise from Bangladesh, specifically garments and seafood. I have long been concerned that international trade can lead to a race to the bottom. Though I believe that trade is necessary and important and essential to the well-being of all, it should be done with due regard to human rights issues and labor rights.

I have also been following the International Crimes Tribunal in Bangladesh, and I am somewhat concerned by the proceedings so far. While I support and applaud the Bangladesh government's desire to bring justice to those responsible for committing atrocities in the 1991 conflict, I am concerned that the proceedings be conducted in a fair, transparent manner. And I know that Human Rights Watch has asked the Bangladeshi government to investigate threats to defense lawyers and witnesses. The hallmark of any fair judicial proceeding is that advocates be allowed to advocate and not have to fear for their own safety as they speak up on behalf of a client. I also look forward to hearing more about that issue.

I would also like to thank the witnesses today. The witnesses participating in the hearing this afternoon do so with a great degree of learning, understanding, and care for the subject matter.

So, with that, I yield back my time.

Mr. McGOVERN: Thank you.

Mr. Crowley?

Mr. CROWLEY: Well, I thank you, Mr. Chairman and Chairman Wolf, the co-chairs of the Tom Lantos Human Rights Commission, really, the Human Rights Caucus of the House of Representatives. And, Chairman, you have been a long-standing champion of defending the rights of people not only here in the United States but throughout the world, and I know that you have been no stranger to Bangladesh as well. You and I from time to time have talked about the issues of Bangladesh.

And how pleased we all were with the election of Keith Ellison into Congress because – I especially – because I knew that immediately someone else would have an affinity towards the developing world but particularly the people of Bangladesh and understand the contributions of Bangladesh to the world today, but maybe more importantly, as you do in your own constituency, the contributions they are making back in your district.

And I can speak from my own constituency. I oftentimes have to remind my own constituents when they come to see me that I am neither an Awami League Democrat nor am I a BNP Democrat. I am just a Democrat from Queens, New York.

But I think, by that statement, it does I think again piggyback on what you said about the concern that Bangladeshi Americans have for their homeland. And that, as someone of Irish descent, that I can say as well I have always looked back and want to know what is happening there and how things are going, maybe less so or maybe more so now most recently, given the crisis in Europe. But for a while we saw the advancement became, especially in the peace process, became less and less of an issue here in the front pages of America.

But I do know that in the burgeoning country of Bangladesh there is a great deal of concern about the development of Bangladesh that moves forward. Ambassador Blake, you and I have had a long-standing relationship as it pertains to this great nation of Bangladesh, and I have watched it grow through some very struggling periods and times. And, Ambassador Biel, I appreciate the work that you have been doing in terms of labor and really bringing to the world not only as it pertains to the problems in Bangladesh for the sake of our information but for the world to know as well the advancements.

We expect a great deal from the United States. We just don't look outward. We also look inward. And we recognize that we are not a perfect nation. There are many things we can point to here. So we recognize that. We say that about ourselves. So that gives us an opportunity to look out. And I know that there are a number of areas or concerns that we have.

And I think it is also important to extol the virtues and some of the positive things that are happening in Bangladesh. And we applaud especially the fair and free elections that took place and that that is an important aspect, how things move forward with the change in the constitution and the removal of the caretaker system and what role it will have in the future. And I think many of us can make observations, especially in this go-around, in favor and opposed to some of the things that happened during the caretaker regime.

But that is an issue that we have concerns about. You know, what will be the future of democracy – with a small D – in Bangladesh?

I have also concerns about, as was mentioned before, the extrajudicial killings that have taken place and missing persons that have taken place, but in particular, as you have mentioned, Aminul Islam and his brutal murder, identifying and arresting those who are accused of that particular human rights violation and the need to bring those responsible for that murder to justice.

I also have had an ongoing concern about the Rohingya refugees from Burma and am concerned and I think was disappointed when people who are fleeing conflict or in their own land do not recognize the citizens in their own country and are fleeing harms way and to have women and children being turned back, I don't think it looks positively on the people of Bangladesh. I know that is not who they are about and what they are about. I think they are peace-loving people and want to see advancements not only for themselves but for their neighbors in the ongoing conflict.

We know that Aung San Suu Kyi will be here in the United States in September, and I hope to be able to raise the issue of the Rohingya Muslim population in Burma with her as well.

But, Ambassador Blake, could you let us know if you have any knowledge as to whether women, children, and infant refugees were denied entry into Bangladesh from the Rohingya Muslim population in Burma? I don't think it is the fault of the Bangladeshi government that the Rohingya are mistreated in their homeland, as I mentioned. But I hope to see other Bangladeshi moving towards allowing the Rohingya refugees that are looking for refuge in Bangladesh and are fleeing not only fear but I think actual physical harm and would be really more respectful of international law if they were to allow those individuals to have refuge within Bangladesh.

If you can comment on that?

Mr. BLAKE: Certainly, Congressman. Thank you very much. And again, thank you for your interest.

Like you, we remain very concerned about the ethnic and sectarian tensions inside Burma that have precipitated a lot of these movements. I think it is important to note that Bangladesh, as you know, Congressman, has supported more than 250,000 Rohingyas in Bangladesh for more than 30 years. Most of those are economic migrants and not so much refugees. But we have consistently made the point to the government of Bangladesh that, as you say, they have an international obligation to try to help those who are fleeing violence in Burma right now. So we have urged the government of Bangladesh to continue its policy of non-refoulement.

And to answer your direct question, what they have done is that they have provided emergency assistance – food and water, blankets and medicine – but then they have turned all of those people back over to Burma. So they have not allowed people in permanently to add to the population that they already have there. So we have expressed our concern about that policy for the reasons that I just spoke of. And we have also said that we and the U.N. High Commission for Refugees stand ready to provide economic assistance to the government to help them to the extent that they need that to help provide for these refugees.

Mr. CROWLEY: Mr. Chairman, I don't know how much time we have. Can I just continue?

Mr. McGOVERN: Yes.

Mr. CROWLEY: Do you have any observations you can add for us right now as to what the Rohingya people would face when they are denied access to Bangladesh and refuge in Bangladesh in terms of being –

vis-a-vis their own country where they have no citizenship?

Mr. BLAKE: Right. I mean, obviously, they face the same kind of persecution and violence that they are fleeing; and that is why it is so important for Bangladesh to allow them to come into the country and particularly, as you say, for the women and children who are the most vulnerable sections of the population.

Mr. CROWLEY: Aside from fear, which in and of itself is stress, do they face physical harm?

Mr. BLAKE: Most definitely. There has been some very serious violence against them, particularly in the state of Rakhine there. So, again, it underscores the importance of allowing people in and continuing this policy and indeed respecting their international obligations to help these people.

Mr. CROWLEY: I appreciate your observations.

It has not been lost on me what the Bangladesh government has done in terms of providing refuge for a considerable number of refugees within its borders. But I have concerns about, again, especially all human life but especially women and children. That may be just something that goes back into our history dating back to the Titanic maybe, but certainly also I think qualifies in terms of our concerns today.

Ambassador Biel, could you just comment possibly – and then I will turn it back to the chairman – I would like to understand further where things stand in terms of moving forward with the Better Work labor protection program in Bangladesh. A few years ago, it was suggested that this ILO program would be implemented in Bangladesh to help monitor labor rights. What are the challenges to implementing the Better Program and what are the opportunities going forward and do you think this program can work in Bangladesh? I know you were talking about the informal garment sector, but is this something that can work in Bangladesh, in your opinion?

Mr. BIEL: Thanks very much, Congressman Crowley, for the question. It is really a three-part process, without overcomplicating this, concerning Better Work in Bangladesh. First, there was a feasibility study last year. That was something that we helped the administrators of the Better Work Programme jointly, the ILO and the IFC, get under way. That goes through the elements of what would be necessary to have a program get launched.

What then happened was the beginning this past January of a detailed design phase review, which will be completed in the next several weeks by September, that we have been in constant touch with the ILO and the IFC. As a matter of fact, 2 weeks ago, we hosted the head of the Better Work Programme, Dan Rees, who was in from Geneva with his team representing Better Work officials, not just from those who would be working in the future in Bangladesh but also from Cambodia, Indonesia, Nicaragua, Haiti, Lesotho, and so on, to talk about the program as a whole. Obviously a number of precedents for how it might work in Bangladesh, Vietnam as well. When we get the results of those, if they are prepared to move forward, we will commit resources to help in the first year of the Better Work Programme and hopefully beyond.

It is a challenge because of the number of factories. In the case of Haiti, for example, Better Work administers roughly 23 to 25 factories, goes in, monitors training and remediation that we help them with and public reporting on factory conditions. In the case of Bangladesh, you would be talking not 23 to 25 but thousands.

And so one decision that needs to be made would be the scope of the program. Is there an effort to make it

mandatory across the entire sector? If not, that may be impractical in the near term. How do you create leverage and create incentives with buyers to source from the factories that would be part of Better Work where we hope the working conditions would be models for the rest of the industry?

So there is a lot on the table. We will know a lot more when this design phase is completed in September, and we would be delighted to come back and talk to you or your staff at that point about next steps. I think without knowing the results of the design phase, given the various interests of stakeholders, there is strong demand to launch Better Work in Bangladesh. And, again, if the decision is made to move ahead, we can share with you the blueprint for doing that.

Mr. CROWLEY: Thank you, Mr. Secretary.

Mr. Chairman, if I could ask if Ambassador Blake could comment on what was raised by my colleague, Mr. Ellison, that being the war crimes tribunal. Can you give us any observations from State as it pertains to that?

Mr. BLAKE: Yes. We have followed this tribunal very, very closely. We believe as a Nation in the importance of accountability, but we also didn't want to see this tribunal become used for political purposes and in any way undermine some of the existing political parties, specifically the Jamaat-e-Islami. So we made a decision that we would engage with the government and try to help bring the ICT of Bangladesh up to international standards.

So our ambassador, Ambassador Stephen Rapp, who heads our Office of Criminal Justice, traveled to Bangladesh in early 2011 at the invitation of the government, I should say, to provide them with advice. He has written to the minister of foreign affairs, the minister of law, the minister of justice and parliamentary affairs on the ways in which the ICT can be strengthened.

I think he feels that several of his suggestions have been met, particularly with respect to some of the rules changes regarding the ICT, but he has also expressed concern that the ICT has not yet defined this term "crimes against humanity" in a manner that is consistent with international law, and it has not guaranteed defendants in ICT proceedings the same rights that are accorded defendants in other court cases in Bangladesh. So we have also been working with NGOs on the ground there to try to make the ICT trials accessible to the public and again more accountable in that way.

So, in sum, we have engaged very strongly and very consistently on this and will continue to do so.

Mr. CROWLEY: Thank you.

Thank you, Mr. Chairman.

Mr. McGOVERN: Let me just follow up on that.

Have we made progress on the ICT? I mean, we have heard reports of attorneys not being able to meet with their clients. And, again, this process that is anything but transparent. I mean, this process is in place and people are being arrested. Is this a credible process? Or, notwithstanding Ambassador Rapp's suggestions, I guess where are we in that? I mean, how do we view the actions of the International Criminal Tribunal?

Mr. BLAKE: As I said, Mr. Chairman, I think we welcome the fact that the government of Bangladesh

sought international help and really tried to bring their ICT up to international standards, but we think there is still some shortcomings and so there is still more work to be done.

Mr. McGOVERN: The suggestions that Ambassador Rapp made that they took, do you know what they are?

Mr. BLAKE: Yes. As I said earlier, they talked about, again, changing some of the rules, particularly about due process and other kind of procedural type of things.

Mr. McGOVERN: But have they changed the rules?

Mr. BLAKE: I can't tell you. If you want, I can arrange a separate briefing for you.

Mr. McGOVERN: I would be curious. This is a Human Rights Commission, and one of the things that we talk about in almost every hearing is this issue of impunity and due process. We want to make sure that people who commit crimes against humanity or any kind of terrible human rights crime are held accountable. We also want to make sure the process is legitimate and transparent and is not being used for political purposes and it is not something that is done in secret so nobody has any confidence with whatever the outcome is. So that would be very, very helpful.

Mr. BLAKE: We will be glad to have Ambassador Rapp come up and give you a briefing about that.

Mr. McGOVERN: The other issue with regard to impunity is with regard to this Rapid Action Battalion, which human rights organizations have reported in great length about how this battalion has committed serious human rights violations, yet they are protected and not held accountable for their crimes. I know that the U.S. has pushed for better accountability on human rights abuses conducted by security forces like the Rapid Action Battalion, but it doesn't seem like there has been a lot of progress in that area. If I am wrong on that, correct me. I mean, what more can be done to improve the use of force standards in Bangladesh?

Mr. BLAKE: Well, as Human Rights Watch and others have said in their reports, I think there is a long-standing record of torture and mistreatment and extrajudicial killings by the Rapid Action Battalion. We have really sought to try to engage with them to try to change that and change their culture. And I think that we have had some effect. I don't want to overstate that. There has been some improvement in their human rights record.

As I said in my opening remarks, we have worked with them to establish an internal inquiry cell within the RAB, which was in response to a request from them. And we embedded a former marshal, a former law enforcement agent, in the RAB to stand that up. We are now in the process of expanding on that to help – sending somebody back now to sort of strengthen that cell further.

I guess one way to measure this, as I was preparing for this hearing, I asked for the statistics from some of Bangladesh's own human rights organizations about extrajudicial killings; and Odicares, which is one of the most widely and highly regarded institutions in Bangladesh, reports that the RAB extrajudicial killings have come down. In 2010, there were 83; in 2011, there were 51; and so far this year, there are 34. So, you know, there has been some progress, but, again, there is still a very large number.

Mr. McGOVERN: It is hard to say that there is progress when there has already been 34 extrajudicial killings as of this year, and we are in July.

Mr. BLAKE: Right.

Mr. McGOVERN: That is a great concern.

Going back to the issue of the Rohingya refugees. Has the recent opening of U.S. relations with Burma had any impact on U.S. policy toward the Rohingya refugees in Bangladesh? I mean, has this been an issue that has been talked about with the Burmese authorities? And what, if anything, has the United States done to improve the circumstances faced by the Rohingya refugees in Bangladesh? You mentioned that we made an offer to provide some assistance.

Mr. BLAKE: Right.

Mr. McGOVERN: Was that offer accepted?

Mr. BLAKE: Well, no, because they didn't accept more refugees into the country. But we have – had provided assistance in the past. No one really knows the exact number of Rohingyas that are in Bangladesh, but it is somewhere between 250,000 and 400,000, of whom 29,000 are actually registered in camps. And so we do provide assistance through our office of –

Mr. McGOVERN: Do we have any idea how many of these refugees are repatriated on a monthly basis?

Mr. BLAKE: None are repatriated. They have all been in Bangladesh for a very long period of time, some as long as 30 years. And they don't want to go back, so they are not going to be forcibly repatriated. They, quite understandably, are very concerned about the situation back in Burma. It is possible to envision a circumstance where in the future conditions might improve sufficiently in Burma whereby they might be willing and might in fact seek to try to be repatriated back, but those don't yet exist.

Mr. McGOVERN: Mr. Biel, I think Mr. Crowley mentioned in his questions about all the U.S. companies that are doing business in Bangladesh. And I just want to be clear. I mean, we talk about good corporate citizens and not-so-good corporate citizens. I mean, how would you rate the behavior of U.S. companies that are in Bangladesh in terms of are they not exploiting labor, are they paying a fair wage, are they kind of adhering to a set of international standards when it comes to labor rights? I mean, how would you classify our behavior in that?

Mr. BIEL: Sure. Thanks for the question. It is hard to say one-size-fits-all. There have been some examples of leadership by – I mentioned, for instance, PVH in stepping up both the fire safety code, working with leading international NGOs like the Worker Rights Consortium, International Labor Rights Forum, and others to develop that. On the other hand, to date, other brands have not stepped forward to join that. I know that is a source of frustration for some of the NGOs that work very closely with PVH. In terms of conditions in the ready-made garment sector, we were encouraged when we held the buyers forum last year, we are encouraged when we see the joint letters that leading brands have sent out in the aftermath of the Aminul Islam killing, the June 21st letter, which was very constructive, in our view, in talking about the fact that the failure to enforce the minimum wage law increase passed in 2010 has resulted in a deterioration of conditions for workers.

On the other hand, as I mentioned, oftentimes – and we talk about this all the time in our dialogue with buyers, and it is not just in Bangladesh, it is in other countries, Cambodia, Haiti, you name it – it may be pressures from those buyers that create conditions in the factories that lead to everything from unsafe

working conditions to excessive overtime and ultimately other violations of internationally recognized worker rights. So it is an ongoing process.

I met just yesterday with one of the leading brands to talk not just about Bangladesh but other countries in which Better Work is engaged. The most effective way is to stress to the brands, as they themselves said in public statements, that if conditions don't improve, as you well know, in the global economy they will look elsewhere. And there are other countries in the region and elsewhere in the world where there are opportunities to source at relatively low wages.

And so it is important that they use the leverage, their market pressure. Their market pressure can be a source of lowering standards. It can also be a source of raising standards.

And so one thing that the Better Work Programme can enable us to do is really have an organized mechanism in place. As I mentioned, the components of that are the three things you need to work with the brands on: monitoring, remediation, and public reporting, transparency.

So there are some other details. We can share, if you don't already have it in the record, the letters that the brands sent after the killing and again on June 21st. But the dialogue will continue. I think it is fair to say it has been a mixed record, but some brands have been outspoken in support of raising standards.

Mr. McGOVERN: One final question for either of you. How has the United States responded to Dhaka's proposed 2011 Foreign Donations Act amendment, which some are concerned would constrain significantly a lot of the work of civil society organizations and put significant constraints on foreign donations? I guess my question to you is, what is our opinion on that and how might this impact USA contributions to Bangladeshi civil society organizations beyond the already existing constraints of foreign donations?

Mr. BLAKE: Mr. Chairman, we have expressed concern in general about some of the policies with regard to civil society in Bangladesh. We feel that, again, as I said, civil society in many ways has been a cornerstone of the success of Bangladesh. And so efforts to try to erode the role of civil society we view with great concern.

We actually arranged for an expert to go out and talk to the Bangladeshis and give them some expert advice about this law and will continue to talk with them about this. Because I think, again, if there is anything that sort of is in the DNA of Bangladesh and has been something that has been one of the core of their strength has been the strength of their civil society. So we don't want to do anything and see anything happen that will, again, diminish that role.

Mr. McGOVERN: Thank you.

Do you have any questions?

I think we are all set. Thank you very much for your testimony. We appreciate it very much.

Mr. CROWLEY: Let me just ask, if I can, just a quick follow up with Mr. Biel as it pertains – and just further clarification. Do you think it is a plus benefit or a minus negative, I guess you could say, of American corporate presence in Bangladesh today?

Mr. BIEL: I think on balance it is a benefit in that certainly what we see not just in Bangladesh but in other countries is typically U.S.-based brands tend to be well above the curve leaders on corporate responsibility,

particularly those who have been willing to engage in multi-stakeholder initiatives and work not just in terms of their own internal monitoring but allow and work with independent third-party monitors to come into the factories through different initiatives. That is something that often can push buyers from other parts of the world and domestic buyers to do more as well. So I think it has tremendous potential to be a net benefit.

We need to encourage more of the buyers to be involved, because, all too often, it is still kind of a small subset of the buyers who are engaged in these CSR corporate accountability initiatives. And the challenge is, as I mentioned in the case of the fire safety code, it is a good start. But, given the record and the number of incidents, to have one leading multi-national affiliated with NGOs working on that isn't enough. But, on balance, it has more upside potential. And we are by no means – in linking labor conditions to the trade benefits, the goal is to push those conditions upward, not to have investment dry up and companies to move out.

Mr. CROWLEY: Thank you.

Thank you, Mr. Chairman.

Mr. McGOVERN: Thank you very much.

Thank you for your testimony. We are very grateful.

We will call our second panel: Mr. Tim Ryan, Asia Regional Program Director, American Center for International Labor Solidarity; and Mr. John Sifton, Director, Asia Advocacy, Human Rights Watch. Mr. Ryan, we will begin with you.

STATEMENTS OF TIM RYAN, ASIA REGIONAL PROGRAM DIRECTOR, AMERICAN CENTER FOR INTERNATIONAL LABOR SOLIDARITY; AND JOHN SIFTON, DIRECTOR, ASIA ADVOCACY, HUMAN RIGHTS WATCH

STATEMENT OF TIM RYAN

Mr. RYAN: Thank you very much, Mr. Chairman, Representative McGovern, Representative Ellison, and Representative Crowley.

Solidarity Center wants to also thank the Tom Lantos Human Rights Commission. I really appreciate your interest in the issues of labor in Bangladesh and this opportunity to talk about the state of labor rights in Bangladesh today.

I have been involved with worker rights in Bangladesh for the past 15 years, and the Solidarity Center has long been engaged with all the stakeholders, with the workers, the employers, and the government to improve labor rights in the country.

If we look back over the past 20 years, we can see that there has been some incremental progress over time. An important example would be the reduction of child labor in the ready-made garments sector. However, according to Bangladesh's own Bureau of Statistics, there are at least 7 million child laborers in the country today, including in agriculture, manufacturing, mining, domestic service, and hotels and restaurants. In two Solidarity Center reports issued in 2008 and 2012, child labor and other labor rights issues abuses persist in the shrimp and seafood industry.

In the bigger picture, long-standing, persistent, and broad labor rights abuses continue across many

industries and in some cases have accelerated in the past 3 years. This is true even with the return of the civilian government.

For example, over the past 3 years, hundreds of garment workers have been injured and some killed in clashes with police while demonstrating or on strike for labor rights, most often higher wages. Several prominent labor activists have been arrested and taken to trial on trumped-up charges associated with these demonstrations.

Why do these strikes take place? The immediate reason is the objective conditions under which Bangladeshi workers in all sectors toil are among the lowest in terms of wages and most dangerous in terms of safety and health in all of Asia.

But the broader, more persuasive context for these strikes and violence is workers' lack of basic freedom of association to organize their own unions. Trade unions in the ready-made garments sector have been refused legitimate registration, suppressed, their leaders fired and, in some cases, destroyed by management, with the government's acquiescence. Because their attempts to organize have been thwarted, workers have no or few channels or mechanisms to voice their grievances and negotiate with management to improve their rights and working conditions.

As recently as last week, U.S. Ambassador Dan Mozena was quoted in the Dhaka press as saying, quote, U.S. companies want to buy products from Bangladesh, but they are very concerned about the labor issues, safety at the workplace, and freedom of association in Bangladesh. This represents a fundamental failing of the government of Bangladesh to enforce its own labor laws and its commitments as a member of the International Labor Organization.

The most notorious of the recent examples of violence against labor activists, as noted previously, came with the murder in early April of Aminul Islam, an organizer for the Bangladesh Garment and Industrial Workers Federation. Aminul trained, recruited, and organized workers in the garment sector and the export processing zones. Due to his activities, Aminul was threatened by gangsters working for garment factory owners, was continuously under police surveillance, and was detained and beaten by the National Security Intelligence Agency in June, 2010. False criminal charges were filed against Aminul along with his colleagues at BGIWF and the Bangladesh Center for Worker Solidarity for supposedly causing unrest during the minimum wage campaign by garment workers in the summer of 2010.

The investigation of Aminul's case by the Bangladesh authorities continues, but observers both in Bangladesh and internationally are very concerned that no credible, transparent, and accountable investigation will actually take place.

What all these events demonstrate, and the Aminul case in particular, is that the broader application of freedom of association in Bangladesh is actively and daily destroyed by employers and willfully abetted by the government of Bangladesh.

While the AFL-CIO and its GSP submissions has acknowledged some progress in the past in the export processing zones and originally in the shrimp sector, unfortunately, the picture today is one of wholesale backsliding in both the EPZs and the shrimp sector. Neither employers nor the government have taken any real action, and there has been absolutely no progress in the larger sector ready-made garments. Continuing worker protests and violence against demonstrators up to today amply demonstrates this.

What can and should happen presently to improve the labor rights picture in Bangladesh?

First, pressure and advocacy from both Bangladeshi and international labor and human rights organizations must continue across a broad range to press for real freedom of association in Bangladesh.

Secondly, the Bangladesh business community must recognize that its actions to repress workers have consequences, not only in terms of impoverishing its own workforce but also injuring the industry's reputation in the eyes of other governments and the western brands upon which they depend for business. The brands have a key role to play in this regard.

Third, the Bangladesh government should continue to be held to task to live up to its international ILO commitments and, if it does not do, so should face more punitive actions by the ILO's governing body.

Fourth, the AFL-CIO's GSP petition, which I ask to be submitted for the record, provides a litany of those issues that the government of Bangladesh and employers need to address; and the U.S. trade representative should keep the pressure on for the government of Bangladesh to seriously address and remedy those issues. Otherwise, such trade benefits that Bangladesh currently enjoys should be suspended.

Mr. RYAN: The Bangladesh government has choices about development policy and how to best bring its people out of poverty. The strikes, violence, and continuing worker dissatisfaction with the status quo demonstrates that the low-wage, low-rights model is not its best option. And U.S. Government, ILO, and NGO pressure can help the government to change course and support its workers as they attempt to better their own lives. Thank you very much.

[The statement of Mr. Ryan follows:]

**Testimony before The Tom Lantos Human Rights Commission
By Timothy Ryan, Asia Regional Director,
American Center for International Labor Solidarity
July 19, 2012**

The Solidarity Center wants to thank the Tom Lantos Human Rights Commission for this opportunity to talk about the state of labor rights in Bangladesh today. I've been involved with workers' rights in Bangladesh for the past fifteen years, and the Solidarity Center has long been engaged with all stakeholders – workers, employers, and the government – to improve labor rights in the country. If we look back over the past twenty years, we can see that there has been some incremental progress over that time. An important example would be the reduction of child labor in the Ready Made Garment (RMG) sector. However, according to Bangladesh's own Bureau of Statistics, there are at least seven million child laborers in the country, including in agriculture, manufacturing, mining, domestic service, and hotels and restaurants. In two Solidarity Center reports issued in 2008 and 2012, child labor and other labor rights abuses persist in the shrimp and seafood industry. In the bigger picture, long-standing, persistent, and broad labor rights abuses continue across many industries, and in some cases, have accelerated in the past three years. This is true even with the return of civilian government.

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attempts to organize have been thwarted, workers have few or no channels or mechanisms to voice their grievances and negotiate with management to improve their rights and working conditions. As recently as last week U.S. Ambassador Dan Mozena was quoted in the Dhaka press as saying, “US companies want to buy products from Bangladesh but they are very concerned about the labour issues, safety at [the] workplace and freedom of association in Bangladesh.” This represents a fundamental failing of the Government of Bangladesh to enforce its own labor laws and its commitments as a member of the International Labor Organization.

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Bangladesh to seriously address and remedy those issues, otherwise such trade benefits that Bangladesh otherwise currently enjoys, should be terminated.

The Bangladesh government has choices about development policy and how to best bring its people out of poverty. The strikes, violence, and continuing worker dissatisfaction with the status quo demonstrate that the low-wage, low-rights model is not its best option—and U.S. government, ILO, and NGO pressure can help the government to change course and support its workers as they attempt to better their own lives.

Thank you.

Mr. McGOVERN: Thank you very much.

Mr. Sifton?

STATEMENT OF JOHN SIFTON, DIRECTOR, ASIA ADVOCACY, HUMAN RIGHTS WATCH

Mr. SIFTON: Thank you.

Mr. Chairman and members of the committee, I want to start first again, like my other witnesses, thanking you for holding this hearing today.

The human rights situation in Bangladesh certainly deserves a lot of attention, not merely from this committee and the U.S. Congress but from the world over, the governments abroad and the European Union, United Nations body, businesses, labor groups, humanitarian agencies, the media.

The people of Bangladesh have suffered a great deal of human rights abuses over the last few decades, and it certainly would be the case that having those abuses be less ignored would be a positive impact. I think it is impossible to run through all the human rights issues that could be discussed, and so I would ask that a copy of the written testimony that I submitted beforehand be put into the record.

Mr. McGOVERN: Without objection.

Mr. SIFTON: It has been posted – just for the benefit of everyone here, it has been posted on Human Rights Watch’s Web site simultaneous with this hearing starting. So if anybody would like to see sort of broader scope issues we have put that on-line at HRW dot ORG.

I will run through a few of the issues that I address in the written testimony. I address six: labor rights, which Mr. Ryan has already gone through; extrajudicial killings and impunity; restrictions on civil society, which came up on the first panel; refugee issues, including the issue of the Rohingya; issues involving women and girls rights; and, lastly, issues involving the International Crimes Tribunal.

I cannot address all these, so I am going to just choose two in my remarks. Since labor rights has already been addressed in quite some detail, I am going to discuss, first, the issue of the Rohingya and, second, issues of impunity with the Rapid Action Battalion.

I want to say first, though, that Human Rights Watch would like to acknowledge that, on a broader level, in the past 3-and-a-half years the government of Bangladesh has taken some positive steps on human rights, not just the ones I am going to talk about but generally.

The government has enacted a law against domestic violence and introduced a national policy to advance women’s rights, for instance. The government has taken an important step to protect the rights of minorities, at least on paper, when it passed the Vested Properties Return Act. The cabinet also approved the Hindu marriage registration bill in 2012.

And the overall environment for human rights NGOs has improved from the dismal situation it faced under the caretaker government – and previous governments, for that matter. Human rights workers, critical journalists have not been subjected to threats and killings as frequently as in the past. Although, obviously, the fact that they still are is a major concern. Media freedom has also improved, and I think that needs to be acknowledged, even though it still faces significant threat.

And one last thing. After a Human Rights Watch report on the subject of crossovers into India, the Bangladeshi authorities have started demanding of India an end to the indiscriminate and excessive use of force by Indian border guards, who often simply just shoot Bangladeshis as they are crossing into India illegally.

I think the overarching problem we have with the current government is that, while it has swept into office

promising to have a zero tolerance policy for human rights abuses, in the actual practice we have seen the government turn a blind eye.

We really welcome the fact that the United States Government and Secretary Clinton and Assistant Secretary Blake have pushed some of these issues forward. During Hillary Clinton's visit to Dhaka this year, she pushed very hard on all these issues.

It is on the Bangladeshi government to rethink its approach to human rights reporting. The recalcitrance that this current government has shown, which is quite surprising given the fact that they themselves often alleged human rights abuses when they were in opposition, has been incredibly frustrating for us.

At the end of the day, I think the first step to all the improvements or all the problems that have come up is that the government needs to admit that it has problems. As long as it pretends that it doesn't have problems – I mean, this is something we face when we talk to them, whether it is about refugees or the Rapid Action Battalion – as long as they deny that there is a problem, deny that there are problems, or suggest that attacks on them are some sort of conspiracy against either their party, the government, or Bangladesh generally, we are not going to get anywhere. So that is the big issue.

But two issues, okay, in a little bit more detail.

On the Rohingya, since there was some interest on that, I would like to say that we are going to be putting out a report shortly about both the situation inside of Burma and what is going on on the River Naf with some of the folks coming over. It is a deplorable situation inside Yangon state and Rakhine state in Burma.

Essentially, the violence escalated into wholesale torch and hack and kill and rape of Rohingya citizens. There was some violence against Rakhine as well by Rohingya themselves, but, by and large, the biggest forces were against the Rohingya and not just involved ordinary Rakhine civilians but the Nasaka forces of Burma, the border guards, as well as local police sort of helping civilians commit this horrible violence.

So, as a result, not surprisingly, a large number of these folks fled. From fleeing from farther south in places like Sittwe they had to take a 2-day boat ride out into the Bay of Bengal and come up the mouth of the River Naf and try to land somewhere there. Many of them were interceded by the Bangladeshi border guards at sea. Others made it ashore but were then captured.

We interviewed quite a number of them in various areas along the River Naf. Journalists did as well over the past couple of weeks. And they describe in some cases being sent back into Burma and trying to enter again, which to us was a testimony to how desperate they were.

Inside Bangladesh, we have seen the border guards begin to sort of engage in a mutiny of sorts and not exactly rigorously enforce orders that have been given them to turn back Rohingya. We have reports of authorities essentially turning a blind eye when folks are lucky enough to make it into Rohingya communities around Cox's Bazar, which is a little bit farther up the coast.

But when folks are found at sea, they are turned back. And that remains the official position of the Bangladeshi government; and it is a serious, serious concern.

Now, because the violence in Yangon state has reached kind of an equilibrium – which shouldn't be confused with peace and security but an equilibrium because many of the people who fled have reached wherever it is that they have sought to go and are now displaced – an equilibrium has set in and so the

numbers of people crossing into Bangladesh appears to have gone down. But as recently as a few weeks ago – days ago, really – there were hundreds of people still crossing over, at least when the weather was calm.

And I should emphasize the weather play a huge role in the numbers you see on a day-to-day basis. When there is very bad weather, you will see almost nobody coming in. On the Rapid Action Battalion and impunity, I would just like to take a second to talk about this.

The Rapid Action Battalion is probably the crown jewel of the issue of impunity. I mean, it is the main issue, the focus point of impunity for extrajudicial killings. We have labeled RAB a death squad because – as you have seen in our public statements – because we and others have documented cases where they have – RAB forces have identified individuals, detained them, and then staged shootouts, which they later call cross-fires, in which these folks essentially end up dead.

We began reporting on RAB many years ago, in 2005, when the BNP was in power. And I want to just emphasize in my testimony right now that that there is no dispute that the unit was set up to be a death squad. BNP officials told us in private meetings that extrajudicial killings were part of the mandate of the RAB from its outset because, they argued to us, corruption in the police and courts meant that powerful criminals could avoid arrest or buy their way out of prison. So we have to kill them, essentially.

So after continued reporting on RAB in 2007 and 2009 during the military backed government, we released another lengthy report on RAB in 2011. And earlier this month, I want to talk about the fact that we issued a report about the aftermath of the Bangladesh border guards' mutiny of 2009 which RAB played a role in dealing with.

The mutiny, which I think a lot of the people are familiar with, was an incredibly violent act, but the aftermath was quite disturbing as well. Thousands of people were rounded up. Many, many of them were tortured. A few of them were killed. It is not exactly clear how many. RAB played a role in that.

The report is here. I would ask to submit it into the record, and I can provide you guys with copies.

Mr. McGOVERN: Thank you.

Mr. SIFTON: The Awami League knows full well what RAB is capable of; and it is notable that when it was in opposition they often claimed that its members were killed, tortured, or illegally detained by RAB. And to our great disappointment, although they promised to crack down on RAB during their 2008 campaign, now today they deny that RAB is even implicated in abuses. And that is an incredible disappointment to us. It is a remarkable about face.

In meetings in 2010, 2011, and earlier this month, the home minister to whom RAB reports has stated that RAB has not committed any unlawful killing since the Awami League came to power. And the law minister made similar claims to us. And both have made statements to that effect in the media.

So the government is refusing to even consider the facts contained in our reports. They are just saying at the outset there is no problems. We don't know why they take this untenable position given the facts, and meanwhile the allegations are continuing.

I noticed that in the first panel this issue of killing is going down and the questions about the numbers came

up. And I would just like to flag that, as an asterisk to any discussion about the numbers, it should be acknowledged that it is not always the cross-fire killings we are seeing now. Now we are just seeing outright disappearances. Since disappearances are a little harder to document and mark down and quantify, because you really don't know exactly what is going on, those aren't addressed in those statistics that have been discussed.

So I can answer some more questions about that.

I will just say one thing about the aftermath of this report. When we brought this report up to the government, again, it was a complete, utter denial that there was a problem, even though our report has some very, very clear allegations in it. It led us to believe that the government had simply just not read the report, and so we were very concerned by that.

I am going to stop there. Because you can go on and on about all these issues, but I think it would just be easier just to take questions.

[The statement of Mr. Sifton follows:]



Testimony of John Sifton
Asia Advocacy Director
Human Rights Watch

Tom Lantos Human Rights Commission
House Committee on Foreign Affairs
"Human Rights in Bangladesh"

July 19, 2012

Mr. Chairman and members of the committee:

I want to start by thanking you for holding this hearing today. The human rights situation of Bangladesh certainly deserves close attention, not merely from this committee and the US Congress but from the world over: governments, United Nations bodies, businesses, labor groups, humanitarian agencies, and the media. The people of Bangladesh have suffered a great deal of human rights abuses under successive governments, abuses that have all too often been ignored outside of the country.

First, some context. The current government of Prime Minister Sheikh Hasina came into power after her Awami League party won the 2008 elections, replacing a highly abusive military-backed caretaker regime. In the past three-and-a-half years, the government has taken some good steps, including enacting a law against domestic violence and introducing a national policy to advance women's rights. The government has taken an important step to protect the rights of minorities, at least on paper—it passed the Vested Properties Return Act, 2011 and the Cabinet also approved the Hindu Marriage Registration Bill, 2012. The overall environment for human rights nongovernmental organizations (NGOs) has improved from the dismal standard under the previous two governments. Human rights workers and critical journalists have not been subjected to threats as frequently as in the past, although problems remain (see below). Media freedom has also improved, again from a very poor situation.

After a Human Rights Watch report on the subject, the Bangladeshi authorities have started demanding an end to the indiscriminate and excessive use of force by Indian border guards against its nationals when they cross into India illegally.

However, Bangladesh's general human rights situation remains poor, both for structural and policy reasons. The primary structural problem, we believe, is that the army continues to wield tremendous power over the civilian authorities. The military acts as if it is above the law. The ever-present threat of a destabilization campaign by the military against the elected government hangs in the air in Bangladesh.

After its landslide victory in 2008 and a commitment in its campaign to end abuses and impunity, the Awami League had the opportunity to take steps to rein in the army and other security forces. Foreign Minister Dipu Moni told the UN Human Rights Council in early 2009 that Bangladesh would have "zero tolerance" for abuses. Yet extrajudicial killings and impunity continue to characterize the human rights situation in Bangladesh. Repeatedly, the government has failed to take action even in cases of abuse that are similar to what members of the Awami League suffered while in opposition.

Bangladesh's rights problems are consistent and acute across successive governments and we believe that the situation in the country deserves regular and high-level attention from the US, the UN and others. The US government appears to appreciate this, understanding that Bangladesh, as one of the largest suppliers of apparel for import to the United States and an increasingly important regional security player, cannot be ignored.

Human Rights Watch welcomes the greater attention the United States gives to Bangladesh. Secretary of State Hilary Clinton made a key visit to Dhaka this year—the first by a US secretary of State since 2003. Notably, human rights concerns were strongly and publically raised by Secretary Clinton during her last visit. Assistant Secretary Robert Blake, Ambassador Steven Rapp, and other State Department officials have raised human rights issues regularly. The embassy in Dhaka is active and responsive on rights issues.

Unfortunately, much more should be done. The current government has been largely hostile to efforts to offer advice on key rights issues, arguing that facts presented are "fabricated and politically motivated" and that critics are part of an "international conspiracy" against the government. This makes all or our efforts to improve the rights situation for the people of Bangladesh much more difficult. It compels us to redouble our efforts, which we at Human Rights Watch will do.

We urge the Bangladesh government to rethink its approach to human rights reporting and related recommendations. The recalcitrance it has shown on human rights and related issues has made it difficult and sometimes impossible to engage in any meaningful way with the government on issues that affect large numbers of Bangladeshis. This approach has severely affected both domestic and international opinion about the government and its sincerity in promoting and protecting human rights. Instead of adopting an "us-against-them" mentality, summarily dismissing reports, and treating human rights work as a conspiracy to undermine the ruling party, the government should address allegations and recommendations seriously. It is time for a reset in Dhaka on the rights, and we hope this hearing can contribute to this.

Now, please let me take a few minutes to run through six of the key human rights issues facing Bangladesh, though unfortunately there are others.

Labor Rights

You have already heard in detail about labor rights issues from Mr. RYAN: Human Rights Watch was among the groups raising questions about the killing of the labor activist Aminul Islam and urging Secretary Clinton to press the government for an independent investigation, which she did during her visit.

Sadly, however I am obligated to report today that there has been no progress on the Aminul Islam case. Aminul Islam's family, as well as most labor rights groups, have asked for the case to be referred to Bangladesh CID- the criminal investigation department, a special unit in the Bangladesh police—since it has greater capacity than the local police department currently heading up the investigation. Of course, given the evidence of intelligence agency involvement in monitoring Aminul Islam before his death, there are concerns that the CID could fall under political influence in this investigation, but on balance enlisting the CID seems like a more hopeful approach. When representatives of Human Rights Watch met the Home Ministry earlier this month, the home minister and her officials told us that if the investigation did not advance quickly, they would indeed refer the case to the CID.

Government harassment of labor leaders in Bangladesh is an ongoing problem. Human Rights Watch had earlier drawn attention to an 2010 incident in which Aminul Islam was detained and tortured, and is aware of over a dozen labor rights leaders currently facing criminal charges on a variety of spurious grounds, including some facing charges under the Explosive Substances Ordinance,

which carries the death penalty. Labor rights groups are facing registration problems, which in turn affects their funding and operations.

The government has continued to pursue legal action aimed at intimidating the Bangladesh Center for Worker Solidarity (BCWS), a trade union group. After revoking BCWS's registration, one agency demanded that two union leaders, Kalpona Akhter and Babul Akhter, both facing criminal charges, resign as a precondition to renewed registration of the organization. BCWS has denied all allegations against it and continues to struggle against government harassment.

And there are of course many rights issues organizers are struggling to address, such as worker safety, excessive hours, the right to organize, and obtaining the minimum wage. These are the issues that make Bangladesh's record so especially problematic – workers get hit twice: once at work while on the factory floor, and a second time outside the gate when they try to organize or speak out to better their situation.

Extrajudicial Killings, Torture and Impunity

Although the government has publicly committed to “zero tolerance” for human rights violations, Bangladesh has not shown a great amount of progress in key areas in the last few years. The Awami League government, ushered in several years ago after an extremely abusive military-run caretaker government, has largely failed to use its significant parliamentary mandate to adopt policies and enact laws to ensure strong protections of human rights.

Perhaps the most important example is the country's abusive paramilitary security force, the Rapid Action Battalion (RAB). We have labeled RAB a “death squad” because we and others have documented large numbers of cases in which RAB forces have identified individuals, detained them, and then staged a shootout in which the detainee is killed, claiming self-defense. The RAB would then issue very similar press statements explaining how victims died in the “crossfire.”

We began reporting on RAB in 2005 during the Bangladesh National Party (BNP) government. As we have previously documented, the BNP set RAB up to fight organized crime. BNP officials told Human Rights Watch that extrajudicial killings were part of its mandate from the outset because, they argued, corruption in the police and courts meant that powerful criminals could avoid arrest or buy their way out of prison. We continued reporting on RAB during the 2007-2009 military-backed government. We released another lengthy report on RAB in 2011. Earlier this month, we released a report on the government response to the 2009 mutiny of the Bangladesh Rifles in which we documented RAB involvement in killings and torture. All of those reports are available on our website, at <http://www.hrw.org/asia/bangladesh>.

I will add that the governing Awami League knows full well what RAB is capable of. It is notable that when it was in opposition, the Awami League often claimed that its members were killed, tortured and illegally detained by RAB.

During the 2008 campaign for parliament several years ago, the Awami League promised to crack down on RAB and investigate abuses. But instead of prosecuting members of RAB who have been shown to have engaged in extrajudicial killings, the Awami League government now denies that RAB is even implicated in abuses—even in cases where internal ministry investigations have found evidence of wrongdoing. Now in government, the Awami League has made a remarkable about-face. In meetings with Human Rights Watch in Dhaka in 2010, 2011, and earlier this month, the home minister, to whom RAB reports, has stated that RAB has not committed any unlawful killings since the Awami League came to power. The law minister has made similar claims to us. Both have made statements to this effect in the media. The government has steadfastly refused to even consider the facts contained in our reports, much less launch investigations into individual cases or set up an independent inquiry into RAB.

We do not know why the government takes this completely untenable position. While many Bangladeshis appreciate RAB's role in combating organized crime, no one in Bangladesh believes that RAB does not commit unlawful killings or torture. The media regularly report on RAB killings and allegations of abuse. The National Human Rights Commission has called for an end to RAB abuses. Respected Bangladeshi human rights organizations such as Odhikar and Ain o Salish Kendra (ASK) have documented RAB abuses on a regular basis. We have repeatedly asked the government for information on any case in which a RAB member has been prosecuted for a human rights violation, but to date, have never received a reply. This request was made again earlier this month to the home minister, who promised to send us details. It hasn't happened.

Meanwhile, new allegations of torture, arbitrary arrest, and enforced disappearances by police continue to emerge. More recently, it seems the cheap trick of claiming that a killing occurred in “crossfire” has simply given way to outright disappearances.

The US government, through the Department of Justice, has provided training to RAB to set up an internal investigative unit,

but it remains to be seen whether it will help chip away at the sense of impunity. While setting up such a unit may sound like a good idea, such a unit will not produce any results until RAB and the government are willing to admit that RAB does indeed commit abuses. At present it is not clear that RAB has agreed to allow the US access to information that would enable it to monitor the unit's progress, and it does not appear that there are measurable benchmarks of success. The US ambassador has indicated that RAB have asked for more assistance in the same vein, and further training to set up other such units, so we can expect ongoing engagement between the Department of Justice and RAB on this issue. The US, we believe, should use this leverage to monitor progress. Reportedly a handful of cases have been slated for prosecution, but mostly for disciplinary issues. There has been no action yet on serious human rights violations.

On July 4, 2012 Human Rights Watch was in Dhaka to issue a report about the 2009 mutiny and massacre of army officers by members of the Bangladesh Rifles. In February 2009 BDR soldiers turned on officers during an annual ceremony, killing 74 people in the process, including over 50 officers. Prime Minister Sheikh Hasina and Home Minister Sahara Khatun displayed extraordinary courage in refusing to give the army permission to use heavy weapons against the BDR in a heavily populated area, saving many lives in the process. Both went to the site of the massacre and negotiated with members of the BDR and then with the army to mediate a peaceful resolution.

Human Rights Watch has called for perpetrators of this violence to be brought to justice. However, our research documents custodial deaths, torture and mass roundups of BDR soldiers across the country. RAB is implicated in many cases. Many of the suspects were denied access to legal counsel, particularly in the few months directly after the mutiny. We documented detainees being subjected to beatings, often on the soles of their feet or palms of their hands, and to electric shock. Some victims described being hung upside down from the ceiling. Many of those who survived the torture suffered long-term physical ailments, including kidney failure and partial paralysis. We believe that a sizable number of the approximately 6,000 people arrested – for a single episode of violence on one day – played no significant role in the mutiny and can be considered to have been arbitrarily detained.

So far about 4,000 people have been found guilty by military tribunals, all in mass trials – and there are more to come. And a specially appointed civilian court, established under the Bangladesh Criminal Procedure Code, is hearing a case against 847 people accused of serious criminal conduct such as murder. Some of the charges in this case carry the death penalty as a possible sentence. Our recent report on this case is available on our Bangladesh page: <http://www.hrw.org/asia/bangladesh>.

Restrictions on Civil Society

There are continuing worrying signs about the health of Bangladesh's civil society. We are particularly concerned by public statements by government officials after the publication of our report on the Bangladesh Rifles mutiny earlier this month, in which they suggested our work was part of a Western plot against Bangladesh, and in which they appeared to threaten actions against domestic rights groups that participated or assisted us in research for the report. All of the report's findings were ours, as were the recommendations, but local groups have the right to investigate allegations of human rights abuses. The government's response was quite shocking.

This comes in the wake of increased surveillance of the human rights organization Odhikar in particular, Adilur Rahman Khan, Odhikar's secretary advocate. In the last year, Odhikar staff have been threatened and harassed, while government approval for foreign funded projects has been arbitrarily delayed by the NGO Affairs Bureau, which is located in the prime minister's office (the same office that has denied registration to the Bangladesh Center for Worker Solidarity).

One particularly worrying issue is a draft law purporting to regulate foreign donations to Bangladeshi NGOs. We have seen a version of the bill. Based on the reading of the bill, and our experience with how the government has treated NGOs and civil society in the past, we have serious concerns with it, which we have shared with the Bangladeshi government and the State Department. It would be useful if the committee were to weigh in on this important topic and make clear your concerns about any legislation that would impose burdensome and unnecessary restrictions on human rights and other civil society groups.

We recognize that governments may wish to adopt neutral laws and regulations to regulate charities and organizations—and here in the United States we know of tax laws, lobbying laws, disclosure laws. The issue here is the content of the law and the context in which it is used. We have every reason to believe that this law has the potential to be used not for legitimate regulatory or tax purposes but rather as a cudgel to silence or neuter civil society groups whose work is out of favor with the government. The law includes vague language that could be used to deny registration or allow the government to close an NGO arbitrarily. It would require government approval for each project. This approval would have to come from the NGO Affairs Bureau, the relevant line ministry, and the local officials where the project would be carried out. It is not hard to imagine that a project could take a critical view of local or national government officials may not receive approval from those very same officials. The

applications could conveniently be put at the bottom of the stack, never to see the light of day. As a meeting of NGOs in Dhaka in July we heard vociferous complaints about the draft law, with fears that it will be used to target critical NGOs or used to extract bribes in order to gain approval.

Along these same lines, we would note that a draft law proposing restrictions on media, which would prohibit the broadcast of certain religious and political speech, is also under consideration.

Refugees and Asylum Seekers

Let me now turn to refugee issues. As you have likely heard about already, the government's response to the recent influx of Rohingya refugees and asylum seekers fleeing sectarian violence in Arakan State in Burma has been to push them back at the border, while denying any obligations under customary international law not to forcibly return them to Burma. The foreign minister claimed in parliament that Bangladesh has no legal obligation to admit asylum seekers despite their being a situation of large-scale influx, a point Human Rights Watch rebutted in a letter to the prime minister.

Instead of providing refuge, government officials have labeled Rohingya fleeing violence in Burma as "intruders" and "criminals." Some have alleged that asylum seekers are linked to groups suspected of terrorism, without providing any evidence.

In a July meeting with Human Rights Watch, the home minister said that Rohingya would not be admitted to Bangladesh. Her deputy said that they would be given bottles of water, and a medical check, and then pushed back to sea. And this is indeed what our research in Bangladesh confirmed was happening. Officials in Dhaka have ordered house-to-house searches in border areas to find Rohingya and expel them. While conducting research along the Naf river bordering Burma last month, my colleagues heard devastating accounts from Rohingya—traumatized children who lost their parents in the violence, and some men so desperate that they swam across the river using clusters of sealed empty water jugs for flotation. Their stories make the Bangladesh government's intransigence seem all the more cruel. And indeed even some Bangladesh border guards seemed reluctant to enforce the government's policies; one officer noting that "no one should be forced to face abuses in their homeland."

There are, of course, many Rohingya already in Bangladesh. While there are no exact figures, estimates suggest that hundreds of thousands of long-term Rohingya refugees continue to exist on the margins of society in Bangladesh. The government has rejected more than US\$30 million in international assistance to improve conditions in the communities in which they live, funds that would also have benefitted poor Bangladeshi citizens. They have, also for the same reason, refused to allow third-country resettlement for some 29,000 registered refugees.

The US embassy and other embassies, along with the United Nations, have been raising concerns about the response to the emergency emanating from Burma, but report no progress in modifying Bangladeshi government policy. We urge the highest-level intervention possible from the US and other governments to appeal, at the very least, to the Bangladeshi government's sense of humanity.

Women's and Girls' Rights

Violence against women and girls and their discriminatory treatment under personal status laws persists in Bangladesh. While Bangladesh has a strong set of laws to tackle violence against women, especially domestic violence, the implementation remains poor. Violence against women including rape, dowry-related assaults and other forms of domestic violence, acid attacks, and illegal punishments in the name of "fatwas" (opinions that are supposed to be issued by Islamic scholars), and sexual harassment continue.

New cases were reported in 2011 of beatings, isolation, and other public humiliation of girls, all imposed following so-called fatwas on issues such as talking to a man, premarital relations, having a child outside wedlock, and adultery. Women's groups are particularly concerned that such abuses continue even though the High Court division of the Bangladesh Supreme Court ordered government authorities to take preventive measures and prosecute perpetrators.

Since Bangladesh's independence in 1971, the bulk of the country's laws are applicable to all citizens without discrimination based on sex or religious belief, with one major anomaly: its personal laws. Some reforms, especially laws against domestic violence and acid attacks, have addressed family issues and apply across the religious spectrum. But personal laws on marriage, separation, and divorce, some dating to the 19th century, have remained largely frozen in time and adversely impact hundreds of thousands of women in the country and require urgent reform.

All personal laws discriminate against women; they fail to recognize marital property or provide for its equal control and use during marriage or its division on an equal basis after divorce or upon separation. This almost always benefits men and disadvantages women, who have no claim or control over property to which they may have contributed unless the title happens to

be in their names.

Polygamy forms a key basis for discrimination in Muslim personal law. The Muslim Family Laws Ordinance of 1961 aims at restricting polygamy by imposing procedural conditions but these are rarely implemented. Muslim personal law also makes it far easier for men than for women to divorce with very limited rights to maintenance after divorce—Muslim women are only entitled to maintenance for 90 days from the date of divorce or for the duration of pregnancy, if they are pregnant at the time of divorce. Marital property is not recognized for Muslims.

Hindu personal law, which is only minimally codified, has similar discriminatory elements. It allows Hindu men to marry any number of times, without any procedural preconditions. Divorce is not permitted for men or for women. Hindu women can seek judicial separation on limited grounds and seek maintenance in court.

Christian personal law also discriminates against women. Divorce is allowed on limited grounds for both men and women, but the grounds are far more restrictive for women. Men can divorce if they allege their wife committed adultery. Wives, on the other hand, must prove not only that the husband committed adultery but also another wrongful act. Christian women are entitled to maintenance during marriage and alimony after divorce, but this is tied to their “chastity.”

Family courts have primary responsibility for enforcing Bangladesh’s personal laws, although community leaders and local authorities also play a role in informal mediation. Enforcement of court orders can take years and is often riddled with problems around summons and notice procedures and processes for executing court decrees. Other problems include inconsistent practices among judges related to evidence, unpredictable awards, failure to award interim maintenance during court proceedings, and lack of clear criteria for awarding maintenance, including women’s contributions to households, making it difficult for them to get timely financial relief after divorce or separation. The Bangladesh government has yet to streamline and amend family court procedures to ensure that women seeking relief get timely intervention.

We have urged the US to ensure that measures to protect women’s rights in Bangladesh pay adequate attention to reform in personal laws, justice reform in family courts, and implementation of the law against domestic violence.

Also in need of urgent reform are protections for Bangladeshi migrant domestic workers. Recruiters in the Middle East are increasingly turning to Bangladesh to hire women domestic workers as other labor-sending countries tighten their regulations or impose bans in response to widespread exploitation. The Bangladeshi government has failed to introduce minimum protection measures for these workers during training or recruitment or to ensure that embassies abroad are adequately equipped with labor attaches and shelters to respond to cases of abuse. As a result, Bangladeshi women migrants are at high risk of deception and coercion during the recruitment process, for abuses like unpaid wages, forced confinement, and workplace violence while abroad, and extremely limited access to remedies and support.”

International Crimes Tribunal (ICT)

Human Rights Watch has long supported the desire of victims of atrocities in Bangladesh’s 1971 war of independence to gain justice, however belated. We have urged the government to conduct investigations that follow the evidence so that individuals responsible are held accountable (Pakistani army officers and government officials, who were the primary authors and architects of the crimes, are exempt from the trial process by the 1973 ICT statute). We have urged the government to ensure that the law and trial process meet international fair trial standards.

We have been disappointed by key aspects of the process. Following engagement with Ambassador Rapp’s office, the government amended the International Crimes Act in 2011, allowing among other things the presumption of innocence to the accused, a fair and public hearing, and shifting burden of proof beyond reasonable doubt on the prosecutor. They also allowed for a kind of interlocutory appeal in which the parties are able to move the court to review its orders. But importantly, the review, if allowed, is done by the same bench which made the initial ruling, thereby failing to meet international standards of independence of review. We have continued to urge the government to further amend the law to:

- Enumerate the crimes to ensure that the definitions of war crimes, crimes against humanity, and genocide conform with international standards.
- Ensure that the defense is given adequate time to prepare, instead of the current three weeks, which is not enough time given the quantity of evidence involved.
- Establish a defense office, as has been done when dealing with similar crimes in other countries.
- Perhaps most importantly, repeal article 47(A) of the constitution, which states, “This Article further denies any accused

under the ICT Act from moving the Supreme Court for any remedies under the Constitution, including any challenges as to the unconstitutionality of Article 47(A).” This denies the accused in these cases basic protections such as safeguards against arrest and detention; protections in respect of trial and punishment; and the enforcement of fundamental rights, including a right to apply to the High Court for protection of these rights.

We have other concerns with the proceedings: Defense counsel have credibly alleged harassment and intimidation, though the prosecution denies this. There are credible rumors that the chief defense counsel for most of the accused may himself be charged. While we have no opinion on the merits of this since we have not seen the evidence, there are serious concerns that such a course could be a politically motivated prosecution.

Most recently, the bench allowed the prosecution to introduce 15 witness statements without live testimony, claiming that the witnesses were unavailable because they were either too ill or too afraid to appear in person. The defense challenged this and produced what they claim are the logbooks of the government safe house where the witnesses had stayed during the time that they were supposedly unavailable. That challenge was rejected. When we met the law minister in Dhaka, he said that the log books were inauthentic because the government keeps no logbooks from safe houses, which is unlikely, since keeping a record of movements in and out of the safe house is standard practice.

Please see the following links for more information:

<http://www.hrw.org/news/2011/11/02/bangladesh-stop-harassment-defense-war-tribunal>; and

<http://www.hrw.org/news/2011/07/11/bangladesh-guarantee-fair-trialsindependence-era-crimes>.

There have been some positive developments. After much argument, the judges have allowed a 90-year-old diabetic accused to receive home-cooked meals; they have given the defense a large amount of time to cross-examine witnesses, although they are still not allowing prior inconsistent statements to challenge the credibility of witnesses. These do not, however, resolve the larger issues mentioned above.

Mr. McGOVERN: I appreciate both of your testimony. Obviously, you highlight some things that anybody who cares about human rights ought to be very concerned with.

I just have a couple of questions, one for each of you.

Mr. Ryan, as we talked about in the previous panel, Bangladesh has one of the cheapest production systems in the world and exports to U.S. companies like Wal-Mart, JC Penney’s and Sears. We have talked a lot about what the Bangladeshi government needs to do. I want to talk about U.S. businesses and the U.S. Government. What are these companies doing to help improve labor rights in Bangladesh and what would happen if the U.S. limited imports from Bangladesh until labor rights were improved?

I want you to answer that, and then I will ask Mr. Sifton a question.

Mr. RYAN: Certainly. I did say in my testimony that brands can play a very positive role, and we have seen how the brands can play a positive role in various countries.

A couple of points about this, however. The issue for the brands is there needs to be a continued focus and a continued engagement and a continued pressure in order for them to be consistent in their engagement in various countries. I have seen this over the last 20 years in Asia. To the extent that they can put forward a set of conditions, a code of conduct that stipulates the kind of behavior that they would like to see from their subcontractors, that is a useful tool, but it is not an end in itself. And to the extent that these codes of conduct stipulate freedom of association, that is the kind of space that activists and workers on the ground really need to be able to create the most effective monitoring system, which is democratic unions in their own plants. Because they really know what is going on and have the opportunity – given the opportunity to be able to negotiate and actually improve the standards and the wages with their contracting companies.

Mr. McGOVERN: So to get this code of conduct, I mean, how would that come about? Would the U.S. Department of Labor try to call all the importers in and have a discussion about these are some standards here that we expect everybody to live up to?

Mr. RYAN: Well, over the last 20 years, most of the major brands, including the ones you mentioned, including Nike, Reebok, footwear, garment manufacturers – garment brands, have created these codes of conduct themselves. A lot of them look very familiar. A lot of them look very similar. But where we see one of the biggest gaps is the ability for them to use these codes to create real freedom of association. We have seen examples.

When I was our director in Indonesia, for example, in the late 1990s when Reebok was operating in Indonesia, the Solidarity Center worked with Reebok to use their codes to create the space on the ground in the factories for workers to be able to actually organize their own unions.

So we have seen how this mechanism can work, but the code itself is not an end in itself. It can be a useful tool.

Mr. SIFTON: May I address that issue a bit more?

Mr. McGOVERN: Sure.

Mr. SIFTON: We discussed this with Ambassador Mozena in some detail as well. And as part of the work program – Better Work Programme, I think there was an idea that there would be an agreement for all the companies to sign on to a better set of standards on workplace safety and all that. But unless you have an effort by the companies to strengthen the legal right to organize, all you have done is you have just gotten a bunch of corporations to voluntarily seek better standards on the ground. You haven't actually created the legal protections that the workers need. And Ambassador Mozena I think understands that and sort of sees the Better Work Programme as a means to that end. It is like one step forward. But the companies then need to demand that the government, in trying those principles in law – because at the end of the day you need better laws. You can't just have these voluntary –

Mr. McGOVERN: And also the political will to enforce the laws. Some of the worst human rights violators in the world have the most loftiest-sounding constitutions. The problem is whether or not people – and that is the whole issue with impunity. I mean, you can have a security force that supposedly is there to protect the people, but if it is being labeled a death squad and is involved in extrajudicial killings, then the language that surrounds the creation of that security force is meaningless. And, you know, clearly the issue of impunity is a big problem in Bangladesh.

Mr. Sifton, what is your assessment of the Vested Property Return Amendment Act passed by the Bangladeshi parliament in November of 2011? Is the new law likely to be effectively enforced? If so, would it result in net benefits for the country's Hindu and other religious minorities? And to what extent, if any, do you agree with critics who say that the law is insufficiently specific to be effective?

Mr. SIFTON: Well, I think it would be remiss to say any law was perfect, because no law typically is. But, no, the bigger issue is implementation; and, so far, we don't see the government having the capacity or the full political will to implement any of the laws that I mentioned to the degree they need to be. But, I mean, that is a problem we face across South Asia and, frankly, across the world.

I did want to acknowledge that the law had been put on the books, though.

Mr. McGOVERN: Thank you.

Joe, Mr. Crowley?

Mr. CROWLEY: Thank you, Mr. Chairman.

And thank you both for your testimony today, in particular. I appreciated both of your testimonies. And I just want to point out both of you in some way or another also highlighted I think some of the positive things that are happening in Bangladesh as well. I think it is important to do that.

And, Mr. Sifton, you reeled off a number of things, including the last piece of legislation the chairman mentioned. And I think it is important to note, does the Human Rights Watch file a report about the United States.

Mr. SIFTON: It is a subject of – it is one of the chapters in our world report chapter, yes.

Mr. CROWLEY: So I think it is – I want to just make this point, as I think the chairman and others have made before as well, that we are also not blind to the fact that we have faults here in the United States; and we can reel off a number of issues that I think the rest of the world can look at us and ask, well, who are you to point a finger? And so not only are we not blind to it, the chairman has been one of the most outspoken Members of Congress in terms of bringing attention to many of those issues, as is Mr. Ellison as well.

So I think it is important to point that out because, as I said earlier, sitting here in an office, in a hearing room in which everyone has to walk through protection or through screening to ensure that everyone here is safe is a little bit of a different world maybe than the rest of the world as we know it. I would like to think that everything is like we have it here, but it is not. And as great as we have it here, it is not perfect.

The point I make is because when we do sit and we kind of are inquiring about a country, that is an important country I think with 150 plus – people in it, most of whom are Muslim, and in a world where we find ourselves in loggerheads in many respects to many countries that have such a large Muslim population. In Bangladesh, we actually have a populous that is I think by many accounts and many observations a moderate nation, a people who respect democracy and want democracy for themselves. And they have fought for that and paid a price, and millions of people were either killed or displaced or maimed because of their fight for freedom back in 1971, as Mr. Ellison mentioned.

So I think it is important to point out that, although we tend to not highlight the positives that are happening in hearings like this, we focus on maybe sort of the more blemished or negatives about a country, I just want to make a point that you did both mention that there are some things to look at in a positive way. And I don't want to leave here today thinking that Bangladesh is the basket case that Secretary Kissinger made it out to be 40 years ago. But there are issues. There are issues of concern. And they are concerns I think not only to people in Bangladesh and here in the United States but around the world as well.

Mr. Sifton, can you tell me – can you give me an example of another country that has a disputed border

or issues with a border where if persecuted people attempt to enter they are turned back.

Mr. SIFTON: A disputed border?

Mr. CROWLEY: Well, let's not say disputed border. Regardless whether a border is disputed or not, is there an example – are there any other examples of where people who are persecuted in one country – and in this case the Rohingya who are not given citizenship in the country that they are based in – putting citizenship aside, is there an example of another country in the world where a people – I have some in mind, but I want to know if you have any that you want to –

Mr. SIFTON: There are, but it is becoming increasingly rare that a country would so cruelly turn back people who are so clearly fleeing violence and persecution and who so clearly are not economic migrants or even criminals or whatever it is that the government is labeling the folks.

One of our researchers interviewed a man who at one point 2 weeks ago had swam across the River Naf using empty jerrycans tied together, sealed jerrycans, for flotation. He swam across because there were no more boats available. He had already tried to flee several times. The Nasaka forces in Burma were rounding folks up, rounding men up, and he had fled his village because of that.

So, faced with folks like that, it is understandable that Bangladeshi border guards would start disobeying orders and turning a blind eye to some of these folks coming across. Because even they – there is a journalist from Australia who has some great footage of a commander on the dock south of – well, anyway, on one of the docks in the River Naf where he is saying essentially it isn't proper for a government to turn back people who are fleeing persecution in their homeland.

Mr. CROWLEY: Do you think the people – the people of Bangladesh – and I know the nature of the free press in Bangladesh and how many newspapers there are. Do you think they are well informed about what is happening in the border?

Mr. SIFTON: Well, in the first days of the crisis, I mean, it should be acknowledged that the Bangladeshi press were reporting quite a lot on the plight of the refugees. There was a very infamous case of a woman who gave birth in Bangladesh to a son who – to a young baby boy while they were in flight, and this case was getting some attention. But, like all media cases, it eventually faded; and I think today a lot of people have forgotten about the problem, even though it was only a few weeks ago.

I think, by and large, Bangladeshis are not fired up about the Rohingya being let in or not let in. It is not like a hugely controversial issue in the way that the status of Rohingya is inside of Burma, where it is sort of everybody seems to have an opinion. It is incredibly a motive issue.

I think in Bangladesh, by and large – and I would never generalize because, obviously, it is a nation of many individuals who have different opinions. But I think, by and large, a lot of people simply just don't care whether the government lets in folks or not. It is a small border in one corner of the country. It is not as though it impacts the country as a whole.

Mr. CROWLEY: I don't equate Bangladesh with the one example I can think of. I can think of one example that I think is pretty provocative, though, and that is the Chinese-North Korean border where the Chinese actually repatriate North Koreans when they cross into it, and we don't know what the – well, we suspect we know what the outcome is towards the individuals that are sent back to that country. And,

again, I am not trying to equate the two. But I think that is one example of which you do not want to be associated with in terms of how one treats fleeing refugees in the international standard.

Do you think the civilian government of Bangladesh has control over the RAB?

Mr. SIFTON: That is a very good question. I think one of the reasons I would suggest reading this report about the Bangladesh rifles mutiny is because those events in this mutiny in 2009 were kind of a watershed moment for the new government, which was then new. The fact that the military wanted to shell the Bangladesh rifles barracks in the middle of Dhaka in which there weren't just the Bangladeshi rifles soldiers but women and children, as well as other innocent civilians, and Sheikh Hasina told them not to, led to them being very, very angry with her, so angry that there was a whiff of coup in the air, and I think that may have played a role in the government being a little bit more afraid of challenging both the military and the RAB in particular insofar as it has a military component. It is certainly the case that the government thinks twice about saber rattling when it comes to the military and the RAB.

Mr. CROWLEY: I have just one more question for Mr. Ryan, if I could.

I recently sent a letter to the government of Bangladesh in regards to not only the investigation of the murder of Mr. Islam but also the disappearance of other individuals of note. What is your view on whether the government has or has not been carrying out a proper investigation?

Mr. RYAN: That is a very good question. And as these sorts of processes go on it takes time, and they develop over time.

Originally when I met with Aminul Islam's family and the Bangladesh Center for Worker Solidarity activists in April in Bangladesh, we discussed what would be the best place for this investigation to site itself in the structure to ensure some transparency, accountability. And basically what they thought was the Criminal Investigation Division, the CID, at the national level was the place where such an investigation would have the most credibility.

Our understanding as of today is that there has been investigations – that the investigation has been going on at a local level but seems to be working its ways up the chain. It hasn't reached the CID yet. It remains to be seen if it will finally be placed there. But certainly that would be a very positive step in terms of accountability and credibility seen not only externally by international observers but certainly by the Bangladesh labor movement and NGOs themselves.

Mr. CROWLEY: Thank you.

And I would just make one other comment, one observation, Mr. Chairman, as it pertains to your questioning of Mr. Ryan about the influence of American companies within Bangladesh. And I think you hit the nail right on the head. And that is the response to the companies in these countries of origin is really linked to the ability of the American consumer to know what is happening in these countries and what companies are participating or buying from these countries in dispute. And that is what I think gives the teeth that is necessary to – it is not going to be something we impose upon them but really more about the buying public. And we saw that with the footwear industry, and we have seen it throughout other parts of the garment industry.

As well as I want to note the progress that Bangladesh made when it was brought to the attention of the

government – and the previous government as well – on trafficking. They were able to make movement, again not perfect. But they have demonstrated – when pressured and when put to test, they have moved when it comes to trafficking as well as child labor. So more to be done, but it just goes to show that when the pressure is brought to bear that change can be made.

Mr. RYAN: And I agree. And if I may just give a couple of other examples.

I think one of the latest developments that I think is very useful is, in the wake of the latest shrimp report, which we can certainly make available to you, that the Solidarity Center did, the Bangladesh Frozen Fish and Exporters Association has now begun to reengage not only with Solidarity Center but with worker activists with an eye towards let's begin to address these problems and let's use this report as a baseline against which to measure progress.

To that end, we are in the process of discussing a MOU of cooperation with the Frozen Fish Exporters Association precisely to try to help build the capacity not only of the workers themselves to organize their own organizations, give them the space, and to work to sensitize the exporters association and their members. So there have been, as I said, over the years progress. Our concern was that there had been some backsliding. There are opportunities to go forward, and at every turn we are looking for opportunities for that sort of engagement.

Mr. CROWLEY: Thank you.

Mr. Chairman, just once again I want to thank you for holding this hearing. These are not easy issues to discuss, and we do not have enough time in one day or even a series of days to really delve into a lot of the issues. I appreciate the report of the Human Rights Watch, and I will read it.

But I do believe the Bangladeshi people are a great people, a good people, a decent people, and I think they want for their workers what we want for ours, and that is a good, decent standard of living and work environment. And I think what we can do here to help promote that and pressure our own industries here to pressure the Bangladesh industries to do that is going to uplift not only their lives but our lives as well. So thank you for your testimony today.

Mr. McGOVERN: Well, thank you.

Let me just conclude with a couple of comments.

First of all, I want to thank Mr. Crowley and Mr. Ellison for suggesting that we do a hearing on Bangladesh. It was at their urging that we did this, and I appreciate it. It has been a very – I have learned a great deal from the testimony at this hearing.

I want to make clear, as Mr. Crowley did, that the U.S. relationship and partnership and friendship with Bangladesh is a very, very important one. But I also want everybody in this audience to understand kind of the purpose of this Commission, which is to focus on the issue of human rights. Whether it is in the United States or whether it is halfway down the block or halfway down the world, you know we are a place where people have an opportunity to be able to talk about sometimes some very unpleasant things and hopefully raise awareness so that there is a resolution to some of these human rights challenges.

If one person has disappeared, that is one person too many. If you have a process set up where there is impunity or where somebody – or where there are kangaroo courts or where you are not getting due

process, that is something that people who care about human rights should raise their voice.

We are not the State Department. We are not the Department of Labor. We are a Human Rights Commission. And the one thing I think we all could agree on here, in addition to the importance of a relationship with Bangladesh, that the Bangladeshi people are incredible people and they deserve to be able to live in a situation where they can organize, they can be engaged in collective bargaining, where people can disagree with the government and not face a terrible consequence.

I mean, one of the important things about democracy is that our institutions protect people who we even disagree with. And so there are concerns about a rise in and forced disappearances and some of the excessive violence that we have heard about, some of the extrajudicial killings. The labor rights issues are still very much a concern. We have questions about the International Crimes Tribunal.

That should be a process that is above question. I mean, that is in the interest of the Bangladeshi people. And to the extent that it is transparent, that it is fair, that it is just will get more international support and gain in its credibility. So I appreciate all those who have been here today and look forward to many more discussions on how we can be of help to the people of Bangladesh and also advance the cause of human rights.

Thank you both.

[Whereupon, at 2:40 p.m., the subcommittee was adjourned.]

[Written testimony of Congressman Jim McDermott and Toby M. Cadman as well as a signed letter from multiple NGOs have been submitted for the record.]

**Statement for the record for the Tom Lantos Human Rights Commission hearing on
Human Rights in Bangladesh
Congressman Jim McDermott (D-WA)
July 24, 2012**

Mr. Speaker, I want to thank the co-chairs of the Tom Lantos Human Rights Commission, Congressmen James McGovern and Frank Wolf, for holding this hearing on human rights in Bangladesh.

As Ranking Member of the Subcommittee on Trade at the House Ways and Means Committee, and as a member of Congress and citizen who strongly believes that businesses can only be truly successful if their workers make a living wage and their working conditions ensure fundamental internationally-recognized labor rights, I have been concerned about the deteriorating labor rights condition and extrajudicial killings in Bangladesh.

I have strongly favored finding a way to extend preferential trade benefits to Bangladesh – but if we were to do so Bangladesh would undoubtedly need to meet minimum basic human rights and labor rights eligibility criteria. I think, as things stand Bangladesh might have a difficult time meeting such criteria.

In the last few years, Bangladesh's labor conditions have been widely criticized. This has saddened me and other champions of Bangladesh. Violence and intimidation of labor rights leaders has intensified in recent years, most recently including the murder of Bangladeshi labor rights activist Aminul Islam in April 2012. This has created a climate of fear among workers and labor rights advocacy groups.

We all very much want Bangladesh to succeed. And improving the labor and human rights conditions on the ground – providing basic labor rights and prosecuting those who intimidate and attack labor leaders – are critical to success.

Thank you.

Statement

Civil Society Organisations Deeply Concerned by On-going violence against Stateless Rohingya in Myanmar and their Refoulement from Bangladesh

The stateless Rohingya of Myanmar have suffered from extreme persecution and discrimination for decades. They are now facing another crisis. On 3 June inter-communal violence erupted, and this has evolved into large-scale state sponsored violence against the Rohingya. Despite this, neighbouring Bangladesh is not allowing them to enter to seek refuge. The Rohingya population needs urgent measures to be taken for their protection.

In Myanmar, what began as inter-communal violence has evolved into large-scale state sponsored violence against the Rohingya. The violence began on 3 June 2012 and has mainly occurred in Sittwe and Maungdaw. On 10 June, a state of military emergency was declared, after which the military became more actively involved in committing acts of violence and other human rights abuses against the Rohingya including killings and mass scale arrests of Rohingya men and boys in North Rakhine State. Many Rohingya continue to be victims of violence and cannot leave their homes for fear of persecution, and are thus deprived of their livelihood and most basic needs. The urgent humanitarian needs of those displaced (IDPs) - including those not in IDP camps - are not being adequately met and there is concern that those displaced will not be allowed to return to their homes as soon as it is safe to do so, thus creating a situation of protracted displacement. Bangladesh, in contravention of its international legal obligations, closed its border and pushed back many Rohingya fleeing the violence and persecution in Myanmar. The refoulement of these refugees by Bangladesh to Myanmar where they face a very immediate threat to life and freedom, and a danger of irreparable harm; and the manner of refoulement, by push backs into dangerous waters, including in unsafe vessels are matters of serious concern.

The legal obligations of both Myanmar and Bangladesh require them to protect all persons within their territories or subject to their jurisdictions, regardless of whether they are citizens, stateless persons or refugees. In their treatment of the Rohingya, both countries have violated the right to life, the right to be free from torture or cruel, inhuman or degrading treatment or punishment, the right to liberty and freedom from arbitrary detention, the right to food and shelter including the fundamental right to be free from hunger and the right to the highest attainable standard of health. Bangladesh has also acted in violation of the rights to seek and to enjoy asylum and not to be subjected to refoulement.

We therefore recommend that both states immediately uphold their human rights obligations in this situation.

In particular, we recommend that the Government of Myanmar and the Rakhine State authorities take immediate steps to:

1. Stop the violence.
2. Stop the arbitrary arrests of Rohingya and abuses by security forces against them.

3. Allow unhindered humanitarian access to assist all those in need as a result of the crisis, including internally-displaced people staying outside camps and those hosting them.
4. Allow the displaced to return to their homes once it is safe and they feel safe to return, and ensure that a situation of protracted displacement is avoided.
5. Allow an international inquiry into the abuses committed since June 2012 in Rakhine State.

We recommend the Government of Bangladesh take immediate steps to:

1. Open its borders to refugees and to stop refoulement of refugees.

Further, we call on the international community to:

1. Provide financial support for the humanitarian operation needed to assist people affected by the crisis in Rakhine State.
2. Support the government of Bangladesh in providing protection to Rohingya refugees.
3. Engage with the Governments of Myanmar and Bangladesh in relation to the above recommendations.

We also recommend that the reform process in Myanmar address existing policies of discrimination against the Rohingya; and that this current crisis be used as an opportunity to address the longstanding problems between the communities in Rakhine State, and to promote a constructive dialogue aiming at peace and reconciliation.

List of endorsing organizations:

1. Act for Peace (Australia)
2. Actions Birmanie Belgium
3. Altsean-Burma
4. Asia Pacific Refugee Rights Network
5. Burma Campaign UK
6. Burmese Rohingya Association in Japan
7. Burmese Rohingya Community in Denmark
8. Burmese Rohingya Organisation UK
9. Catholic Tokyo International Center
10. Christian Coalition for Refugee and Migrant Workers, Japan
11. Christian Solidarity Worldwide
12. Church World Service - Immigration and Refugee Program
13. Civil Development Organization, Iraq
14. Dalit NGO Federation (DNF)
15. Equal Rights Trust
16. ESCR-Asia Pakistan

17. Euro-Burma Office
18. Fahamu Refugee Programme
19. Health Equity Initiatives, Kuala Lumpur
20. Human Rights and Genocide Clinic, Cardozo School of Law
21. Imparsial (Indonesia)
22. Info Birmanie
23. INFORM Documentation Centre, Sri Lanka
24. International Detention Coalition
25. International Observatory on Statelessness
26. Japan Association for Refugees
27. Japan Evangelical Lutheran Association
28. Jesuit Refugee Service
29. Jesuit Refugee Service Asia Pacific
30. Jesuit Social Center, Japan
31. Lawyers for Human Rights (South Africa)
32. Migrant Forum in Asia
33. Minority Rights Group International
34. Organization for Defending Victims of Violence
35. Partnership for Pastoralists Development Association(PAPDA)
36. People's Forum on Burma(Japan)
37. Philippine Alliance of Human Rights Advocates
38. Physicians for Human Rights
39. Praxis
40. Project Maje
41. Rafiq Japan
42. Rebirth Society
43. Refugee Council USA
44. Refugees International
45. RefugePoint
46. Restless Beings
47. Rohingya Society in Malaysia (RSM)
48. Society for Threatened Peoples / Germany
49. South East Asian Committee for Advocacy (SEACA)
50. Stateless Network
51. Sudan Peace Humanitarian Organisation
52. Swedish Burma Committee
53. Tenaganita
54. The Arakan Project
55. The May 18 Memorial Foundation
56. The Refuge Pnan
57. United to End Genocide
58. WOREC Nepal

For any replies or comments, please contact Melanie Teff, Refugees International: melanie@refintl.org

Statement by Toby Cadman, Foreign Council for the Defendents Before the International Crimes Tribunal

Subject: Written Statement on the International Crimes Tribunal, Bangladesh

Declaration

This statement is submitted by Mr. Toby M. Cadman, Barrister-at-law, of the Chambers of Nine Bedford Row International. consisting of 23 pages.

This statement is submitted to the members of the United States Congress Tom Lantos Human Rights Commission to form part of the record of the hearing entitled “Human Rights in Bangladesh” to be held on 19 July 2012.

This statement is submitted solely in the capacity of defense attorney for the accused before the International Crimes Tribunal, Bangladesh.

The matters contained in this statement are true to the best knowledge and belief of the maker of the statement.

I Introduction

1. The human rights situation in Bangladesh requires the urgent attention of the international community. There are numerous matters that give rise to grave concern and whilst the International Crimes Tribunal, Bangladesh (hereinafter: Tribunal) may be considered one of the fundamental areas that require attention, it is not the only matter of concern and the general breakdown in human rights protection, encompassing arbitrary arrest and detention, torture in police custody, enforced disappearance and extra-judicial killings are widespread.

2. I make these points with full recognition that I am not an impartial observer; I represent the interests of clients who face trial. However, many of these concerns have been echoed by the United States Ambassador-at-Large for War Crimes Issues, Stephen J. Rapp, the International Bar Association War Crimes Committee, Human Rights Watch, the International Center for Transitional Justice, Amnesty International, to name just a few. It is of particular concern that these various organizations have given up on Bangladesh due to the Government’s unwillingness to engage. There is also a great deal of apathy due to the lack of a representative opposition that can engage with the international community. It is with all of these matters in mind, that it is strongly recommended that the United States Congress re-engage on a

serious level with the Government of Bangladesh, along with the United Nations Office of the High Commissioner for Human Rights, the other major financial contributors to Bangladesh including the United Kingdom and the European Union, with a view to establishing a sense of normality and greater accountability.

3. It is recommended that the United States Congress takes the lead in recommending to the United Nations Human Rights Council that a International Commission of Experts be established to conduct an independent and impartial inquiry into the International Crimes Tribunal, Bangladesh.

II. Judicial Process

4 As regards the notion of addressing the crimes committed during the War of Liberation of 1971 it is quite right that this deserves a judicial process; to that end there can be no debate. Bangladesh emerged from a brutal conflict in 1971 and it is obliged, under international law, to bring an end to a culture of impunity that has existed for more than forty years. The Tribunal was established with this in mind, to bring an end to a culture of impunity and to bring ‘justice’ to victims. However, when one talks about justice and accountability in the context of Bangladesh, it is important to identify what is meant by that very broad term. This broadly stated concept should mean that an international judicial process is established, sufficiently funded, that is mandated to try cases of those bearing the greatest responsibility for crimes committed during the 1971 conflict. Moreover, when one talks of ‘those responsible’ it is important to understand what is meant in this regard as well. In this context it is vital for all those responsible, including members of the warring factors, namely the Pakistan, Indian and Liberation forces as well as civilians and auxiliary forces that fought on either side of the conflict if it may be shown that they bear criminal liability. The rhetoric of the Government is that only those who fought for liberation were victimized. This is not a statement that has any proper basis. Arguably, they suffered a greater level of victimization at the hands of the Pakistan Military, but there were losses on all sides. However, this has become the Government mantra and now defines a divided nation.

5. It is quite clear that unless there is a system by which everyone bearing individual *criminal* responsibility will be brought to justice; the whole process will have little meaning. At the same time this does not mean that individuals from all sides to the conflict should be brought to justice solely for the purpose of providing balance; the point is that prosecutions must be based on individual criminal responsibility and reliable evidence. Once again, this does not mean prosecuting those that opposed independence or those that merely advocated for the maintenance of a sovereign Pakistan. A criminal justice process must serve the ends of justice and not politics.

III. Flawed Trial Process

6. The first issue of substance concerns the allegation of a flawed trial process. Bangladesh has an obligation to remedy serious human rights violations. In this regard, it is recognised that the provisions under Article 8 of the Universal Declaration of Human Rights (hereinafter: UDHR)¹ and Article 2(3) of the International Covenant of Civil and Political Rights (hereinafter: ICCPR)² apply. The shortcomings of the International Crimes (Tribunal) Act 1973 (hereinafter: ICTA) and the Rules of Procedure (hereinafter: RoP) have come under considerable criticism since 2009, from *inter alia*, Ambassador Rapp, the International Bar Association, Human Rights Watch, Amnesty International, and the International Centre for Transitional Justice. It is submitted that the Government must endeavour to fill these crucial lacunae by looking to what it itself calls “the growing body of jurisprudence of international criminal law”.

7. As regards the reliance on standards of international norms it is important to note that the Tribunal Judges have repeatedly stated that it is the role of the Government to determine international obligations; not the Tribunal Judges. It has also repeatedly refused to apply the UDHR, ICCPR, the Rome Statute of the International Criminal Court or the jurisprudence of the international *ad hoc* tribunals as it considers itself a domestic judicial organ. However, such propositions can have no reasonable basis in law. The Tribunal must operate as a judicial institution within the judicial hierarchy of the State, but independent of the Executive. Whilst it is certainly the role of the Government to ratify international treaties, it is the role of the Courts to interpret and apply them unless and until the Government derogates from their applicability. If the Government seeks to derogate from the ICCPR, which thus far it has failed to do, it may only so in exceptional circumstances and for a limited period of time. It is respectfully submitted that Bangladesh has not sought to comply with the procedural requirements for derogating from the procedural guarantees under the ICCPR and is therefore required to strictly comply to the fullest extent.

8. Despite the representations of the Government, proceedings before the Tribunal fail to comply with the ICCPR, as well as a host of other treaties, in a number of important respects.

9. First, the legislation in force has a discriminatory intent, contrary to Article 26 ICCPR, due to the fact that it seeks to prosecute only those who *opposed* liberation in 1971 following Presidential Decree No. 16 of 1974. The fact that those who fought with the Liberation forces, irrespective of their conduct, are immune from prosecution indicates a discriminatory intent and as such it cannot be said to be

compatible with the rights guaranteed under the ICCPR and in breach of Article 26 ICCPR.

10. Second, those charged with crimes under the jurisdiction of the Tribunal are stripped of constitutional rights and fundamental freedoms. The First and Fifteenth Constitutional Amendments that remove the right to enforce fundamental rights guaranteed under the Constitution can never be justified, more importantly removing the rights of a clearly defined group, i.e. those suspected of having committed war crimes, crimes against humanity and genocide, constitutes a discriminatory practice again in breach of Article 26 ICCPR. In this regard it is noteworthy that statements in support of the removal of rights have focused on the heinous nature of the crimes for which those before the Tribunal stand accused. Such justification is also in breach of the presumption of innocence as guaranteed under Article 14(2) of the ICCPR.

11. Third, the First and Fifteenth Constitutional Amendment also removes the right to challenge the *ex post facto* nature of the ICTA and removes the right of protection of the law. It has been argued that the crimes set out in the ICTA are crimes recognized under international law and consequently the law cannot be said to be retroactive. It has been suggested that the principle of retroactivity does not apply to international crimes. It is respectfully submitted that no such argument has any legal basis. First, the issue of retroactivity in a domestic court is quite different to that of an international tribunal. The Bangladesh Constitution prohibits *ex post facto* laws before the domestic courts. The Constitution does not provide for any exception to this general rule, as one would expect for crimes recognised under international law, except for the inability to raise the challenge as now contained in the First and Fifteenth Constitutional Amendments.

12. Article 15 of the ICCPR prohibits the application of retroactive criminal offences in the domestic criminal law. This is of course subject to the generally known exception under Article 15(2) that recognizes crimes of an international character or crimes recognized by the community of nations. However, in order for the exception to apply, they must have been recognized under the general principles of international law, *i.e.* they must have customary status, such as war crimes, crimes against humanity, genocide, torture, etc. Nevertheless, it is not the label of war crimes, crimes against humanity or genocide – it is the particular conduct and whether that conduct amounted to a criminal offence at the time of commission and how that crime was recognized under customary international or treaty law in 1971. This requires detailed analysis of the elements of the offence of crimes against humanity, as an example, during the relevant time period. The various international and ad hoc tribunals have all had to grapple with such complex questions of legal interpretation.

13. In Bangladesh, crimes against humanity are not regulated in the national Penal Code; it is only to be found under the ICTA. This is a retroactive criminal law. It is not enough to merely categorize an offence as a crime against humanity and therefore justified under international law. The conduct in question must be carefully assessed in order to determine whether in 1971, that particular conduct was criminal and if so how it was categorized. It is not enough to say that the conduct in question amounts to murder and due to the fact that it was committed during wartime it is a war crime or crime against humanity; this is precisely what the Tribunal has tried to do. There must be the provision in the domestic law as to the elements of the crime as was recognized under customary international law during the relevant time period. As regards crimes against humanity, there will need to be a determination of whether there was a requirement, during the relevant time period, to establish the widespread or systematic nature of an attack against the civilian population and whether it was part of a state policy or organized plan. It must also be determined as to whether, during the relevant time period, there was a requirement to establish whether the conflict was characterized as an international armed conflict.

14. It is recognized that crimes against humanity, in general terms, are accepted as part of customary international law and constitute a non-derogable rule of international law. It is also recognized that Bangladesh automatically became bound by customary international law and treaties either by still being formally part of Pakistan, or virtue of being a successor State in 1971. Article 34 of the 1978 Vienna Convention on the Succession of States in Respect of Treaties provides that any treaty that was in force at the date of succession with respect to the whole territory of the predecessor State continued in force in each successor State, unless the successor State agreed otherwise. Such general principles may therefore be deemed to encapsulate the general prohibitions of acts and omissions amounting to crimes against humanity, as recognized under international and customary international law. However, such an obligation does not alleviate the State from developing clearly defined laws, on the contrary, it is required to ensure that its laws properly represent customary international or treaty-based laws.

15. Article 15(2) of the ICCPR provides an exception to the general rule to the effect that nothing shall prejudice the trial and punishment of any person for any act or omission, which, at the time of commission, was criminal according to general principles of international law. Accordingly, a person may be prosecuted for an offence contained in a retroactive criminal law, even if not provided under the domestic law that was in force at the time of commission of the offence, provided it was criminal under international or customary international law at the time of commission of the offence.

16. For these reasons the application of crimes against humanity does not, in principle, infringe an individual's right to respect for the prohibition on the retroactive application of the substantive criminal

law, as it is retroactively applied to an act that nonetheless constituted a crime under international law. However, the facts of the particular case are highly relevant for making such a determination.

17. The principle argument, following on from the points raised above, and an important one at that, is that an accused person must be entitled to advance the retroactive argument in any given case. There is no suggestion that the application of *ex post facto* laws can never be legitimate, that is not the point that is being advanced. The issues need to be properly argued on the facts of any given case. It is clearly unjustified to issue a blanket ban on raising the issue. This point has been argued in every single tribunal since Nuremberg. Whilst the argument may ultimately fail, the refusal to allow the argument is unconstitutional and runs contrary to general principles of international law.

18. Fourth, as the United Nations Working Group on Arbitrary Detention clearly recognized in its adopted opinion, the current legislative framework fails to effectively address the requirements under the ICCPR concerning disclosure and defence rights during the course of the investigation. In particular, it is respectfully submitted that the following matters are representative of a number of breaches of the ICCPR:

- a. Insufficient information as to the nature of the allegations were given following arrest;
- b. Information concerning the investigation was provided to the Tribunal, but not the defence;
- c. The investigative report and Case Diaries have never been disclosed to the defence;
- d. The investigation is effectively conducted in a shroud of secrecy;
- e. The Prosecution is not required to serve unused or exculpatory material to the defence;
- f. The Accused-Petitioner is not afforded privileged communication with a legal representative of his own choosing during the course of the investigation;
- g. The Accused-Petitioner was not served copies of Prosecution Motions or Tribunal Orders during the course of the investigation;
- h. The Accused-Petitioner was interrogated in the absence of counsel;
- i. Members of the investigative agency subsequently informed the media that the Accused-Petitioner had confessed during the course of the investigation.

19. Fifth, it has been stated on a number of occasions that the Tribunal is not an international tribunal. It is duly noted that the Tribunal does not have the character of an international tribunal, more a domestic court trying international crimes. It is for this reason that there can be absolutely no justification for excluding domestic rules of procedure and evidence that are consistently applied in other criminal cases (the Criminal Evidence Act and the Criminal Procedure Act are explicitly excluded). The mere fact that the Tribunal adjudicates crimes of an international character, crimes that are considered to be

of the most gravity, provides absolutely no justification that established domestic norms may be excluded. It should be recalled that an international *ad hoc* tribunal is created to deal with a specific problem that the domestic judicial system is not capable of organizing and consequently rules of evidence and procedure are often implemented outside of the ordinary domestic rules in order to facilitate a process that cannot be managed under normal conditions. Such institutions are established by international agreement or decisions of the United Nations Security Council based on a notion of peace and stability. The fact that the Government determines itself capable of holding trials in a domestic judicial setting and has resisted any assistance from the international community is indicative of the current climate of peace and stability. It is therefore respectfully submitted that there is absolutely no justification for departing from established norms of due process and fair trial that represents a competent and mature domestic legal system. If it is the case that the Tribunal is to be considered a special Tribunal operating outside the domestic judicial hierarchy, with disregard for national and international standards of due process and fair trial, operating under a cloak of secrecy then it should be declared as such.

20. Sixth, the Tribunal has declared in several rulings that it is not required to comply with international law, despite the UN Working Group on Arbitrary Detention stating the contrary, as the Tribunal was established by an Act of Parliament and can only apply the ICTA. For the reasons already argued above, this position is unsustainable. The Tribunal ruled that the application of international covenants was with the wisdom of the Government and **not** the Tribunal. It is respectfully submitted that this argument cannot be upheld. It is the duty and responsibility of the Government to negotiate, ratify and execute international treaties. It is for the Courts to interpret and apply them in line with the Constitution. The Courts can only apply what is the law as it stands. It cannot pick and choose which laws and principles it wishes to apply to a certain set of facts. It cannot select the principles that best fit a preordained outcome. An independent judicial system operates independently of the Executive by applying and interpreting national and international law in the cases that come before it. It is within the *wisdom* of the Government to determine which treaties and conventions it wishes to be bound by ratifying them. It is also within the *wisdom* of the Government from which international obligations it wishes to withdraw or derogate. However, as long as the treaties and obligations remain in force, the Courts are required to apply and interpret them unless and until they cease to be an applicable and integral aspect of the internal legal order.

21. Seventh, the question of definitions of crimes has been repeatedly raised and remains unresolved. This was one of the central areas of concern raising by Ambassador Rapp and has been repeatedly referred to by international human rights NGO community. It is vital to have accepted definitions of what

the prosecution must prove. The Tribunal has refused to define Crimes Against Humanity or to accept that recognised definitions under customary international law apply. It have been respectfully submitted to the Tribunal that the confusion that surrounds the lack of proper definitions will lead to further time delay at trial. If the Tribunal is of the opinion that the position of customary international law on the definition of crimes against humanity was clear and unambiguous in the 1970's then it is necessary for the Tribunal to determine clearly what that position is. At present the jurisprudence indicates that in the early 1970's there is differing opinion as to whether there was a requirement to establish a nexus with an international armed conflict. The Cambodian Tribunal has determined that there is no such requirement, but that there is nonetheless a requirement to prove the chapeau elements of (i) there must be an attack; (ii) it must be widespread or systematic; (iii) it must be directed against any civilian population; (iv) it must be on national, political, ethnical, racial or religious grounds; (v) there must be a nexus between the acts of the accused and the attack; and (vi) the accused must have the requisite knowledge".³ The Tribunal must determine these matters before trial as it has a fundamental impact on what must be established by each party at trial.

22. Eighth, the issue of interlocutory appeal has been repeatedly raised as necessary for ensuring fairness of proceedings. Ambassador Rapp recommended that this was one of the focal points for ensuring fairness of proceedings. The Tribunal responded by amending its Rules of Procedure to allow for the very same judges to review its own decisions. This offers little protection to an accused person and offers no effective protection for challenging decisions that impact on the trial process. In this regard, a further point is added. In determining the impartiality of the judges, it is important to note that the very same judges take all decisions on preliminary proceedings, including first appearance, bail, rulings on points of evidence, and draw up the charges against the defendants and then sit as trial judges and also take all decisions on review of their own decisions. In this regard, one should note that impartiality may also be found where a judge, who has taken decisions during the pre-trial stage, presides over the main trial. For example, where a judge has ruled on questions of bail, legal representation and disclosure, that Judge cannot be considered to be objectively impartial during the trial. As a general rule as long as such involvement concerns nothing more than case supervision no breach of the ICCPR will arise. However, any decision taken that involves consideration of the case on the merits will be vulnerable to challenge.

24. Ninth, the Government has repeatedly stated that the overall process is fair and in accordance with international standards as there is provision for appeal against conviction and sentence.

The statement adopted is that this process provides greater protection than International Military Tribunal in Nuremberg. However, such a statement is hollow and illusory. The legislative framework, as it currently stands, permits no challenge to any ruling of the Tribunal, therefore any appeal against conviction and sentence will be subject to the same constraints. The defence will be limited to arguing that the Tribunal came to the wrong conclusion on the facts alone. Furthermore, a Government Minister has recently declared that this basic right should be removed as no war crimes tribunal in the world guarantees such a right to “war criminals”. The statement of concern was by the Planning Minister, who also serves as the Sector Commanders Forum Chairman, Air Vice-Marshal (Ret’d) A.K. Khandaker, who stated that the right of appeal against conviction and sentence to the Supreme Court should be removed and he would be proposing this to the Government. He further implied that the various High Commissions around the world should “...launch a campaign...” against those persons that campaigned against the Tribunal internationally. Speaking alongside the Planning Minister, the Chairman of the National Human Rights Commission, Professor Mizanur Rahman, supposedly an independent advocate for human rights, advocated for the removal of “...Jamaat-Shibir men infiltrating into the administration, so that the war crimes trial does not have to face any hurdles”.

23. Tenth, it has been repeatedly argued that the ordinary domestic rules of evidence and procedure have been removed and as a result the Tribunal is not bound by any technical rules of evidence and will employ a non-technical procedure in order to expeditiously admit evidence. This is of enormous concern when considering that events in question occurred more than 40 years ago. Further still, under its Rules, the Tribunal *will* take judicial notice of all official government documents. It is respectfully submitted that this rule allows the Government to present its own version of events without challenge or scrutiny. With regards to the Tribunal’s rules on disclosure, this area is equally lacking. Up until the newly amended Rules of Procedure on June 28 2011, there was no explicit obligation on the Prosecution to disclose evidence to the Defence. This was in contrast to the Defence obligation to disclose its entire case to the Tribunal and Prosecution on the commencement of trial. Even with the amended Rules of Procedure, there is no obligation on the Prosecution to disclose exculpatory material to the Defence and no opportunity for discovery. The new rules oblige the Prosecution to disclose its case to the Tribunal and Defence three weeks prior to the commencement of the trial. The defence is then expected to review the disclosure made by the Prosecution, formulate its case and make full disclosure to the Tribunal and Prosecution all within three weeks. This is notwithstanding that the investigations against the detainees are still ongoing after more than a year and concern 40-year-old facts. It is respectfully submitted that this area

of the legislative framework requires a fundamental review to ensure full compliance with the ICCPR.

IV. Presumption of Innocence

In spite of this fundamental principle, the presumption of innocence has been frequently breached by the Government of Bangladesh and its representatives. The bias against the accused is apparent in the very response in which it seeks to persuade the international community of its adherence to international standards of justice, when it describes the accused as war criminals. It is also notable here that a justice of the High Court Division of the Supreme Court of Bangladesh previously stated that there is a reasonable distinction between the rights of ordinary citizens and the rights of war criminals. Furthermore, it is notable that the Government, frequently through the Prime Minister and other senior Ministers, frequently cites the opposition for protecting war criminals, whenever there is any suggestion that the trials are unfair.

V. Arbitrary Detention

25. As regards the question of bail, it needs to be noted that the decisions refusing bail and extending detention have considered primarily the gravity of the offences and their categorization as crimes against humanity. The Prosecution has repeatedly referred to the allegation that 3 million people died during the War of Liberation and hundreds of thousand were raped and tortured. Whilst the gravity of offence and mode of commission, *i.e.* command responsibility, joint criminal enterprise, are relevant factors in determining the issue of custody, they are not sufficient alone to justify lengthy periods of pre-trial detention. Further, it is important to note that the prosecution has alleged that there is a risk of interfering with the course of the investigation and interfering with prosecution witnesses. It is accepted that this is a legitimate ground for detaining individuals and that the risk satisfies the requirement of 'relevant' and 'sufficient' reasons. Additionally, it is recognized that there are inherent problems in assessing the necessity of detention, both during the pre-trial stage and during the trial and appellate phases, in cases of war crimes. However, in considering the issue of whether 'relevant' and 'sufficient' reasons have been cited, this requires more than merely raising the issue as a fanciful possibility; it needs to be established by clear evidence. Judges in considering the question of bail are required to conduct a proper inquiry into the allegations raised by the prosecution and the arguments put forward the defence in reply. It is unacceptable where a Court merely rubber stamps prosecutorial requests for detention without any real inquiry into the specific facts of the case at hand. This again, is a hallmark of arbitrariness.

26. The response of the Government to the allegation of arbitrariness has been that the UN Working Group was wrong due to the fact that detention is in accordance with domestic law and therefore lawful. The

Minister for Law, Justice and Parliamentary Affairs, Shaffique Ahmed, stated to Al Jazeera in response to the the UN Working Group's opinion that "This *Tribunal is not an international war crimes tribunal. This Tribunal is a domestic tribunal. Those that have been arrested are facing trial - so it is not an illegal detention.*" This statement is incorrect for a number of reasons. First, the Tribunal is *not* a domestic tribunal as it does not apply domestic law. It is fair to say that the Tribunal was established by an Act of Parliament and in that regard it is a domestic judicial body. However, the exclusion of national rules of evidence and procedure and the wholesale exclusion of Constitutional protections demonstrates that it is an 'extraordinary' or 'special' tribunal created outside of the ordinary judicial and constitutional hierarchy. Second, there is a question on the legality of detention when the Act, the primary legislation does not so permit, only the rules allow for pre-charge detention. Accordingly, it may be that detention is not only arbitrary, it is also unlawful. There is also a question as to whether the fact that the Tribunal has amended its rules retrospectively to cover a legal lacuna and to the detriment of a detainee may be considered a lawful practice. Third, the fact that an accused person is arrested and detained to face trial does not alone provide that such detention has a lawful basis; further inquiry is required and the Tribunal is required to consider 'relevant' and 'sufficient' reasons. Fourth, *even* if the Tribunal is considered to be a domestic judicial institution this does not absolve it of its obligation to apply international law. In this regard it is not a discretionary power it is an obligation. Bangladesh is State Party to the ICCPR and must apply its provisions. It is noteworthy that the only reservation lodged by Bangladesh in respect of the ICCPR fair trial guarantees is in respect of Article 14(3)(d) and trials *in absentia*, and not in respect of the fair trial rights that have been exported by virtue of the First and Fifteenth Constitutional Amendments and the Act. As to the question of *lawfulness* it would appear that the UN Working Group opinion has been clearly misunderstood. There is a notable distinction between *arbitrary* and *unlawful*. It does not follow that merely because detention is the former that it must also be the latter. Further, the mere fact that detention is in accordance with domestic law that does not automatically show that detention is compatible with international law. Detention may be in accordance with a procedure prescribed by the domestic law but nonetheless in breach of Article 9 of the ICCPR.

27. It is of particular note that the Government represented to Ambassador Rapp that amendments had been made to the RoP to regulate the question of bail. However, bail in these proceedings remains a privilege rather than a right. In recent decisions the Tribunal has ruled that the accused may not be released on bail as their ill-health is not of sufficient seriousness. It is further noted that on 10 February 2011, the Minister of Law, Justice and Parliamentary Affairs stated in public that there was no scope for bail in such cases. It is noted that the the refusal to grant them bail is unjustified and in breach of national and international law.

V Death Penalty

28. International law is clearly moving towards disallowing the death penalty and this is continuing apace. The primary human rights treaty, the ICCPR, encourages states to abolish the death penalty, and the United Nations Human Rights Committee has supported this encouragement with strong statements promoting abolition. International custom is also becoming increasingly abolitionist, with more states regarding the death penalty as being inconsistent with human rights standards. While the death penalty remains legal under international law at the current time, it is highly likely that progress towards abolition will continue. Arguments in favour of retaining the death penalty often appear to rely on unproven allegations, such as its deterrent effect, or focus solely on the argument that the decision to abolish or retain capital punishment remains within national sovereignty. It is further argued that all the international tribunals, as well as national tribunals trying cases of war crimes, have abolished the death penalty. However, of particular importance here is that if the accused are executed following a trial in flagrant denial of due process rights, it will amount to summary execution in breach of international law.

VI. Independence and Impartiality

29. The ICTA does not allow for an independent and impartial tribunal as required by Article 10 UDHR, Article 14(1) ICCPR and Article 36(3)(a) and Art. 67(1) Rome Statute. Neither party can challenge the constitution of the Tribunal nor the appointment of its members if impartiality is reasonably in doubt. Section 6(8) ICTA should be removed and a provision guaranteeing the right to an independent and impartial tribunal needs to be inserted. It is recognised that the 2009 amendments provides that the Tribunal shall be independent, but there is no mention of impartiality and there is no basis to question the independence and/or impartiality of the Tribunal or its members. This is an internationally recognised right that is absent in the ICTA and Rules.

30. Evidence of the extent of the political bias of the Tribunal is not contestable. Firstly, the Government's call for an end to impunity is entirely misleading: all former supporters of the separation of West Pakistan from East Pakistan have been granted total immunity from prosecution by virtue of a Presidential Decree.

31. Secondly, the Tribunal itself lacks the necessary independence and impartiality. This has been confirmed by the fact Chairman of the Tribunal participated in the Peoples' Inquiry Commission (or People's Court) that prejudged these cases in the early 1990s. The Chairman is listed as a member of the Secretariat of the Commission. In these "mock trials", real people were named as suspects and following

their conviction their effigies were burnt to signify that a sentence of death was passed. Worryingly, some of those convicted before the People's Court are now accused before the Tribunal and its Chairman is giving the impression that their fate is pre-ordained. Interestingly, the report of the Commission is listed as a prosecution exhibit and forms part of the evidence in the first trial. An application for the recusal of the Chairman was brought by the Defence in October 2011 and heard before two of the remaining judges of the bench in November 2011. The two judges indicated that the decision as to whether the Chairman should step down should be left to the "good conscience of the Chairman" who subsequently refused to remove himself as Chairman of the bench. The Tribunal held that the request by the defence to seek reasons for the Chairman's refusal to step down amounted to contempt of court. The level of concern is further exacerbated by the fact that the Chairman had attended a meeting of the Sammilita Ainjibi Samannay Parishad, a lawyers' platform in which it was demanded that the Government of Bangladesh take legal action to execute the verdict of the Peoples' Court. In this regard it is not important whether the Chairman had assumed an active role in the meeting; it is sufficient that his mere presence at the meeting, a matter which is not in dispute, is such that an objective observer would apprehend that there is a legitimate fear that he will lack the required level of impartiality and would seriously impact on the integrity of the proceedings and the integrity of the Tribunal as a judicial institution of Bangladesh.

32. Thirdly, the independence of the Learned Prosecutor Mr. Zead-Al-Malum has also been brought into question. The Learned Prosecutor's self-professed role as a freedom fighter amounts to a breach of the rule that performance of a function, prior to taking office, during which he could be expected to have formed an opinion on the case in question, on the parties or on their legal representatives that, objectively, could adversely affect the required impartiality of the person concerned. Further, his paper "Trial of the 1971 War Crimes in Bangladesh under the International War Crimes (Tribunal) Act, 1973" and his presentations at the International Association of Democratic Lawyers XVIIth Congress and at the European Parliament in the South East Asia Committee amount to "expression of opinions, through the communications media, in writing or in public actions, that objectively, could affect the required impartiality of the person concerned", pursuant to Rule 34 of the ICC Rules of Procedure and Evidence. In addition, Sections 13(a) and 13(b) of UN issued Guidelines on the Role of the Prosecutor in 1990⁴ (hereinafter: UN Guidelines)⁵ provide, "in the performance of their duties, prosecutors shall: Carry out their functions impartially and avoid all political, social, religious, racial, cultural, sexual or any other kind of discrimination; Protect the public interest, act with objectivity, take proper account of the position of the suspect and the victim, and pay attention to all relevant circumstances, irrespective of whether they are to the advantage or disadvantage of the suspect". Further, section 23 of the UN Guidelines provides that

“Prosecutors shall respect the present Guidelines. They shall also, to the best of their capability, prevent and actively oppose any violations thereof.”

33. Fourthly, Justice ATM Fazle Kabir, was recently removed as a judge of the first Tribunal (ICT-1) and appointed as the Chairman of the second Tribunal (ICT-2). When one considers that Justice Kabir was a member of the Sayedee Trial Chamber and there is no apparent reason for why he was removed from the Trial Chamber, the only conclusion is that the removal amounts to an unlawful interference with an independent tribunal of law. Such interference significantly impacts on the appearance of fairness. The trial is now proceeding with a newly appointed judge, with no adjournment for the judge to familiarize himself with the evidence, and no ability to challenge the removal of Justice Kabir or the appointment of the new judge. It is a reasonable inference to draw that the accused will not be afforded a fair trial in circumstances where the Government frequently interferes with the process. Removing the judge may simply be interpreted as another bold move by the Government to ensure that the verdict is reached in accordance with its own policy.

VII. Adequate Time and Facilities

34. Both Article 14(3)(b) ICCPR and Article 67(1)(b) Rome Statute provide for the right of an accused to have “adequate time and facilities for the preparation of his defence”. The Human Rights Committee (HRC), tasked with upholding the ICCPR provisions, has on numerous occasions held that:

“The right of an accused person to have adequate time and facilities for the preparation of his defence is an important element of the guarantee of a fair trial and an emanation of the principle of equality of arms.” (Smith v. Jamaica (282/88) para. 10.4; Paul Kelly v. Jamaica (253/87) para. 5.9; Aston Little v. Jamaica (283/88) para. 8.3)

Furthermore, in its General Comment No. 31, the HRC has held that under Article 14(3)(b) ICCPR “[t]here is an obligation to grant reasonable requests for adjournment, in particular, when the accused is charged with a serious criminal offence and additional time for preparation of the defence is needed”.

35. It is submitted that the ICTA must be amended. The principle of “equality of arms” is of universal nature and the ICTA must reflect this. The fact that trial may be commenced within 3 weeks of prosecution disclosure fails to satisfy the right to adequate time and facilities and should be amended.

VIII. Effective Counsel

36. Section 12 ICTA does not specify for the right to qualified counsel as provided for in ICC Rule 22. The section should include a required standard of qualifications and experience in international criminal proceedings for appointed counsel. Further still, the Tribunal must recognise the niche area that is international criminal law and allow for foreign counsel. It is noted that the Prosecution has relied on the services of an international advisor who has been permitted to freely enter the country and the judges rely on an experienced international lawyer who advises on the drafting of key decision. The defence has not been afforded the same right as foreign counsel are barred from entering the country.

37. The right of foreign counsel has been strongly advocated for by Ambassador Rapp in his recommendations to the Bangladesh authorities. Ambassador Rapp describes the “field of international crimes [as] highly specialised, and the participation of foreign counsel, particularly those who have litigated cases in the international and hybrid courts and tribunals, is very important to ensure that uniform or generally agreed standards are observed in practice”. Although the Tribunal’s RoP does potentially allow for foreign counsel, in practice it is an empty shell of a rule. The rule allows for foreign counsel but only with consent from the Bar Council. The Bar Council declared that it lacks the authority to determine whether or not foreign counsel can appear in proceedings in Bangladesh. This obstructed predicament is one of many examples of the Tribunal only appearing to offer fair trials.

38. The right to effective counsel also entails the right to properly represent the interest of one’s client. This right must include the ability to communicate and advise the client. The right of privileged communications is frequently denied, and accused are interrogated by the investigators in the absence of counsel. Recently, following the arrest of Mir Quasem Ali, the Prosecution sought to interrogate him in a safe house. The defence requested to have counsel present during questioning; this was denied. The defence then sought to have privileged communication prior to questioning; this was also denied. The result is that the accused will be interrogated on allegations upon which he has limited information and without having any advice from his counsel.

39. Finally, the right must also include the right to put one’s case forward under the same conditions as the other party. This means that there must be an effective right to cross-examine those witnesses for the prosecution. The starting point is that *all* evidence must normally be produced in the presence of an accused at a public hearing with a view to adversarial argument. As a general rule, this requires that an accused person be given an adequate and proper opportunity to challenge and question a witness against him either when he was making his statements or at a later stage of the proceedings. It is recognized that the life, liberty and privacy of witnesses can be a valid consideration, but this has to be exercised with

extreme care and such reliance may only be justified if counterbalancing procedures are adopted which preserve the rights of an accused and enable the reliability of the evidence to be challenged. The approach is therefore to ascertain whether the proceedings in their entirety, including the way in which evidence was taken, were fair. Any restriction of this right must be exercised in exceptional circumstances and where there are sufficient counterbalancing procedures put in place. If the Prosecution is permitted to serve hearsay statements, without the opportunity to challenge the author of the statement, where there exists grave concerns as to reliability and possible collusion, then the interests of justice will not served and an accused's right to receive a fair trial will be irreparably harmed. It is the duty of the Tribunal to safeguard the fundamental rights of the accused and to ensure that there is equality of arms between the parties and that the defence has a fair opportunity to challenge the case brought by the Prosecution. In the first trial the Tribunal has now permitted the Prosecution to rely on statements where the maker of the statement will not be called to give evidence in circumstances that seriously undermine the credibility of the whole process. The defence have alleged that the Prosecution and Investigative Agency have misled the Tribunal by presenting false information as to witness availability and that the statements tendered are false; this is indeed a serious allegation as it impacts upon the credibility of the entire system. It is regrettable that the Tribunal has permitted the Prosecution to act without restraint in this regard.

IX. Burden & Standard of Proof

40. Under the amended Rule 50(A)(2) the Tribunal “may presume the existence of any fact which it thinks likely to have happened, regard being had to the common course of natural events, human conduct and public and private business, in their relation to the facts of the particular case.” This provision is effectively diluting the standard of proof, allowing the Tribunal to apply the civil standard, “on the balance of probabilities”, to criminal proceedings which must be proved “beyond reasonable doubt”. Article 66(3) Rome Statute provides for the reasonable doubt standard.

X. Freedom from self-incrimination

41. Sections 8(5), 8(7) and 18 ICTA go against the right against self incrimination. This is contrary to Section 161(1) of the Criminal Procedure Act as well as Article 14(3)(g) ICCPR and Article 55(1)(a) ICC. The sections should be removed and replaced with a provision explicitly safeguarding the right against self incrimination. The Act should also draw a clear distinction between the right as applied during interrogation and at trial.

XI. Right to remain silent

42. The ICTA fails to mention the right to remain silent as upheld in Article 14(3)(g) ICCPR and Article 55(2)(b) and 67(1)(g) ICC. This needs to be clearly provided for in the Act. It is not enough to imply its applicability due to the Tribunal's obligation to respect the rights contained in international treaties; it needs to be clearly stated. As noted above, the Act should draw a clear distinction between the right as applied during interrogation and at trial.

XII. Conclusion

43. It is not the purpose of this statement to contest the right of victims of crimes to seek redress. Nor does this statement contest the duty of a state to remedy violations of international human rights. Both these matters are obligations under international law. However it does call on the Government of Bangladesh to uphold fundamental principles of law, recognised internationally, and to apply the more detailed and rigorous procedure which has been developed over the years by international criminal tribunals and the ICC. It further calls on the United States Government to ensure that there is an independent inquiry into the Tribunal and its practices to best determine whether the process should be supported and whether the United States Government, and indeed other donor nations, should continue to support a Government that has such flagrant disregard for human rights.

44. Although the Government has consistently stated that the Tribunal will meet the highest international standards of fairness and transparency, it is submitted that this is a hollow and misleading statement. Numerous statements have been made as to the compliance with fundamental rights and freedoms from the Prime Minister, members of the Tribunal and other government officials. It is clear that undertakings have been made to ensure that Bangladesh complies with its obligations under international law, but such representations are hollow and illusory if no practical effect is given.

45. As has been noted, senior members of the opposition currently face trial and announcements have been made for further arrests. Since its establishment, the Tribunal has suffered from woefully failing to meet fundamental fair right and due process standards. In sum, the following represents some of the more serious departures from international due process norms:

- (a) A complete absence of equality of arms;
- (b) Constitutional rights of due process are removed from anyone charged by the Tribunal;

- (c) International conventions and treaties do not apply;
- (d) Domestic procedural laws do not apply;
- (e) There are no clear definitions of crimes;
- (f) There are no rules of evidence and rules of disclosure;
- (g) There is no practical right to challenge the jurisdiction of the Tribunal, its legislative framework, any decision it reaches, or the appointment of any judge;
- (h) Interrogations are conducted in the absence of counsel;
- (i) Foreign counsel is not permitted to enter Bangladesh;
- (j) Members of the Government frequently breach the presumption of innocence;
- (k) Members of the Government dictate timelines;
- (l) Any criticism of the Tribunal and its procedures is threatened with contempt charges;
- (m) Only side of the conflict will face prosecution; and
- (n) These are all capital cases.

46. The attempts by the Government to interfere with a process that is expected to remain independent and impartial have recently reached a worrying climax. The constant remarks by Governmental Ministers as to the “guilt” of the accused and the “timeline” for completion have become commonplace. However, on 2 March 2012 the Bangladesh Law Minister, Shafique Ahmed, announced the need for a second war crimes tribunal to be established so that “War criminals from other parts of the country will be brought to justice”. The State Minister for Law Qamrul Islam thereafter described the intention thus: “Politics of fundamentalism will come to an end with the trial of war criminals”. On 25 March 2012, the second International Crimes Tribunal was established. This is not intended to be an extension or a second chamber of the First Tribunal, instead it has its own Rules of Procedure, which in part differ from the First Tribunal’s Rules of Procedure, and is independently constituted.

47. This is of particular concern in consideration of the fact that on 9 April 2012 the Government approved a draft International Crimes (Tribunals) Act 2012, thus enabling the transfer of cases from one Tribunal to another as under the original legislation there was no power to do so. This is notable concern as the Government of Bangladesh, through the Minister for Law, Justice and Parliamentary Affairs, previously represented to Ambassador Rapp during 2011 that amending the International Crimes (Tribunals) Act 1973 was not possible. This is not the first time that the Government has misled the international community. During those same representations, the Minister for Law, Justice and Parliamentary Affairs represented to Ambassador Rapp that the Constitution could not be amended. This statement was made shortly before the enactment of the Fifteenth Constitutional Amendment that further

restricted the rights of persons accused before the International Crimes Tribunal. It is clear that the Government has made repeated misrepresentations to the international community.

48. Ambassador Rapp's Office has on previous occasions addressed these globally held concerns with regards to due process rights being met by the Tribunal. He made a set of recommendations in May 2011, very few of which have been implemented and many have largely been ignored. The Government of Bangladesh has also ignored the calls for change made by Human Rights Watch, Amnesty International, and the International Center for Transitional Justice and the International Bar Association.

49. On the occasion of the United Nations General Assembly 65th Session, the Honourable Prime Minister of Bangladesh, Sheikh Hasina Wajed, the daughter of the founding father of Bangladesh, stated that "Bangladesh has established an International Crimes Tribunal to try persons responsible for war crimes and crime against humanity, including genocide, arson and rape committed during our war of liberation in 1971, and immediately thereafter. This action is in accord with the rule of law as reflected in the Rome Statute of the International Criminal Court (ICC), which we have ratified and which aims at bringing perpetrators of war crimes, genocide, and crimes against humanity, to justice. I believe that only justice can heal the unforgivable, deadly wrongs of the past." In October 2011 the State Minister for Law, Qamrul Islam, declared "The international criminal trial process will be more neutral and transparent than that of other war crimes trials so far held elsewhere in the world. It will be exemplary for the world community...working with full in-dependence and complete neutrality." However one is reminded of the words of Justice Jackson, Chief Prosecutor of the International Military Tribunal, Nuremberg who stated:

"If you are determined to execute a man in any case there is no occasion for a trial. The world yields no respect to courts that are merely organized to convict."

"We must never forget that the record on which we judge these defendants today, is the record upon which history will judge us tomorrow. To pass these defendants a poised chalice is to put it to our lips as well. We must summon such detachment and intellectual integrity to our task, that this trial will commend itself to posterity as fulfilling humanity's aspiration to do justice."

50. The Tribunal was established to bring an end to a culture of impunity and to bring 'justice' to victims. It is however wasting an opportunity to establish a process that meets the highest universal

standards and represents a further step in the development of a nation.

51. The Government needs to recognise that this process has far greater consequences than the next election.

Respectfully,

Toby M. Cadman



Washington DC, 19 July 2012

Documents submitted by the Embassy of the People's Republic of Bangladesh

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

*EMBASSY OF THE
PEOPLE'S REPUBLIC OF BANGLADESH
3510 International Drive, NW
Washington, D.C. 20008
Phone: (202) 244-2745
Fax: (202) 244-2771*

July 19, 2012

Hon. Representative James P. McGovern

Co-Chair
Tom Lantos Human Rights Commission(TLHRC)
2170 Rayburn House Office Building
Washington, D.C. 20515

RE: Hearing on Human Rights in Bangladesh

I had the privilege of attending TLHRC's today's hearing on Human Rights in Bangladesh chaired by you. I shall deeply appreciate the support extended by your office for disseminating the attached documents to TLHRC's members and staffers as well as any interested Congressman.

As regards the issues that came up in today's hearing, on behalf of the Government of Bangladesh I would like to draw your Commission's attention to the attached short response and supporting documents that, I hope, would be properly put in the official records.

Sincerely,



Akramul Qader

Phone: (202) 244-0183
Fax: (202) 244-2771 / 7830
E-mail: bdootwash@bangladoot.org
Website: www.bangladoot.org



**EMBASSY OF THE
PEOPLE'S REPUBLIC OF
BANGLADESH
3510 International Drive, NW
Washington, D.C. 20008**

July 19, 2012

TLHRC hearing on Human Rights in Bangladesh:
Bangladesh Government's Response

Bangladesh is a country of huge strategic importance to the USA. A moderate, tolerant and secular Muslim majority country, it has long been partnering with the USA on multiple issues including counter-terrorism and advancement of peace. Presently Bangladesh is the largest troops contributing nation to the UN peacekeeping forces.

Bangladesh is a focus country for all the signature development initiatives of the Obama administration such as global health initiative, feed the future initiative and global climate change initiative. US is Bangladesh's single largest export destination and largest source of foreign direct investment. The large Bangladesh diaspora in the USA is an important bridge between the two democratic nations who signed a historic partnership dialogue in May 2012.

I. US concerns on alleged extra-judicial killings in Bangladesh

The alleged killings by the Rapid Action Battalion (RAB) members are currently under investigation. Honourable Prime Minister Sheikh Hasina categorically stated her administration's zero-tolerance policy on any form of alleged extra judicial killings. The number of such incidents has come down significantly since the present government's assumption of office. However, there is an expectation for more improvement. The Government of Bangladesh is particularly serious to ensure that no allegation of extra judicial killing could ever be made. If any official or member of the law enforcing agency is found guilty of involvement in any extra judicial killings, Bangladesh would like to assure that law shall take its own course.

II. Implementing Better-Work Program

Last year, the Labour and Employment Minister of Bangladesh in a meeting with his US counterpart in the USA assured all cooperation from the Government of Bangladesh for successfully implementing the ILO better-work programme. Currently the programme is under the review in Bangladesh. At the initiative of the Honourable Prime Minister of Bangladesh last year it was possible to double the minimum wage for the workers. Another increase in wage is due in November over which the representatives of owners and workers are in a dialogue. Already substantive progress has been made on this issue. The Government of Bangladesh, meanwhile, has taken measures to ameliorate the garment workers' condition by providing them the essential products at a subsidized rate. The Government of Bangladesh expects that the labour issue will be resolved to the satisfaction of all parties in the near future.

III. Rohingyas in Bangladesh

In spite of resource constraints and burden of overpopulation Bangladesh has been sheltering over 400 thousand undocumented and 29 thousand documented Myanmar refugees in various refugee camps. The pressure is huge. Obviously it will not be in the interest of the government of Bangladesh, local people or the Myanmar nationals now living inside the Bangladesh border to have additional people by opening a floodgate. Any such move will definitely encourage hundreds of thousands of Rohingyas to rush to Bangladesh. Nevertheless a lot of Myanmar nationals took shelter in Bangladesh during the recent incidents in the Rakhaine state of Myanmar. Local authorities provided succor and medical assistance to many before sending them back to Myanmar.

Report on progress of the investigation into the death of Mr. Aminul Islam, leader of Bangladesh Centre for Workers Solidarity

On April 05, 2012, officer-in-charge (OC) of the Ghatail police station (under Tangail district) received a cell phone call from an unidentified pedestrian who informed that a dead body of a male person was lying on street in front of the Bramhon Shashon College, Ghatail. The OC, along with emergency duty officer sub-inspector (SI) Shahin Mia rushed to the spot and found the dead body at the eastern side of Tangail-Mymensing road in front of the gate of the Bramhon Shashon College. They found black spot on the both the knees and blood-stain injury underneath the right knee. Thumbnail of both the legs were found blood-injured. The police found no marks of violence or blood on the side ways of the spot. It was preliminarily assumed by police that the murder was occurred in some other place and after that the dead body was dumped on the spot. Upon OC's instruction, SI Shahin Mia carried out the inquest of the dead body and took photograph. For identifying the dead body, wireless message was thrown to all police stations of the country (vide wireless message no.84 dated 05-04-2012). When asked, local people failed to identify the dead body and then SI Shahin lodged a case with Ghatail police station (case no. 04, dated 05-04-2012 u/s: 302/201/34 of the Penal Code). The dead body was then sent to Civil Surgeon, Tangail for post-mortem. After that, the dead body was buried in Tangail central grave yard. Besides, picture of the dead body was published in different dailies of the country should anybody recognized it.

Younger brother of the deceased, Mr. Md. Rafikul Islam came to Ghatail police station referring to the press report published in daily Amar Desh on 07-04-2012 and claimed that the dead body was that of his elder brother's (namely Mr. Md. Aminul Islam, aged 40, s/o late Mafiz Uddin Akand of village-Hijalhati, police station-Kaliakoir, district-Gazipur). He (Rafikul Islam) also informed police that Md. Aminul Islam was an organizer of Bangladesh Centre for Workers' Solidarity (BCWS) and also a leader of the Bangladesh Garments and Industrial Workers Federation. According to Rafikul, his brother (Md. Aminul Islam) went to his Baipail office at 2pm on 04-04-2012. After finishing office work, he (Md Aminul Islam) offered his Magrib Prayers. Then, one Mostafiz (father's name not mentioned) came to his office along with a veiled woman (name unknown) and said that he (Mostafiz) would marry the lady and requested of arranging the marriage to Md. Aminul. Then, along with another organizer, namely Laboni, Aminul and the two persons went to the nearby Sonia Market. At 8pm of the same date, Aminul's wife (Hosney Ara alias Fahima) inquired about his husband to Laboni and she replied that Aminul had done out of office at 6.30pm with Mostafiz. She (Laboni) said that she had no further information.

For proper identification of the dead body, brother of the deceased, Md Rafikul Islam, prayed to the judicial magistrate for disinter. Upon Court's direction, assistant commission (executive magistrate) Mr. Zameree Hassan, along with the investigation officer (JO) conducted the disinter and Mr. Rafikul identified the dead body as of his brother, Md. Aminul Islam. He then took the dead body with him to burry his brother at their village home. After that, he (Md Rafikul Islam) lodged a petition to the police for making Md. Mostafiz as the accused in the Aminul Murder Case. The officer-in-charge forwarded the petition to the concerned Court. On that reference, the supervising officer of the case, additional SP (North) of Tangail instructed the 10 (SI Bashar) to rush to Baipail (under police station Ashulia, Dhaka) to investigate into case and arrest the accused Mostafiz. Being instructed, the 10 with forces in plain cloth, on 10th of April 2012 carried out an operation (along with victim's brother Rafikul and Laboni) to arrest the accused Mostafiz. But they could not arrest the accused since he went into hiding.

About the murder of Aminul, a press conference was held by Mr. Babul Alder, President of Bangladesh Garments and Industrial Workers Federation on 07 April, 2012 at 3pm at the VIP Lounge of the Reporters' Unity. In a written statement, Mr. Babul Akter gave some information about the possible reasons / motives of the murder, and the accused. He also declared a 5-point programme demanding trial of this murder case.

For proper investigation, the case has already been transferred to Detective Branch of Tangail and the additional superintendent of police of the district is supervising the case which is also being personally monitored by the SP.

The Government has accorded top priority to the investigation of the case. A special committee under the Additional Secretary of Ministry of Home Affairs is monitoring the development.

GoB position/actions with regard to extra-judicial killing

The government of Prime Minister Sheikh Hasina is deeply committed in upholding human rights and the rule of law, including for the right to life and security of every citizen of Bangladesh as per its Constitutional and electoral pledge. It is in this spirit that the present government has remained specially conscious of maintaining a 'zero tolerance' posture towards extra-judicial killings and have taken every measure to end the 'culture of impunity' within all law enforcement force and institutes higher and newer measures of accountability and human rights standards for every law enforcement members.

A close comparative analysis of the total arrests during the last 3 years of the BNP Government (2004-2006), the two years of the army backed Care-taker government(2007-2008) and the last three years of the Awami League government would reveal two trends that bear evidence to the sincere efforts taken by the AL government to curb EJK. For example, between 2004 and 2006, 340 people died of encounter killing which was 2.24% of the total arrests. During the two years of the CTG, 206 people of total arrested (0.74%) died of EJK, whereas during the AL government's last 3 years the number of EJK came down to 117 which is only 0.23% of the total arrested. We are least complacent and are determined to further reduce these numbers. The other trend, is the unprecedented numbers of Law Enforcement members who have been brought under disciplinary actions during the last 3 years for any minor or major alleged incidents of violation of human rights or use of force during authorized duty. In 2010-11, a total of 1429 such alleged offences by RAB were brought to full inquiry, trial and punishment of which 1327 were investigated and taken to administrative action by RAB, 392 by parent agencies and 12 by Criminal Courts. 525 such law enforces are currently under major imprisonment and 904 have been dismissed or given minor disciplinary actions.

This is a clear testimony to a successful end to the culture of impunity that were otherwise practiced by earlier administrations. These were laboriously achieved by inter alia stringently and promptly enforcing investigations through judicial procedures prescribed in CrPC, Bangladesh Penal Code, and different Metropolitan Police Ordinances and the Rapid Action Battalion (Court and Departmental Proceedings) Regulation 2005. If any RAB member is proved to be responsible for any misdeed, they are likely to be imprisoned/dismissed from service (without benefit) and face the civil court for the offence.

Beside these disciplinary measures an '**Internal Enquiry Cell**' (IEC) has also been formed in January this year to ensure more code of conduct accountability of RAB members. We are happy to inform that **the IEC of RAB has been formed with the support of US Embassy Technical Team in Dhaka**. IEC works independently and directly under DG RAB. Main function IEC to enquire any complaint against RAB members raised by any citizen.

It is important to point out that the Rapid Action Battalion (RAB) Forces was created in 2003 by amending the Armed Police Battalions (Amendment) Act 2003 and the Armed Police Battalion Ordinance, 1979, by the National Parliament by the then BNP Government, in the wake of a sharp and unusual rise in extremist, terrorist acts and gangster or criminal networks and self-claimed local terrorist groups. It was created with a mandate of rapid and tougher law enforcing elements, counter-terrorist measure and robust rules of engagement than regular armed police forces.

In the course of time RAB has achieved significant successes in bringing many listed criminals, extremists, religious militants along with other lawbreakers into justice including Jamait-eMujahedeen Bangladesh(JMB), JMJB an example of counter-terrorism successes that no other country in South Asia other regions could replicate

Till to date (15 April 2012) RAB has brought a total of 1,18,332 religious militants, outlawed extremists, illegal drug dealers, money launderers and fake money dealers, women and child traffickers, kidnappers, armed criminals and other lawbreaker into justice and recovered 9,520 illegal arms and seized huge number of ammunitions, explosives and other harmful illegal materials.(Flag A)

RAB were thus forced to exchange fire, where necessary with appropriate means to defend public life and property and for self-defence as per the law of the land (as provided under Sections 96, 97, 99, 100, 103 and 106 of the Penal Code 1860 of Bangladesh). ***A total of 13 RAB members died and more than 200 incurred vital injuries during such exchange of fire incidences.***

Fact sheet on EJK

The number of criminals arrested who died while exchange of fire with RAB since 2004 marks a sharp decline in the recent years, specially during the period of present government's last two years :

	During BNP led Government (From 2004 to 27-10-2006) (Duration 3 Years)	During Caretaker Government (From 28-10-2006 to 31-12-2008) (Duration 2 Years)	During Awami League led Government (From 01-01-2009 to 15-04-2012) (Duration 3 Years and 4 months)
Number of criminals died during exchange of fire between armed criminals and RAB members.	340	206	177

Disciplinary actions 2009-2012

Total No of Offences	Action(s) Taken					Total Punishment	
	Tried by RAE	Tried by Criminal Court	Tried by Parent Org.	Awaiting Trial by RA ^m	Awaiting Trial by Criminal Court	Total Major/Imprisonment	Total Minor
	1327	12	392	01	05	525	904

Flag A

TOTAL ARRESTED CRIMINALS

<u>DETAILS OF ARREST</u>	<u>TOTAL</u>
Religious Militants(JMB, HUB etc)	872
Outlawed Extremists	374

Listed Criminals	301
Armed Criminals	7,136
Kidnappers	1,140
Illegal Drug Dealers	37,144
Smugglers	1,287
Money Launderis & fake note	1,300
Women & Child Abuse and Human Traffickers	307
Other Criminal including Robbers, Muggers, Warrantee Criminal etc.	68,471
TOTAL	1,18,332

Legal Status of the Charges against Kalpona Akter and Babul Akhter

Arrest of Kalpona Akter and Babul Akter [As of August 2010]

Following the non-renewal of the registration of the BCWS and arrest of its two office bearers Ms. Kalpona Akter and Mr. Babul Akter - two officials of the Bangladesh Centre for Workers Solidarity (BCWS) — an NGO, and others, concerns are being expressed by, among others, US Congressmen, major American brands and retailers, American Apparel & Footwear Association (AAFA), various labour rights groups including the AFL-CIO, Amnesty International, Human Rights Watch, International Labor Rights Forum etc. AFL-CIO and some other groups have also staged demonstration in front of our Embassy in Washington. Our Ambassador has been called for discussions with the State and Labor Departments. Also, three Congressmen directly wrote to the HPM expressing their concern over the arrest.

The concerns that have been conveyed have revolved around the allegations that the labour rights activists and advocacy groups in Bangladesh are subjected to harassment by the Government curtailing their fundamental rights including freedom of association and right to organize, the arrests were made on 'unsubstantiated charges' and the detainees are subjected to torture and intimidation. Apart from asking the GoB to improve the labour rights situation in Bangladesh and release the detainees, nineteen Congressmen in a joint letter have urged the major retailers to use their influence to 'reversing he injustices' and also let Bangladesh know that they will not be able to maintain the current level of business with Bangladesh unless the charges (against Kalpona and Babul Akter) are dropped and 'persecution' of labour leaders stops immediately. International Workers Rights Caucus has urged the major retailers to stop business with Bangladesh unless 'persecution of labour activists ceased'. Congressman Phil Hare, Chairman of the IWRC requested the retailers to help put an end to the 'horrific oppression of labour activists' in Bangladesh. AFL-CIO has written that 'the government's treatment of BCWS and of Ms Alder and Mr Akter specifically throws into grave doubt your country's commitment to respect of workers'.

In the circumstances, The Government of Bangladesh feels that the correct picture of the incidents and their *raison d'etre* should be made known. The Government also wishes to address the concerns made over the Government's handling of the labour rights issue. In this regard, the GoB is of the view that the above groups and persons have been provided with inaccurate and unsubstantiated information. However, the Government's position in the matter is as follows:

Following months of intense tripartite (the Government, factory owners and workers' representatives) negotiations, the Government of Bangladesh on 29 July 2010 officially declared the minimum salary structure for the readymade garments (RMG) sector, almost doubling the existing wages.

All of a sudden, in the morning of Friday, 30 July 2010, around 1000 to 1500 agitators created unprecedented anarchy in Tejgaon industrial area, Mohakhali and Gulshan commercial areas including residential areas by damaging extensively numerous business establishments including some garments factories, putting barricades on roads, damaging scores of vehicles and setting them to fire, attacking members of law enforcing agencies, blowing up explosive materials etc. This was done ostensibly in protest against the newly declared wage structure.

The incidents were widely covered by both local and international media. Subsequently, the following cases were filed in this connection:

- i. Tejgaon Industrial Area Police Station, Case No. 36 dated 30.07.2010 under law and order infringement crime (Speedy Trial Act) 2000, section 4/5
- ii. Tejgaon Industrial Area Police Station, Case No. 37 dated: 30.07.2010 under law and order infringement crime (Speedy Trial Act) 2000, section 4/5
- iii. Tejgaon Industrial Area Police Station, Case No. 38 dated: 30.07.2010 under section 147/186/353/332/42 of Penal Code and Explosive Ordnance Act 1908, section 3
- iv. Gulshan Police Station, Case No. 89 dated: 30.07.2010 under section 147/148/149/448/435/453/332/427/380/109/114 of Penal Code and Explosive Ordnance Act 1908, section 3 and 6
- v. Adabor Police Station, Case No. 31 dated: 30.07.2010 under law and order infringement crime (Speedy Trial Act) 2000, section 4/5

After investigations in three cases (at serial No. i, ii and v above), charge-sheets were submitted against Mr. Babul Alder and Ms. Kalpona Alder. The remaining cases are currently under investigation. It is pertinent to mention here that, Mr. Babul Akter and Ms. Kalpona Alder were arrested 14 days after the cases had been filed and only after a thorough investigation provides concrete evidences against them on their involvement in the incidents. As a part of the investigation, both of them were questioned by the police, while in the custody, as per law and with the approval of the court of law.

The commitment of the Government of Bangladesh to the rule of law is unwavering. Also, while it is respectful to fundamental human rights including the right to freedom of opinion and expression and the right to freedom of peaceful assembly and association, the Government is equally committed to everyone's right to life, liberty and security. The GoB therefore expresses its serious concern at the questions raised against its such commitments. The actions against Ms Kalpona Akter and Mr Babul Akter were taken in public interest, on valid grounds and according to the law of the land. The GoB also denounces the unfounded and unsubstantiated allegation of Kalpona and Babul Akter's being maltreated in the custody. The Government hereby confirms that due process of law was followed keeping in mind that the basic human rights are respected in order to ensure justice and fairness in the matter. The detainees have full access to legal recourse and their welfare and rights have been duly respected. Bangladesh is a democratic country which is committed to uphold the rule of law and therefore terming the charges are false or baseless and expressing a sense of doubt over the legal process of the country and urging for outright release of the detainees tantamount to not only inference in the internal affairs of the country but also undermine the legal and judicial processes.

It should also be made clear that according to the terms and conditions under which the BCWS was supposed to operate, the organization did not have any jurisdiction to meddle into RMG labour rights issues, more particularly to carry out their current activities linking them to the anarchy of 30 July 2010. Earlier, BCWS had been found directly involved in instigating and fuelling labour unrest in the Readymade Garments (RMG) industry, including in provocation to agitate - leading to strikes, destruction of public property, threatening of senior officials of the Dhaka Export Processing Zone (DEPZ) and even extortion. The authorities have specific information that this NGO's activities were not only in violation of relevant rules and regulations but also aimed against the national interest of Bangladesh.

The Government of Bangladesh is fully committed to the freedom of thought and expression. It however takes a serious view of the spread of disinformation. Unfortunately, it was revealed that BCWS had been engaged in a sustained disinformation campaign via the internet and certain TV channels concerning labour rights in Bangladesh, particularly in the RMG sector. Authorities feel that such campaigns have the potential to negatively affect our exports and market access.

As for the request by 19 Congressmen made to major retailers in the US to suspend all current and future orders with the Nassa Group and Envoy Group whose alleged filing of 'false criminal charges' resulted in the arrest of BCWS leaders, it may be clarified that, as confirmed by the Ministry of Home Affairs, no evidence of such complaints was found.

Finally, it may be mentioned here that, both Ms. Kalpana Akter and Mr. Babul Akter have been already released on bail.

Update:

There are in total 7 (seven) cases now being dealt with against Babul Akter and Kalpana Akhter. Most of the cases were lodged after their alleged involvement in violence that broke out on declaration of new wage. They were arrested at that time but court accepted their bail prayer and accordingly they are now released on bail.

Additional information: Among those cases charge sheets have been submitted for 4 (four) cases (Nos. 36 & 37 of Tejgaon Industrial P.S and Nos. 30 & 31 of Adabar P.S.) and investigations are still going on for 3 (three) cases (No 89 of Gulshan P.S., No. 38 of Tejgaon Industrial P.S. and No. 88 of Ashulia P.S.).

Legal status of BCWS registration

Background information on BCWS' registration with NGO Affairs Bureau

Bangladesh Center for Workers Solidarity (BCWS) is registered since 2001 as an NGO with the Department of Social Welfare. On 17 April 2004, BCWS got registered with the NGO Affairs Bureau for receiving foreign donations/funding under the Foreign Donation (Voluntary Activities) Regulation Ordinance 1978. This registration is renewable every five years, with organizations required to apply for such renewal six months ahead of expiry. The BCWS, however, did not apply for renewal of registration with the NGO Affairs Bureau six months prior to expiry. When it did apply, on 07 October 2010, six months had already

elapsed beyond the expiry date. As a result, it was not possible for the NGO Affairs Bureau to renew BCWS' registration which eventually stood cancelled. It is pertinent to mention that, registration of as many as 585 NGOs met with the similar fate on identical grounds. Bangladesh Government encourages NGO activities in the country but it is imperative that these entities function within the legal framework.

The Government of Bangladesh has credible information concerning the activities of one Mr. Babul Akter and one Ms. Kalpana Akter in fomenting unrest and agitation in the garments sector using the name of BCWS. The Government feels that since the BCWS, which is affiliated with AFL-CIO, is funded by the US State Department, US authorities need to monitor activities of BCWS officials and to maintain effective oversight so that the organization is not subverted or misused by any individual. The Government considers it necessary for BCWS to dissociate these two persons from the organization.

BCWS is still registered with the Department of Social Welfare. As for the current status of BCWS vis-à-vis the NGO Affairs Bureau, it must be reiterated that because of procedural reasons, the Bureau can not renew its registration for receiving foreign funding. BCWS, however, can apply afresh for such registration; and given the relations between the US and Bangladesh, the Bureau would be disposed to consider the matter in a positive light. In this, BCWS will, however, need to submit the required documentation and also undertake to proceed within legal parameters and operate as per rules.

Update on the issue of re-registration [as received from NGOABJ]

NGO Affairs Bureau (NGOAB):

NGO Affairs Bureau cancelled the registration of Bangladesh Center for Worker Solidarity (BCWS) at a critical point of time when the situation in the garments sector was extremely vulnerable. Garments worker's agitation was at its peak. The government was trying to do its best to ensure healthy working environment and stability in the garment sector. It reveals from the evidences collected by the intelligence agencies that the BCWS was directly involved in provoking the workers to create anarchies in the garments factories in the name of establishing their rights. Reports of vandalism, violence, destruction and chaos are available in the daily newspapers published of that time. In these circumstances it was obligatory for the government to protect the garments industry which is the single largest export oriented promising industry in Bangladesh. Moreover, intelligence agencies were closely watching and monitoring the situation and they submitted reports about the unlawful, anti state and subversive activities of BCWS such as creating anarchy and chaos in the garments sector. They recommended, in the reports, to cancel the registration of BCWS without delay. Considering the enormity and seriousness of the activities of BCWS and based on the intelligence report NGOAB cancelled the registration of BCWS on June 03, 2010. NGOAB was fully convinced that the BCWS was involved in unlawful activities and this led it to take punitive actions against BCWS to restore law and order and save valuable properties.

BCWS applied for re-registration on March, 2011. But a writ petition filed by the BCWS against the cancellation of registration order was pending in the Hon'ble High Court for disposal (Annexure-4). At that stage NGOAB had nothing to do except waiting for the direction of the court due to pendency of the writ in the Hon'ble High court. In reply to their prayer for re-registration NGOAB informed the BCWS accordingly. Subsequently BCWS withdrew the writ on May 18, 2011 and informed NGOAB on May 23, 2011 and submitted the main copy of withdrawal order to NGOAB on June 13, 2011. Then NGOAB started working on it. BCWS applied for re-registration but without all requisite documents. Then NGOAB asked the BCWS to submit all necessary documents. Finally BCWS fulfilled the requirement on December 01, 2011 and

NGOAB sent it to the Ministry of Home Affairs on December 13, 2011 for their opinion a mandatory provision of law.

Department of Social Welfare (DSW):

BCWS was registered with the Department of Social Welfare under the Voluntary Social Welfare Agencies (Registration and Control) Ordinance 1961 (registration No. Dha-06410 dated 02 December 2001) with a view to working for welfare of the workers - particularly women workers of garments sector. DSW cancelled the registration of BCWS on July 17, 2011 due to non-compliance of the conditions given under section 7 of The Voluntary Social Welfare agencies (Registration and Control) Ordinance 1961 and also for non-submission of the accounts and non-publishing of the annual report according to section 9 and 10 of the existing rules of 1962 respectively. Moreover, it appeared that they were not running their organization as per their constitution.

Subsequently BCWS filed a writ with the hon'ble High Court against the cancellation order of the Department of Social Welfare. Hon'ble high court issued a rule Nisi calling upon the respondents to show cause within seven days from the date of receipt of the notice as to why the impugned order issued by the Department of Social Welfare declaring dissolution of the BCWS should not be declared to have been issued without any lawful authority and is of no legal effect.

Now the question of validity of the order of cancellation of registration of BCWS depends on the verdict of the court. At this stage DSW can't but to wait for the verdict of the court.

As per law it is not possible for the Government to permit the BCWS to function freely until getting re-registration from competent authority.

There is a decision of an inter-ministerial meeting to the effect that co-founders of BCWS Mr. Babul Akter and Ms. Kalpona Akhter are required to be disassociated from the organization . However, their involvement with the BCWS is now subject to the verdict to the Hon'ble Court.

Mr. Ilias Ali's Disappearance

Recently, one of the organizing secretaries of BNP, Mr. Ilias Ali disappeared. The government has been trying best to find out his trace and recover him alive. Investigation is already under way. The elite force RAB carried several rescue operations taking his wife in one of the rescue drives. But the opposition BNP and its partners are trying to capitalize the Ilias Ali issue and already they have observed five day countrywide *Hartal* (general strike) leading to huge loss to human life, economy and public property. The BNP and its alliance leaders have been casting blame upon the government stating in public that it is the Government that has abducted Ilias and created the situation of his forced disappearance.

Crimes including abduction, disappearance and killing are challenges for any country. Interest of the government lies in 'prevention' and 'detection' of crime and keeping this in mind, Government has been making structural and functional improvements of the law enforcement agencies. Blaming by some quarters in relation to the event is not only irresponsible but also diverts attention from the actors and players responsible for the incidents. As already mentioned, the Government has taken a number of steps to recover Mr. Ilias.

However, some of the events of the past as came out in the media regarding Mr. Ilias are worrying. Certain quarters have expressed concerns that past events may have been haunting him and may have to do with the sad event that has occurred recently to him and may have been impeding the Government's effort for his recovery.

One of the leading newspapers in Bangladesh, namely Daily Shamokal, carried out a report on 29th April, 2012 which indicates to an internal conflict of BNP behind such disappearance. The report has unfolded that the law and order forces have carried a rescue operation in Kamolganj Upozila under Sylhet district adjacent to Bangladesh-India border.

According to that press report, Indian insurgent groups were active in that particular locality during the last BNP-Jamaat rule. On May 05, 2005 six persons were killed in a gun-fight in Manditia area under Kamolganj Upozila where Ilias's opponent group's leader's tea garden is situated. Besides, residence of a former leader of Chhatro Dal is also located in that remote hilly area. On the other hand, Ilias Ali's relation with BNP's closest alliance, i.e. Jamaat was reportedly cold. Now, the law enforcers are trying to look into all these factors behind Ilias' disappearance. On the suspect list are leaders of opponent groups of Ilias from BNP and Jamaat in Sylhet.

Another press report carried in the Dailiy Janakantho on 29 April, 2012 reveals similar facts. It further indicates the complexity of relations of Ilias Ali with local BNP and Jamaat leaders concerning terrorist camps of dissident groups of the neighboring state. This report also hinted upon a recent speech by the opposition leader Begum Khaleda Zia during the road march in Sylhet after which Ilias was engaged in a conflict with local Jamaat leaders. Moreover, following that meeting, Ilias Ali became involved in a tussle with a former MP from Sylhet concerning illegal collection of money. After the public meeting Ilias became sick due to internal BNP and alliance leaders' various pressure.

All these reasons might have linkage with the missing of Ilias Ali. Devoid of all these considerations, the analogy of the BNP is totally unfounded, baseless and full of political motive and stunts. The Government has no interest in taking such blame on its own shoulder. Rather, it is in the greater interest of the State and the nation, that the Government is trying its best to find him out and recover him at the earliest.

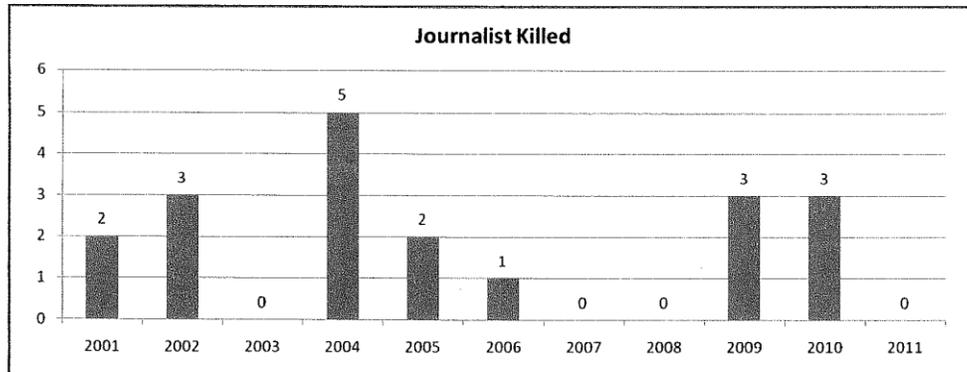
Some other information regarding Ilias Ali

- During his student life, Ilias Ali was known to be one of the heinous armed cadres of the Jatiotabadi Chhatro Dal - JCD (student wing of BNP).
- He was implicated in several cases of illegal toll collection, murder, abduction, and tender-terrorism.
- In 1981, he joined the newly formed Chhatro Shomaj backed by the then military ruler General Ershad. He became an active player of the armed student politics.
- Later on, he changed party and joined the BNP backed Bangladesh Jatiotabadi Chhatro Dal (JCD) and established a stronghold terror group infamously named as 'Ilias Group'.
- During that time a number of political murders took place in the Dhaka University Campus. In

many of the cases, Ilias Ali was accused to have committed the murders and was eventually arrested.

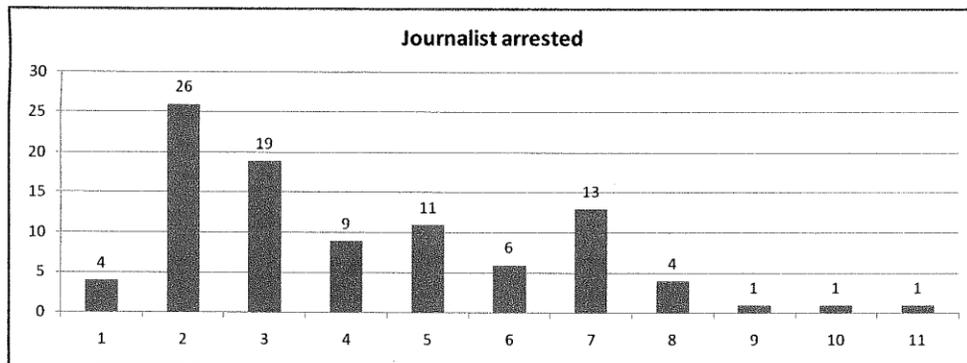
- The Dhaka University authorities, On 17th September 1987 rusticated him from the institution due to his involvement in terrorist activities.
- On 22nd December 1988, Ilias killed JSD leader Bazlur Rahman alias Pagla Shahid.
- On 29th November, 1989 he ransacked the DUCSU (Dhaka University Central Students' Union) office at the DU campus.
- On 25th February 1990 he killed a student leader of Awami Chhatro League namely Shahidur Islam Chunnun who was vice president of the students union of the Zahrul Hague hall.
- On 3rd August 1992, Ilias took part in a gunfight against Ratan group of JCD, in which one person died.
- On 4th September 1992, he killed Mamun and Mahmud (two JCD leaders) whose dead bodies were found from a water tank.
- He was arrested in 1991 on the accusation of murdering JCD leader Mirza Gallib and Bangladesh Chhatro League (BCL) leader.
- He became general secretary of JCD on 16th June, the executive committee of which was dissolved after three months.
- On 10th September 1993, he was again arrested for murdering Mahmud and Mamun, taken into remand and got bail after two years.
- He became member of parliament for the first time in the 1996 farcical election.
- Renowned political figures like Abdus Samad Azad (former Foreign Minister from AL), M Saifur Rahman (former Finance Minister from BNP), SAMS Kibria (former Finance Minister from AL), Humayun Rashid Chowdhury (former Speaker from AL) faced irritation and vandalism by Ilias Afi many times.
- In 2000, he was reprimanded by British police for his ill behaviour at the JOYOPUR restaurant in the Milton Keynes City in London.
- After 2001, he became MP from Biswanath-Balaganj and created a reign of terror in the entire locality. He formed a terror force named Ilias Bahini.
- He was also named in the bomb charging case against former British High Commissioner Anwar Chawdhury at the Hazrat Shahjalal Shrine in Sylhet.
- On 11th December 2011, there was a news item titled "Where is Ilias: At Home or Abroad?" Later on, he himself stated that he went to Bangkok.
- In addition to his enormous properties and wealth in Sylhet, he has built a 6- storied palatial building in Banani, Dhaka, namely "Sylhet House".

Journalists Killed and Arrested in 2001 to 2011



Journalists killed between 2001 – 2006 by extremist forces through bomb attacks and gun shots and there were clear evidences of state patronage, whereas, journalists killed in 2009 and 2010 in road accidents.

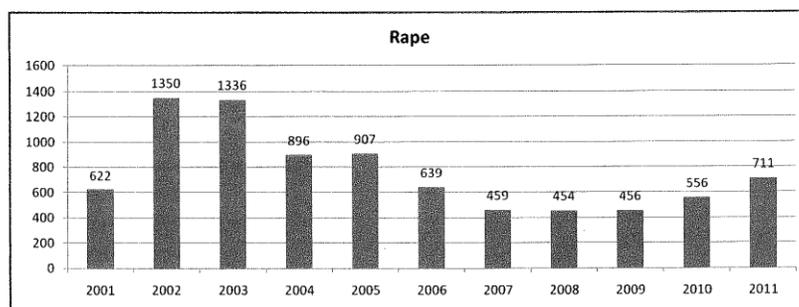
Reference: The Daily Star, “Odhikar” Reports, Different web pages etc



All three journalists arrested during the past three years were arrested because of offences committed by them which had nothing to do with their jobs as journalists.

Reference: The Daily Star, “Odhikar” Reports, Different web pages etc

Women and Children raped - in 2001 to 2011



Reference: The Daily Star, "Odhikar" Reports, Different web pages etc

Comparative statistics of crimes in Bangladesh, USA and India in 2010

Country	Population in 2010	Violent crimes	% of violent crimes with population	Murder	% of murder with population	Kidnapping and abduction/missing	% of kidnapping with population	Rape	% of rape with population
Bangladesh	14,80,00,000	24,455	0.017% (170 in 1 Million)	3,988	0.0027% (27 in 1 Million)	870	0.0006% (6 in 1 Million)	3,342	0.0023% (23 in 1 Million)
USA	30,87,45,538	12,46,248	0.40% (4000 in 1 Million)	14,748	0.0048% (48 in 1 Million)	83,153 (missing)	0.027% (270 in 1 Million)	84,767	0.027% (270 in 1 Million)
India	121,02,00,000 (2011)	2,41,986	0.02% (200 in 1 Million)	33,335	0.0028% (28 in 1 Million)	38,440	0.0032% (32 in 1 Million)	22,172	0.0018% (18 in 1 Million)

United States

Crime Clock

2010 CRIME CLOCK STATISTICS

A Violent Crime occurred every	25.3 seconds
One Murder every	35.6 minutes
One Forcible Rape every	6.2 minutes
One Robbery every	1.4 minutes
One Aggravated Assault every	40.5 seconds
A Property Crime occurred every	3.5 seconds
One Burglary every	14.6 seconds
One Larceny-theft every	5.1 seconds
One Motor Vehicle Theft every	42.8 seconds



Source: Website of Federal Bureau of Investigation (FBI), USA
www.fbi.gov/about-us/cjis/ucr/crime-in-the-u.s/2010/crime-in-the-u.s.-2010/offenses-known-to-law-enforcement/crime-clock

United Kingdom

National Policing Improvement Agency (NIPA)

Period: 2009-10

- Persons Missing Reported - 200,000
- Remained Missing even after One Year - 2000
- Unidentified Dead Bodies Recovered during this period - 58

NOTE ON WOMEN'S RIGHTS RELATED ISSUES

Violence against women:

For Bangladesh, women's empowerment is a national priority and its achievements in this field are acknowledged and recognized globally, and indeed cited as a success story. The National Women Development Policy, formulated in 2011, is a bold and comprehensive enabling policy with women's rights at its core. A number of legislative measures are in place to prevent and deter violence against women. These include, the Suppression of Violence against Women and Children Act, 2000 (Amended

in 2003), the Acid Control Act 2002 and the Acid Crime Prevention Acts 2002, Dowry Prohibition Act, 1980 (amended as the Dowry Prohibition (Amendment) Ordinance, 1982), the Child Marriage Restraint Act, Trafficking in Women and Children Act etc. The government has also signed the SAARC Convention on Preventing and Combating Trafficking in Women and Children. In October 2010, Bangladesh passed the Domestic Violence (Protection and Prevention) Act, which criminalizes domestic violence. The legislation defines domestic violence as physical, emotional, or sexual abuse, as well as financial damage, inflicted on a woman or child by any member of the family. Steps to address cases of sexual harassment of women in academic institutions, workplaces and organizations are being taken accordingly.

One Stop Crisis Centres are being operated in the seven Divisional cities of Bangladesh where women victims of violence receive health care, police assistance, DNA test, social services, legal assistance, psychological counseling and shelter service. National Trauma Counselling Centre has been established by MoWCA and there is help line support. All legal assistances are provided for all oppressed, destitute, abused women through "Cell for Prevention of Violence against Women" in the Ministry of Women and Children Affairs and the Department of Women Affairs and The Jatiyo Mohila Sangstha (National Women's Organisation).

The National Forensic DNA Profiling Laboratory (NFDPL) is the first ever such forensic facility in the country, established at Dhaka Medical College by the Government under the Ministry of Women and Children Affairs. The laboratory provides services to various investigating agencies to solve violent crimes such as murder or rape. DNA analysis also helps in solving disputes arising over issues of paternity, maternity, immigration or inheritance, and determining the identity of missing children, disaster victims or mutilated bodies. The laboratory is well equipped to provide all kinds of DNA testing service related to criminal investigation

The Ministry of Women and Children Affairs is initiating a Gender Responsive Community Policing Programme to ensure security for women and girls, to address vulnerability to domestic violence and facilitate access to justice.

The Government has been trying to adopt Gender Responsive Budgeting for the last few years. In the budget of FY 2011-12, a total of 20 Ministries were brought under this budgeting process, which is expected to help reduce discrimination against women.

Rape:

Rape is covered under specific provisions of the Bangladesh Penal Code. Article 376 of the Penal Code mandates two years of imprisonment, a fine, or both, for the rape of a woman. There are provisions that mandate capital punishment or life imprisonment for causing the death of a rape victim.

Sexual harassment:

Steps have been taken to prevent sexual harassment (often referred to as eve teasing in the South) through social awareness raising program all over the country. Committees have been formed in different Ministries and steps have been taken for formation of such Complaint committees at the district level in accordance with the

directive of the High Court Division of the Supreme Court of Bangladesh. The Government is actively considering initiating counselling programmes in schools to raise awareness regarding child rights issues.

Acid violence:

Acid violence, involving acid attack/throwing, principally at girls, popped up as a social evil in the 1980s/1990s. Almost all the victims were women. In 2002, the Government passed two Acts, the *Acid Control Act 2002* and the *Acid Crime Prevention Acts 2002 (1st and 2nd Act)*, restricting import and sale of acid in open markets. Over the years, there has been a drastic fall incidences of this heinous crime of acid attack/throwing. Some important features of the laws are as follows:

- Establishment of a National Acid Control Council Fund;
- Establishment of a Rehabilitation Centre for victims of acid crimes;
- Treatment for victims of acid crimes;
- Provision of Legal Aid for victims of acid crimes;
- Locking up shops to prevent the sale of acid and banning transport engaged in carrying acid;
- Temporary cancellation of acid selling licenses;
- Provision of capital punishment of the acid thrower and penalty of up to Tk. 1,00,000 (approximately US\$ 1,200);
- Provision for trial in special tribunals, and judgment in absentia;
- Power of the Magistrate to take record of witnesses anywhere

For the victims of acid attacks, the Government has created The Fund for Acid Burnt Women and Rehabilitation of the Physically Disabled and the Women Self-employment Fund.

Dowry

Previously, there had been widespread incidences of dowry in Bangladesh. However, due to the mass awareness and advocacy programmes conducted by the Government as well as NGOs, there have been dramatic changes in the scenario. Now, cases of dowry are hard to come by. Society has been able to stigmatise both the act of giving and receiving dowry. The *Dowry*

Prohibition Act of 1980 (amended as the Dowry Prohibition Ordinance, 1982), prohibits dowry in all forms and makes it punishable by imprisonment. The Law mandates the death penalty or life imprisonment for a husband and his family for the murder or attempted murder of a woman for dowry.

Supplementary note on Child Labour:

In the year 2000, Bangladesh ratified ILO Convention 182 concerning the Prohibition and Immediate Action on Elimination of the Worst Forms of Child Labour. Elimination of child labour is being pursued through creation of viable opportunities, rehabilitation, skill development, and by providing parents with micro-credit facilities to reduce dependency on their child. Attempts are also being made in the informal sectors through non-formal education. Child labour laws have been strictly

enforced in the RMG industries with the support and collaboration of the ILO and UNICEF.



Tom Lantos Human Rights Commission (TLHRC) Hearing

Worldwide Threats to Media Freedom

Wednesday, July 25, 2012

1:00 PM– 3:00 PM

2226 Rayburn HOB

Please join the Tom Lantos Human Rights Commission for a hearing on threats to media freedom around the world.

The free press plays a vital role in advancing democratic governance and promoting respect for human rights. However, in many countries journalists and media outlets are forced to work in a climate of fear and censorship. Repressive governments impose severe legal restrictions and exert economic pressure on media outlets that do not support the government position. Journalists who criticize authorities or expose crime, corruption, or human rights abuses risk harassment, intimidation, unlawful detention and even death.

In addition to assessing these issues from a global perspective, this hearing will examine restrictions on freedom of expression and violence against journalists in Honduras, Russia and Turkey.

The following witnesses will testify:

Panel I

- Michael H. Posner, Assistant Secretary for the Bureau of Democracy, Human Rights, and Labor, U.S. Department of State

Panel II

- Robert Mahoney, Deputy Director, Committee to Protect Journalists
- Karin Deutsch Karlekar, Project Director of “Freedom of the Press,” Freedom House
- Rev. Ismael Moreno Coto, Director of Radio Progreso, Honduras
- Vladimir Kara-Murza, Washington bureau chief, Russian Television International (RTVi)

If you have any questions, please contact the Tom Lantos Human Rights Commission at 202-225-3599 or tlhrc@mail.house.gov.

James P. McGovern
Member of Congress
Co-Chair, TLHRC

Frank R. Wolf
Member of Congress
Co-Chair, TLHRC