**Psychosocial dynamics conducive to torture and ill-treatment in Bangladesh**

**Odhikar**

In Bangladesh, security forces are recruited and trained with and underlying political orientation and believe in the use of excessive force to deal with the accused or suspects. Apparent also is the belief that public security and law and order cannot be maintained without such treatment. Law enforcement means instilling fear. Thus, torture is carried out when accused/suspects are picked up by police and taken into custody. When the suspects are taken into remand for further questioning, torture is routine. Moreover, members of law enforcement agencies are allegedly involved in extortion or taking bribes by threatening people with torture. Torture victims suffer severe psychiatric complications, including post-traumatic stress disorder, depression and anxiety. Their torture also affects their families and the community.

In Bangladesh, the use of physical and psychological methods of torture and ill-treatment is widespread. Torture and ill-treatment is inflicted to extract ‘confessions’, humiliate a person and to instil fear. Torture is endemic and routinely used by the state as a tool to intimidate, extort and suppress political opponents, dissenting voices, vulnerable groups and ordinary citizens alike. The psychosocial dynamics conducive to torture and ill-treatment have become institutionalized due to the laws of the land, structures of society and mechanisms of governance[[1]](#footnote-1). For instance, acts of enforced disappearance are frequently carried out by security forces, mainly targeting political opposition and dissenting voices[[2]](#footnote-2). Such persons are being kept in incommunicado detention and their whereabouts are remained unknown for days or months without charges or trial, are often tortured.

The UN Committee against Torture (CAT) reviewed the situation on the issue of torture in Bangladesh on 30 and 31 July, when Bangladesh submitted its preliminary report on 23 July 2019, after 20 years of ratification of the UN Convention against Torture.[[3]](#footnote-3) In its [report submitted to the Committee against Torture](https://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/BGD/CAT_C_BGD_1_5838_E.pdf), Bangladesh outlined its commitments under domestic and international law to protect against forced confessions. However, Odhikar has documented numerous allegations against Police, RAB, Detective Branch (DB) of the Police and intelligence agencies using torture to extract confessions, often forcing suspects sign blank sheets of paper.[[4]](#footnote-4) In the concluding observation of the Committee, it stated that the allegations of torture and ill-treatment in Bangladesh are not being investigated properly or adequately and the police often refuse to accept the complaints of the victim’s families. It observed that the families of the complainants are later subjected to threats, harassment and retaliation. The Committee noted that there were credible allegations of torture, arbitrary arrest, unacknowledged detention, disappearance and extrajudicial killings while in police custody.[[5]](#footnote-5)

In Bangladesh, torture and ill-treatment occur in the frequent and random imposition of police remand. This is the process of keeping a detainee in police custody, when the police cannot complete an investigation within the legally sanctioned 24 hours; and need more time to ‘interrogate’ the accused. The police officers submit applications requesting the Magistrates’ Court to handover the arrested persons to the police, under ‘remand’, for interrogation for extracting information regarding a particular criminal case.[[6]](#footnote-6) A Magistrate is authorised to grant such requests under Section 167 of the Code of Criminal Procedure by noting the specific reasons, if the police officer reasonably fails to complete the investigation of the relevant case within 24 hours. Time in police remand can be up to 15 days, which has long been criticized by human rights defenders as a loophole for torture. Odhikar has documented that instances of torture and ill-treatment most frequently occur during remand.

In 2003, the High Court Division of Supreme Court of Bangladesh issued 15 directives to safeguard against abuse of the powers of arrest and interrogation in custodial detention, including that authorities must take permission from a magistrate to conduct interrogation in remand and that it must take place in a room with glass walls, with lawyers and relatives allowed to monitor nearby. Moreover, authorities must inform the person of the reason for arrest within three hours and ensure that a relative or friend of the detained person is informed within 12 hours of the arrest about the time, place of arrest, and place of detention.[[7]](#footnote-7) The Appellate Division added four more directives in 2016. The directives are yet to be implemented.

Torture has been criminalized in Bangladesh through the enactment of the “Torture and Custodial Death (Prohibition) Act 2013[[8]](#footnote-8)” on 24 October 2013, following decades of campaign by human rights defenders and victims of torture. The Act criminalises the offence of ‘torture’ and ‘custodial death’ committed by the members of law-enforcement agencies and security forces, as defined in the Act. The minimum penalty for torture is five years of imprisonment or a fine, and the maximum punishment is life imprisonment in case of death due to torture. The Act is definitely welcomed, but has its flaws. The definition of torture in the Act fails to incorporate the elements enshrined in Article 1 of the Convention.[[9]](#footnote-9) It includes “mental or psychological torture” without defining such acts.[[10]](#footnote-10) The law lacks an adequate system to protect victims, aggrieved families, and witnesses. Furthermore, the Act relies on the police for registering complaints and investigating cases of torture - despite the fact that the police systematically cover up the crimes committed by their colleagues.

One of the root causes of torture is the culture of impunity in Bangladesh. Law enforcement agencies enjoy impunity for torture as it is considered a means to an (unlawful) end. Furthermore, the justice delivery system is dysfunctional, resulted in delayed investigation and prosecution. There are no publicly accessible official statistics from law enforcement and judicial authorities - or any other department of the government - regarding convictions for torture and other forms of gross violations of human rights in Bangladesh. Not a single case has been investigated and adjudicated in accordance with the Act of 2013 or the Convention against Torture. Moreover, there is a fear of filing cases against the police due to an endemic practice of retaliation and more torture. The Committee on the Civil and Political Rights noted in its 119th session that there are currently no ongoing investigations into cases of torture accordingly information submitted by Bangladesh government.[[11]](#footnote-11) It shows the culture of impunity practiced by the state to protect alleged perpetrators.

Saidur Rahman was allegedly tortured to death by the members of Satkhira Police Station.[[12]](#footnote-12) His brother, Bazlur Rahman, as the plaintiff, lodged a case of murder against the police[[13]](#footnote-13). In the night of 21 September 2017, a group of criminals came to the house of Bazlur Rahman on motorbikes and vandalised his house and threatened him of dire consequences if he did not withdraw the complaint against them by 24 September 2017.

One Nazrul Islam was arrested from Chittagong Port area on 16 September 2014, in connection with a murder and brought to Sonaimuri Police Station in Chittagong. That night the police shot him in his left leg in order to forcibly extract a confession. The police left him seriously wounded in the corridor of Noakhali Medical College Hospital. He was later transferred to the National Institute of Traumatology and Orthopaedic Rehabilitation in Dhaka, where his leg had to be amputated in order to save his life. On 14 October 2014, his father filed a case with the Noakhali District and Sessions Judge Court, under the Torture and Custodial Death (Prevention) Act 2013, against police. The Court ordered the District Superintendent of Police to take necessary action. A total of 17 police officers, including the then Officer-in-Charge (OC) of Sonaimuri Police Station, Ashraf Ul Islam, were named as accused.[[14]](#footnote-14) On 21 November 2014, the investigating officer submitted a Final Report.[[15]](#footnote-15) On 24 December 2014, Abul Kashem filed a Naraji (no confidence) petition before the Cognizance Court-1 of Noakhali and subsequently another Naraji petition was filed on 26 January 2015 before the Sessions Judge’s Court of Noakhali District. On 10 February 2015, the Session Judge of Noakhali accepted the Final Report, rejecting the Naraji petition and the request for a judicial probe, and released the accused police officers. On 21 May 2017, Abul Kashem filed a criminal appeal before the High Court Division of the Supreme Court to challenge the order of the Session Judge of Noakhali. This case is still pending at the High Court Division Bench six years after the incident.

Victims of torture and their families are under constant threat by the members of law enforcement agencies (LEAs) if they file cases against them. Sometimes LEAs offer money to victim-families to withdraw the case.

On 6 January 2018 Mohammad Zakir Hossain, father of torture victim Shahjalal[[16]](#footnote-16) alleged that he was offered BDT 700,000.00[[17]](#footnote-17) by the Officer-in-Charge (OC) of Khalishpur Police Station Nasim Khan to withdraw the case. As he refused the money, police threatened further violence on his son.[[18]](#footnote-18) On 15 January 2018, Inspector Bablur Rahman Khan of the Police Bureau of Investigation (PBI) Khulna, submitted a probe report to a Khulna Metropolitan Sessions Court where it was stated the probe into the matter did not find any evidence of police gouging out Shahjalal’s eyes.[[19]](#footnote-19) Shahjalal, who lost his sight, was instead sentenced to two years imprisonment with a five thousand taka fine, by Khulna Metropolitan Magistrate Amirul Islam on 4 November 2019 in a ‘mugging’ incident lodged against him in 2017.[[20]](#footnote-20)

The Istanbul Protocol (IP) is one of the most effective tools for ending psychosocial dynamics and impunity related to torture through investigation and documentation of cases of torture and ill-treatment. The interdisciplinary use of the Istanbul Protocol by legal, social services and health care professionals in the assessment of torture and other forms of violence, can be practiced. For example, trainings can be organised on legal, forensic and health aspects of the protocol for professional groups working with survivors of torture, including human rights defenders, social workers, lawyers, psychologists and medical staff.

A strong legal framework to prohibit torture is a critical component of any torture prevention strategy – such as effective implementation of the legal framework and mechanisms to monitor the legal framework and its implementation. The functioning of the criminal justice system is another important factor to consider as best practice for preventing and redressing torture and ill-treatment. National mechanisms in Bangladesh do not work, as the Judiciary and law enforcement have become politicised while the government deliberately made the basic institutions of the State, including the judiciary and law enforcement agencies dysfunctional and coercive. The government uses the justice administration and law enforcement agencies for self-serving interests instead of upholding the rule of law and human rights. As a result, these institutions have failed to take any effective measure to investigate and prosecute the cases of torture and provide remedies to survivors and victim-families.

The following recommendations need to be implemented by Bangladesh, for monitoring, preventing and redressing torture and ill-treatment:

* Fully implement the UN Convention against Torture and ratify the OPCAT.
* Accept the individual complaint procedure under Article 22 of the UN Convention against Torture.
* Implement the directives given by the Supreme Court of Bangladesh to prevent torture and amend and implement the Torture and Custodial Death (Prevention) Act 2013.
* Ensure that all allegations of torture and ill-treatment are investigated effectively, and impartially by an independent body and the perpetrators brought to appropriate justice.
* Guarantee effective remedies and redress for torture victims, including adequate compensation, rehabilitation, and reparation.
* Provide specific procedural guidelines for ante mortem examination and for the process of collecting and filing report of the forensic experts.
* Increase efforts to provide systematic training to all law enforcement officials on the use of firearms, in accordance with the Basic Principles on the Use of Firearms by Law Enforcement Officials.
* Ensure that all alleged cases of torture and ill-treatment are promptly medically documented in line with the Istanbul Protocol.
* Guarantee that forced confessions or statements are inadmissible, except when invoked against a person accused of torture as evidence that the statement was made.
1. For example, The Special Powers Act (SPA), 1974 provides for ‘preventive detention’, meaning the detention of individuals who might commit ‘prejudicial acts’ against the state and gives absolute powers to the executive to detain people arbitrarily without justifying its action before a court of law. Again, the definition of a ‘terrorist act’ in the Anti Terrorism Act 2009 is so broad that anyone can be arrested and implicated. This does occur and most often leads to torture. The widespread practice of arbitrary arrest, incommunicado or preventive detention by law enforcement agents illustrates torture and ill-treatment in custody. [↑](#footnote-ref-1)
2. Various international human rights organisations, such as Human Rights Watch and the Asian Federation against Involuntary Disappearances and even the UN Working Group on Enforced or Involuntary Disappearances have reported and shown concern over acts of enforced disappearance in Bangladesh. Those who reappear/return have spoken of physical and/or mental torture. For cases, see www.odhikar.com. [↑](#footnote-ref-2)
3. Bangladesh ratified the UN Convention against Torture on 5 October 1998. [↑](#footnote-ref-3)
4. Civil Society Joint Alternative Report on Bangladesh Submitted to the Committee against Torture; <https://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/BGD/INT_CAT_CSS_BGD_35328_E.pdf> [↑](#footnote-ref-4)
5. Concluding observations on the initial report of Bangladesh, CAT/ C/BGD/CO/1 [↑](#footnote-ref-5)
6. Asian Human Rights Commission’s Urgent Appeal, BANGLADESH: Police tortured a man to death in custody and authorities cover it up as suicide to provide impunity to perpetrators, available at:

<http://www.humanrights.asia/news/urgent-appeals/AHRC-UAC-167-2010/> [↑](#footnote-ref-6)
7. Prothom Alo, *Reform of Cr.PC Provisions of Arrest, What 19 SC guidelines for law enforcers stipulate*, 10 November 2016; <https://en.prothomalo.com/bangladesh/What-19-SC-guidelines-for-law-enforcers-stipulate> [↑](#footnote-ref-7)
8. Unofficially translated full text of Torture and Custodial Death (Prohibition) Act 2013, available at: <http://www.humanrights.asia/wp-content/uploads/2018/09/Torture-CustodialDeath-ActNo50of2013-English.pdf> [↑](#footnote-ref-8)
9. Full definition of ‘torture’ is provided in Article 1 of the Convention Against Torture:

<https://www.ohchr.org/en/professionalinterest/pages/cat.aspx> [↑](#footnote-ref-9)
10. Bangladesh Legal Aid Services Trust (BLAST), Review of the Torture and Custodial Death (Prevention) Act, 2013, available at:[https://www.blast.org.bd/content/publications/Review%20of%20The%20Torture%20&%20Custodial%20Death(Prevention)%20Act,%202013.pdf](https://www.blast.org.bd/content/publications/Review%20of%20The%20Torture%20%26%20Custodial%20Death%28Prevention%29%20Act%2C%202013.pdf) [↑](#footnote-ref-10)
11. CCPR/C/BGD/CO/1; <http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fBGD%2fCO%2f1&Lang=en> [↑](#footnote-ref-11)
12. The daily Jugantor, 23/09/2017; please visit the link <https://www.jugantor.com/news/2017/09/23/157742/> and Monthly Human Rights Reports of September, 2017 of Odhikar, page- 12, for details please visit the link [www.odhikar.org/wp-content/uploads/2018/01/human-rights-monitoring-report-September-2017\_Eng.pdf](http://www.odhikar.org/wp-content/uploads/2018/01/human-rights-monitoring-report-September-2017_Eng.pdf) [↑](#footnote-ref-12)
13. On 14 September 2017 at around 1:30 am, a police team of Satkhira Police Station led by Sub-Inspector (SI) Asaduzzaman arrested Maulana Saidur Rahman, Superintendent of Hothatganj Madrassa in Kolaroa under two cases relating to vandalism. Saidur Rahman’s brother Rafiqul Islam alleged that on 15 September his brother became unconscious due to the repeated torture in custody. When he was taken to Satkhira Court, the Court, observing his physical condition, refused to hear the police and their case. Later police treated him at the hospital and when his condition improved he was produced before the Court again and the Court ordered that he be sent to jail. Superintendent of Satkhira District Jail, Hafizur Rahman informed that Saidur Rahman was admitted to Satkhira Sadar Hospital. Dr. Farhad Zamil, Residential Medical Officer of SatkhiraSadar Hospital, informed that Saidur Rahman died at midnight on 16 September. Marks of injuries were found on his body. On 19 September Saidur Rahman’s brother Bazlur Rahman filed a case under section 302 of the Penal Code with Satkhira Sadar Cognisable Court-1, accusing Sub-Inspector Paik Delwar Hossain, ASI Sheikh Sumon Hassan, ASI Ashrafuzzaman and two unknown constables of Satkhira Police Station. [↑](#footnote-ref-13)
14. For more information, see Odhikar, ‘Annual Human Rights Report 2014’, p. 74, available at: <http://odhikar.org/annual-human-rights-report-2014-odhikar-report-on-bangladesh/>. [↑](#footnote-ref-14)
15. A Final Report is a police investigation report, which is submitted by police after investigation when no evidence is found against the alleged offenders for committing the crime referred to in the complaint. [↑](#footnote-ref-15)
16. According to the case filed by Shahjalal’s mother Renu Begum, Shahjalal was picked up by the police on the night of 18 July 2017 when he went out to buy milk for his daughter. When his family went to the police station, OC Nasim demanded Tk1.5 lakh to release him. Shahjalal’s family failed to meet the demand, resulting in the police taking Shahjalal out for a ride. He was found the next day at Khulna Medical College Hospital with both his eyes gouged out. [↑](#footnote-ref-16)
17. BDT 700,000.00 = USD 8,400.00 [↑](#footnote-ref-17)
18. The Daily Dhaka Tribune, 17/01/2018, please visit the link <http://www.dhakatribune.com/bangladesh/crime/2018/01/17/pbi-evidence-police-gouging-shahjalal/> [↑](#footnote-ref-18)
19. Odhikar gathered information and The Daily Dhaka Tribune, 17/01/2018, please visit the link <http://www.dhakatribune.com/bangladesh/crime/2018/01/17/pbi-evidence-police-gouging-shahjalal/> [↑](#footnote-ref-19)
20. For more information see Odhikar, ‘Annual Human Rights Report 2019’, pg.19, available at: <http://odhikar.org/wp-content/uploads/2020/02/Annual-HR-Report-2019_Eng.pdf> [↑](#footnote-ref-20)