

**United Nations Human Rights Council  
Universal Periodic Review  
Bangladesh**

**Submission of The Becket Fund for Religious Liberty**

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*The Becket Fund is a nonprofit, interfaith, public interest law firm protecting the free expression of all religious traditions.*



## **United Nations Human Rights Council Universal Periodic Review of Member-State Bangladesh<sup>1</sup>**

The Becket Fund for Religious Liberty, in special consultative status with ECOSOC, submits this analysis of the rule of law and religious freedom law in Bangladesh as a contribution to the Universal Period Review of UN member-state Bangladesh.

### **1. Legal Framework**

#### ***1.1 Emerging Democracy***

In the 20<sup>th</sup> century, Bangladesh saw a great deal of turmoil as it broke from the British Empire in 1947 to become part of an independent Pakistan, but then established its own independence from Pakistan in 1971 after nine months of war. The 1975 assassination of Sheikh Mujibur Rahman – leader of the independence movement – by soldiers led to 15 years of military rule. In 1990, pro-democracy demonstrations forced the last military ruler to step down and allowed for elections to occur in 1991. The primary political contenders have been the Bangladesh National Party (BNP) and the Awami League (AL); however, since 1994, political deadlock, boycotts, and political violence have inhibited the establishment of a vibrant and working democratic government. In January 2007, the caretaker government was dissolved and replaced by a military caretaker government. The military has indicated its desire to return the government to democracy rule with elections scheduled for the end of 2008.

The current state of affairs has placed harsh restrictions on basic civil liberties, including an emergency ban on freedom of association and the criminalization of “provocative” criticisms of the government. The judicial system has suffered from inefficiency and corruption, further threatening the rule of law. Such conditions present serious threats for the protection of religious freedom, as these fundamental freedoms are inseparable and necessary for the free expression of beliefs in the public square.

#### ***1.2 Constitutional Framework***

Although the original 1972 constitution of Bangladesh ensured a secular government, the constitution was amended in 1988 with a controversial 8<sup>th</sup> amendment that established Islam as the state religion.<sup>2</sup> The constitution also stipulates “the principles of absolute trust and faith in the Almighty Allah” as a fundamental principle of state policy.<sup>3</sup>

However, the constitution also ensures that “other religions (other than Islam) may be practiced in peace and harmony in the Republic.”<sup>4</sup> Article 39 guarantees freedom of thought, conscience and speech, and Article 41 guarantees freedom of religion:

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<sup>1</sup> We are indebted to reports by the U.S. Commission on International Religious Freedom, the U.S. Department of State, and RELIGIOUS FREEDOM IN THE WORLD (Paul A. Marshall ed., 2008).

<sup>2</sup> Article 2A, Constitution of Bangladesh.

<sup>3</sup> Article 8 (1A), Constitution of Bangladesh.

<sup>4</sup> Ibid.

#### 41. Freedom of religion

##### (1) Subject to law, public order and *morality*-

1. every citizen has the right to profess, practice or propagate any religion;
2. every religious community or denomination has the right to establish, maintain, and manage its religious institutions

(2) No person attending any educational institution shall be required to receive religious instruction, or to take part in or to attend any religious ceremony or worship, if that instruction, ceremony or worship relates to a religion other than his own.<sup>5</sup>

Finally, Article 28 protects against discrimination on grounds of religion, and Article 29 specifically guarantees protection against employment discrimination by religious affiliation.<sup>6</sup>

Thus, despite some indications of favoritism towards Islam, the constitution of Bangladesh explicitly guarantees fundamental protections for religious freedom.

### ***1.4 International Commitments***

In 2000, Bangladesh acceded to the International Covenant on Civil and Political Rights, in which Article 18 guarantees the freedom of religion or belief. Additionally, as a member of the United Nations, Bangladesh has agreed to the principles expressed in the Universal Declaration of Human Rights, which also protects the fundamental right to freedom of religion or belief, including the rights to choose one's own faith.

## **2. Implementation**

Despite constitutional guarantees for religious freedom, international agreements pledging Bangladesh's commitment to religious freedom, and ongoing democratization, Bangladesh continues to face impediments to the free exercise of religion, including the difficulties of incorporating religious law and civil law, seizure of minority ethnicities' properties, and discrimination towards minority religious groups, especially the Ahmadiyya community.

### ***2.1 Islamic Law***

Islam is Bangladesh's official state religion, and 88% of the population is considered Muslim.<sup>7</sup> Within this 88% is a minority of Muslims who would like for the state to become more closely tied to Islam. This minority favors measures such as renaming the country the "Islamic Republic of Bangladesh" and the incorporation of Sharia law into the constitution of Bangladesh. Two political parties with significant influence - Jamaat Islami (JI) and Islami Okiya Jote (IOJ) – have adopted Islamist platforms.

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<sup>5</sup> Article 41, Constitution of Bangladesh. (Emphasis added.)

<sup>6</sup> Articles 28-29, Constitution of Bangladesh.

<sup>7</sup> U.S. Department of State International Religious Freedom Report, 2007.

### *Sharia Law*

Although Sharia law has not been implemented in Bangladesh, some Muslims continue to pressure major political parties and the government to incorporate Sharia law into civil law. As the government considers the accommodation of religious courts, potential religious freedom conflicts loom. Such potential conflicts include jurisdictional issues (e.g. Do Sharia courts apply to non-Muslims or to converts out of Islam?), and due process protections (e.g. Do parties have the option to choose a religious arbitration court?; Which interpretations of the many schools of Islam will prevail?; Will fundamental human rights standards apply?). The Bangladesh government should take such questions into account when considering the accommodation of religious laws.

### *Fatwas*

In 2001, the High court ruled that all fatwas (a legal opinion or decree handed down by an Islamic religious leader) were illegal, a decision that resulted in violent protests from Islamist groups.<sup>8</sup> However, due to a pending appeal by a group of Islamic clerics, the ban has not been implemented, and religious leaders continue to issue fatwas, often directed against women for “perceived moral transgressions.”<sup>9</sup>

### *Blasphemy Law*

The Bangladesh Penal Code (1860), which was adopted from the Pakistan Penal Code, includes an anti-blasphemy provision, which continues to be implemented. Section 295B of the Penal Code states:

Whoever, with the deliberate intention of wounding the religious feelings of any person, utters any word or makes any sound in the hearing of that person or makes any gesture in the sight of that person or places any object in the sight of that person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.<sup>10</sup>

In 2002, Tasmila Nasreen, a feminist author, was sentenced in absentia for “derogatory remarks about Islam,” in reaction to her books. She remains abroad as the criminal charges are pending, and her books are legally banned in Bangladesh.<sup>11</sup>

### *Religious Education (Madrasahs)*

Madrasahs (Islamic schools) were first introduced in Bangladesh during British rule for Muslims who did not wish to send their children to the English system. These schools have expanded in recent years with the aid of foreign funding from other Muslim

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<sup>8</sup> Definition of “fatwa” provided by Merriam-Webster Dictionary.

<sup>9</sup> RELIGIOUS FREEDOM IN THE WORLD, Bangladesh (Paul A. Marshall ed., 2008).

<sup>10</sup> Bangladesh Penal Code, Section 295B.

<sup>11</sup> U.S. Department of State International Religious Freedom Report, 2007.

countries. The government continues to work with madrassas to ensure that curricula provide a thorough modern education and do not advocate hatred and intolerance. Such cooperation should be complimented and continued with increased vigilance.

## ***2.2 Religious Discrimination***

Despite constitutional guarantees for protection against religious discrimination, minority religious groups continue to suffer from targeted social violence and explicit discrimination in employment and education.

### *Ahmadiyyah*

The Ahmadis have suffered significantly at the hands of extremist Islamic groups, who have targeted Ahmadis with beatings, murders, destruction of mosques, and homes. Some Muslims regard Ahmadis, who profess to be Muslim, as heretics for certain aspects of their beliefs. The government continues to obey a court order not to enforce a 2004 government proposal for a ban on Ahmadiyya publications, and has also taken steps to protect the Ahmadi community with higher security. Nonetheless, anti-Ahmadiyyah violence and discrimination remains a high concern for religious freedom in Bangladesh.

### *Other religious minorities*

Hindus, Christians, and Buddhists also experience violence and discrimination in access to military and government jobs, including elected office. In June 2007, a number of recent converts to Christianity were attacked by Muslim villagers in Durbachari village, where a police team has since been stationed to reduce tensions and protect minorities. In recent years, Hindus have emigrated from Bangladesh due to the hostile environment for religious minorities, according to reports from the U.S. Commission on International Religious Freedom. Buddhist Chakmas, native tribes in the Chittagong Hill Tracts, have experienced increased discrimination and violence as extremist Muslims, reportedly with the involvement of military personnel, continue to populate the area and target the native Chakmas with violence, rape, and destruction of cultural heritage.<sup>12</sup>

## ***2.3 Property Seizure***

The Vested Property Act (VPA), which allows the government to confiscate property belonging to individuals who are considered “enemies of the state,” was enacted before Bangladesh gained independence and was annulled in 2001. The law was traditionally been used to target non-Muslims and minority ethnicities in Bangladesh. Despite the annulment, since 2001, approximately 200,000 Hindu families have lost approximately 40,667 acres of land, according to a study by a Dhaka University professor.<sup>13</sup>

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<sup>12</sup> U.S. Commission on International Religious Freedom Report, 2008.

<sup>13</sup> U.S. Department of State International Religious Freedom Report, 2007.

### **3. Recommendations**

During the Universal Periodic Review, the UN Human Rights Council should take care to consider religious freedom in its evaluation of Bangladesh. We respectfully recommend that the UNHRC not only base its evaluation of Bangladesh on constitutional assurances of religious freedom, but also on the use of legal doctrines to control religious institutions.

Bangladesh should be encouraged to continue its path towards democracy alongside a more robust judicial system, which is able to ensure rule of law for all, including effective enforcement of laws protecting religious freedom, and judicial decrees.

Bangladesh should carefully examine the effect its blasphemy laws have on diverse political discourse and dissent.

Bangladesh should also be encouraged to provide greater protections for religious minorities who have already been targeted by social unrest and violence, in particular the Ahmadiyyah community.