

SPOTLIGHT

In less than a week a United Nations body called **Human Rights Council** will be meeting in Geneva to reflect on the human rights situation in Bangladesh. Bangladesh will be presenting a report summarising the scenario in the country. The other states will then analyse the report, make observations and recommend steps that Bangladesh can take to improve the situation. This is called the Universal Periodic Review.

"The Universal Periodic Review (UPR) is an accountability mechanism—all states self-assess and then are made to answer for their human rights situation," says Sultana Kamal, prominent human rights activist and Chairperson of Centre for Social Activism. The UPR process has happened twice before—once in 2009 and again in 2013.

So far, so good—except civil society organisations are now pointing out that the government's report submitted for UPR titled "National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21", is sunnier than it should be.

"The government submitted the report to the Human Rights Council on February 8 this year. They held a consultation with us the day before the submission—essentially the civil society could make no input into what was going to said at the UN," says Sultana Kamal.

What will the government be telling other states at the Human Rights Council—and more importantly, what will it be omitting from the official report?

In response to the government's submission to the Human Rights Council, 56 prominent national and international organisations created their own reports of the human rights scenario, where they dutifully added the sections the state's report glossed over.

What the government did not say about child rights and underage marriage

The government presents the Child Marriage Restraint Act as a milestone, saying that it gives all public officials the power to stop underage marriages.

However, civil society organisations point out that the state's report does not reflect the new amendment to the Child Marriage Restraint Act, 2017 that allows underage marriage under special circumstances. "[The Act] meant to restrain child marriage, although still allowing child marriage 'if it is in the interest of the underage girl' with the consent of the parents and meeting directives of a court," says a report prepared by Ain o Salish Kendra, Aparajeyo Bangladesh, Association for Community Development and a

Thailand-based NGO ECPAT International.

The Netherlands-based non-profit Institute of Statelessness and Inclusion notes something else that neither the government nor any national NGO has highlighted—that the Rohingya children have rights to nationality. The organisation says that the Rohingya refugees are not going to be repatriated in the short term—and so the government must "Ensure that all children born in the territory of Bangladesh [...] are guaranteed without discrimination, their right to a nationality."

Claim: Bangladesh fully supports freedom of expression of the press and human rights defenders

The state party's report claims that "the Gobis vigilant to protect civil society, bloggers and thus create space for freedom of expression." The civil society, reports, begs to differ.

A report by the Center for Social Activism and International Services for Human Rights, for example, mentions the threat by members of the parliament to cancel Transparency International's (TIB) registration after the anti-corruption organisation did a survey on parliamentary activities. Suranjit Sen Gupta, Chair of the Parliamentary Standing Committee on Law had warned TIB by saying, "Never speak about the constitution and the parliament ever again in your life."

The government has pressured major companies in Bangladesh to cease advertising in two of the country's largest newspapers: the *Prothom Alo* and *The Daily Star*, the report goes on to say. On the other hand, the publisher of a queer poetry book called *Roopongti* was attacked by Islamic extremists in September 2015, says a report submitted by queer activists.

Furthermore, the state report puts the Digital Security 2018 as a milestone, done for "establishing balance between freedom of expression and public morality and interest." All the civil organisations concerned slams the act as simply a tool to control public expression. The CSA report points out that the new law can be used to hand out life imprisonment to anyone "involved in propaganda against the 1971 Liberation War of Bangladesh and Father of the Nation."

The fact that defamation charges are considered as criminal charges instead of civil charges is another example of how laws discourage people. "Decriminalise defamation by repealing sections 499-503 of the Bangladesh Penal Code, ensuring that individuals' reputation rights can be vindicated through the civil law only," recommends Tahmina Rahman, Regional Director of Article 19 at a mock UPR session held in the Sonargaon Hotel last week.

The CSA report also claims that protesters of the Hill Women's Federation "were violently attacked by the Border Guards Bangladesh and Bangladesh Police personnel who snatched their banners, kicked them and detained at least 25 of them." The report also mentions that demonstrations are often met with tear gas, rubber bullets and police action.

Claim: The Government of Bangladesh is interacting with international

Freedom of expression

Child marriage

Enforced disappearances

LGBT rights

ZYMA ISLAM

WHAT BANGLADESH IS NOT TELLING THE HUMAN RIGHTS COUNCIL

mechanisms on human rights issues

Civil society members agree that we do not have a good track record with allowing the United Nations Special Rapporteurs to come to Bangladesh and independently report on the human rights scenario.

"The UN system limits the access of civil society, but the Special Rapporteurs can interact with anyone, which is why their role is significant," says Sultana Kamal. These individuals are specially appointed by the Human Rights Council and work independently, not being salaried staff of the United Nations. Bangladesh hosted the Special Rapporteurs on freedom of religion and belief and violence against women, but as the Centre for Social Activism points out in their report "requests for country visits from at least 12 Special Rapporteurs or Independent Experts (sic) remain pending."

They highlight that the Special Rapporteurs on extrajudicial, summary or arbitrary executions, and minority issues have been trying to visit since 2006 and even sent several reminders to no avail. Since 2006, the Special Rapporteurs on independence of judges, migrants, toxic waste, freedom of assembly, sale of children, extreme poverty, indigenous peoples, human rights and counter-terrorism, freedom of opinion and expression, racism and the working group on disappearances, have also requested to be let in, but the government is yet to allow them in.

Enforced Disappearances: issues the government did not mention

One of the most pressing concerns of the day is enforced disappearances—and the state party report did not even acknowledge this as a problem. Both National Human Rights Commission and Amnesty International points out the phenomenon in their reports. To add context to the claims, Amnesty refers to a secret audio recording published by Swedish Radio, of a senior Rapid Action Battalion (RAB) officer claiming that the security force wing carry out abductions and extra-judicial killings. NHRC, on the other hand, recommends in their shadow report that that the state has to investigate and prosecute all cases of extra judicial killings and enforced disappearances.

The closest the state report comes to the issue is when it recounts how the state sentenced 16 RAB members for the forced abduction and murder of Narayanganj panel mayor Nazrul Islam and his six aides—in effect, to press home the claim that "Bangladesh maintains a 'zero tolerance' for crimes by law enforcement agencies". The Center for Social Activism adds nuance to the government's statement by claiming that there were 162 deaths in which law enforcers were involved. "A pattern has emerged about the fate of victims of enforced disappearance where in most instances they are kept in undisclosed custody for weeks or months before police suddenly claim to have arrested them the previous day," it states. The organisation's report further goes on to say that many of the disappeared are "found dead, labelled as victims of 'cross-fires'."

The government report instead pins the blame on people impersonating law enforcers to abduct citizens, a point that was also raised by the last UPR session of 2013, then Foreign Minister Dipu Moni.

Germany has already submitted a question on this subject in anticipation of the session. "What steps does the Government of Bangladesh undertake in order to

Enforced disappearances

Child marriage

fight impunity in recorded cases of extrajudicial killings, enforced disappearances, and torture?" the state of Germany will be asking Bangladesh.

Meanwhile, while the government's report tells the Human Rights Council that Bangladesh formed the Torture and Custodial Death (Prevention) Act in 2013, it makes no mention of the resistance that this piece of legislation faced from law enforcement agencies.

"Officially recognised the gender identity of the transgender persons" (and that's all)

The state party report states transgendered persons are going to be identified as such, adding that the Election Commission will be registering transgender persons the way they self-identify. The report however gives an incomplete description of the human rights scenario for the LGBTQI community. Rights groups like Boys of Bangladesh and Roopban, in collaboration with independent queer activists, created a submission that fills up the gaps left in the government version.

To begin with, the government's identification process itself is stated as problematic by the activists' report. "Declaration of 'Hijra' as a third gender without the proper understanding of the gender spectrum has led to the problematic definition of 'Hijra' as 'sexually disabled persons [which] makes it very clear that the civil servants and law-makers have no understanding of gender identity and sex characteristics," says the report, succinctly pointing out how all non-binary gender identities are thought by the government to be Hijras. The NHRC, meanwhile, recommends that Bangladesh must "formulate definitions of Hijras".

Then there is the whole question of the rights of LGBTQI community to simply exist.

The report by the queer activists points out that the police detectives have no real findings regarding the murders of queer activists Xulhaz Mannan and Mahbub Rabbi Tonoy, having missed 23 deadlines to submit the investigation report. The activists included Home Minister Assaduzzaman Khan Kamal's statement from that time, saying "our society does not allow any movement that promotes unnatural sex [so] writing in favour of it is tantamount to a criminal offence as per our law" as evidence of the rights situation of the LGBTQI community in Bangladesh.

"Bangladesh has not supported the recommendation advocating the abolition of death penalty, and 'so-called' same-sex relations," stated State Minister for Foreign Affairs Shahriar Alam in a mock UPR session held in the city last week.

"Both in 2009 and 2013 there were two recommendations to decriminalise same sex relationships but Bangladesh rejected them," says Shakhawat Hossain Rajeeb, a queer activist, "but we are hoping this year we will also have some recommendations from other states."

The counter-report by queer activists further states that 25 LGBTQ activists have left the country following the murders of Mannan and Tonoy. "The community had to cancel the third annual Rainbow Rally on the face of opposition from the government in April 2016 [while] four gay men were illegally detained by the police suspecting them to be attendees of Rainbow Rally," the report states, portraying the movement's inability to exercise the right to assembly.

Roopban, the LGBT publication Mannan was the publisher of, also submitted a report to the Council. The report details the short and violent journey of the magazine. "The plan was to publish an issue every three months, but under threats it became difficult to find a printer," says the report. They write how the magazine had allowed the movement to come out of the closet and organise events, but that "the murders of Xulhaz and Tonoy brought the visible organising of LGBT communities to a standstill."