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Introduction

1. ADF International is a faith-based legal advocacy organization that protects fundamental freedoms and promotes the inherent dignity of all people.
2. This report addresses the state of freedom of religion, of expression and of association, as well as the situation of religious minorities in Bangladesh. In particular, it draws attention with considerable concern to laws criminalizing expression deemed to be outraging or wounding of religious feelings. It also makes note of the rising social hostility faced by Christians and other people belonging to religious minorities.

(a) Freedom of Religion, Freedom of Expression and Freedom of Association

Background

3. According to its 2022 national census, Bangladesh had a population of over 165 million, estimated to be 91.04% Muslim with Hindu (7.95%), Buddhist (0.61%) and Christian (0.30%) minority components.¹ However, there have been claims of undercounting of ethnic minority groups living primarily in the country's northern hill districts, which are majority Buddhist and Christian.²

Legal Framework

4. The Preamble and Article 8 of the Constitution of Bangladesh establish the State as being founded upon the principles of "nationalism, socialism, democracy and secularism".³ Article 2A declares: "The state religion of the Republic is Islam, but the State shall ensure equal status and equal right to practice of the Hindu, Buddhist, Christian and other religions."⁴
5. Article 12(d) requires the principle of secularism to be realized, including by the elimination of "any discrimination against, or persecution of, persons practicing a particular religion."⁵ Article 28 reiterates that discrimination on the grounds of, among others, religion is prohibited.⁶
6. Article 38 protects the freedom of association, subject only to restrictions imposed by law in the interests of morality or public order, provided that no association is formed for, among others, the purposes of "destroying the religious, social and communal harmony among citizens", or of creating discrimination among citizens on the grounds of "religion, race, caste, sex, place of birth or language".⁷

¹ Tribune Desk, *Census 2022: Bangladesh population now 165 million / Census 2022: Number of Muslims increased in the country*, DHAKA TRIBUNE (Jul. 27, 2022), available at <https://www.dhakatribune.com/bangladesh/2022/07/27/bangladeshs-population-size-now-1651-million>.

² Agence France Presse, *Ethnic Minorities missing from census, say Bangladesh activists*, LICAS.NEWS (Aug. 12, 2022), available at <https://www.licas.news/2022/08/12/ethnic-minorities-missing-from-census-say-bangladesh-activists/>.

³ The Constitution of the People's Republic of Bangladesh (Act. No. of 1972), available at <http://bdlaws.minlaw.gov.bd/act-367.html>, art. 8.

⁴ *Id.*, art. 2.

⁵ *Id.*, art. 12.

⁶ *Id.*, art. 28.

⁷ *Id.*, art. 38.

7. Article 39 guarantees freedom of thought and conscience, as well as freedom of expression, subject to "reasonable restrictions imposed by law in the interests of the security of the State, friendly relations with foreign states, public order, decency or morality."⁸
8. Finally, Article 41 protects freedom of religion, including the right of citizens to "profess, practice or propogate any religion," the right of every religious community or denomination to "establish and maintain and manage its religious institutions," and prohibits any person attending any educational institution from being required to receive religious instruction, take part in, or to attend any religious ceremony or worship if it "relates to a religion other than his or her own."⁹
9. Despite these constitutional guarantees, numerous criminal and other laws unduly restrict the exercise of freedom of religion or belief, expression and association. In particular, the Penal Code of Bangladesh criminalizes various offenses related to religion in Chapter XV. The accompanying penalties to most of the Penal Code sections include imprisonment, a fine, or both.¹⁰
10. Section 295A penalizes deliberate and malicious acts intended to "outrage religious feelings of any class by insulting its religion or religious beliefs." This can apply either to spoken or written words, or by visible representations or insults or attempts to do such.¹¹
11. Furthermore, Section 298 penalizes the utterance of words or the making of any sound with a deliberate intent of "wounding the religious feelings of any person."¹²
12. Finally, in 2018, Bangladesh passed the Digital Security Act (DSA), Article 28 of which provides that:

"If any person or group intentionally or knowingly with the aim of hurting religious sentiments or values or with the intention to provoke, publish or broadcast anything by means of any website or any electronic format which hurts religious sentiment or values then such activity of that person will be considered an offence."¹³
13. The penalty for a violation is a term of imprisonment not exceeding five years, or a fine, or both. Successive convictions would result in longer terms, higher fines, or both.¹⁴

⁸ Id., art. 39.

⁹ Id., art. 41.

¹⁰ The Penal Code, 1860 (Act No. XLV of 1860), available at <http://bdlaws.minlaw.gov.bd/act-details-11.html>.

¹¹ Id., sect. 295A.

¹² Id., sect. 298.

¹³ Digital Security Act (Act No. XLVI of 2018), available at <https://www.cirt.gov.bd/wp-content/uploads/2020/02/Digital-Security-Act-2020.pdf>, art. 28.

¹⁴ Id.

Cases

14. In January 2020, Shariat Sarker, a Sufi folk singer, was arrested under the DSA for "hurting the sentiments of Muslims" in Mirzapur city for statements made during a concert, after a Muslim cleric had filed a case against him.¹⁵
15. In July 2020, police issues an arrest warrant for Asaduzzaman Noor, a secular blogger also known as Asad Noor, under the DSA for "spreading rumors" and "defaming Islam" via a social media post. In the video he spoke in support of a Buddhist monk who was critical of the government for its decision to appropriate a temple in Chittagong.¹⁶ While Noor remains in hiding, he has received numerous death threats, and his family was reportedly temporarily detained by the police in an attempt to intimidate him into silence.¹⁷

(b) Situation of Christians and Other Religious Minorities

16. According to the 2023 World Watch List, which ranks the top 50 countries where it is most difficult to be a Christian, Bangladesh is placed 30th. Christians and other religious minorities in the country face significant challenges ranging from government restrictions to social hostility and violence.¹⁸
17. In May 2022, Jashim Uddin was attacked in broad daylight by a mob of 50-60 people because he converted to Christianity. After unsuccessfully attempting to force him to renounce his faith, the perpetrators stabbed him with a sharp weapon and beat him. After escaping and returning from the hospital, he reportedly spoke to members of the police, who merely ridiculed and denied him protection. Shortly after the police left, he was again beaten and barred from returning to his home. His wife and children have also gone into hiding after receiving death threats.¹⁹
18. On 3 March 2023, a violent attack took place in broad daylight at the inaugural day of the 98th annual convention of Ahmadi Muslims in Bangladesh in the presence of the police. Incited by extremist clerics, the mob vandalized, torched, and looted several dozens of households and shops belonging to Ahmadi Muslims. During the attack, Jahid Hasan, an young Ahmadi man, was clobbered to death while trying to protect the convention grounds. Four others were rushed to hospital in serious condition. Despite assurances from the District Commissioner and the District Superintendent of

¹⁵ *Bangladesh arrests Sufi Singer under internet law after protests*, Al Jazeera (Jan. 13, 2020), available at <https://www.aljazeera.com/features/2020/1/13/bangladesh-arrests-sufi-singer-under-internet-law-after-protests>.

¹⁶ *Bangladesh should drop spurious charges against blogger Asad Noor*, Humanists International (Aug. 4, 2020), available at <https://humanists.international/2020/08/bangladesh-should-drop-spurious-charges-against-blogger-asad-noor/>.

¹⁷ *Humanists International at UN: justice for Asad Noor and Ashraf Fayadh is long overdue*, Humanists International (Mar. 16, 2021), available at <https://humanists.international/2021/03/humanists-international-at-un-justice-for-asad-noor-and-ashraf-fayadh-is-long-overdue/>.

¹⁸ *Open Doors: Christian Persecution World Watch List 2023: Bangladesh* (2023), available at <https://www.opendoors.org.za/christian-persecution/world-watch-list/bangladesh/>.

¹⁹ *Bangladesh, Muslim Background [sic] Believer Jashim has been attacked for his faith in Jesus*, Open Doors (Jun. 25, 2022), available at <https://www.opendoors.org.za/bangladesh-muslim-background-believer-jashim-has-been-attacked-for-his-faith-in-jesus/>.

Police that necessary measures would be taken to ensure the safety of the annual convention, the police largely failed to intervene.²⁰

19. In October 2021, during Durga Puja, the holiest Bengali Hindu festival of the year, attacks were carried out on Hindu sites, spreading across Bangladesh, with at least 17 temples targeted, homes ransacked and several Hindus killed. The violence triggered protests from Dhaka to London. While the government stated that those responsible for mob violence would face prosecution, many analysts have noted the failure of the government to tackle the rising social hostility, attributable in part to the growing political influence of Islamist groups.²¹
20. Bangladesh hosts the world's largest Rohingya refugee camp in Cox's Bazar District, encompassing an estimated 1.1 million persons. In this context, non-Muslims and ex-Muslim converts have been facing a double vulnerability due to their refugee status and their membership to a religious minority group.²² In March 2020, a group of twelve Rohingya Christians in Kutupalong refugee camp in Cox's Bazar were beaten and kidnapped, as well as having their makeshift church destroyed. Survivors stated they were attacked because assailants thought the Christians were attempting to convert Muslims. In the aftermath, one Christian was allegedly threatened and beat by Bangladeshi authorities for recording the attack. Authorities later described it as an "ordinary-law-and-order incident".²³

International Legal Framework

21. Bangladesh ratified and acceded to the International Covenant on Civil and Political Rights (ICCPR) in September 2000.²⁴ Article 18 of the ICCPR guarantees the right to freedom of religion or belief, including the right to manifest one's religion or belief in private as well as public settings.²⁵
22. Inseparably linked to Article 18 is Article 19, which enshrines the right to freedom of opinion and expression. Along with the freedom of association, guaranteed under Article 22, these freedoms are fundamental to the operation and maintenance of an open and free society, even when content that is expressed and disseminated proves unpopular or offensive.

²⁰ International Human Rights Committee: Incident Report, Vicious and Fatal Attack Against the Ahmadiyya Muslim Community's Annual Convention in Bangladesh (March 3, 2023), available at <https://hrcommittee.org/2023/03/04/pakistan-mob-lynches-factory-manager-accused-of-blasphemy-further-proof-of-dangerous-effects-of-blasphemy-laws-december-3-2021-2-4/>.

²¹ Sumit Ganguly, *Bangladesh's Deadly Identity Crisis*, Foreign Policy (Oct. 29, 2021), available at <https://foreignpolicy.com/2021/10/29/bangladesh-communal-violence-hindu-muslim-identity-crisis/>.

²² See, e.g., Special Rapporteur on the Situation of Human Rights in Myanmar, End of Mission Statement (Jan. 23, 2020), available at <https://www.ohchr.org/en/statements/2020/01/special-rapporteur-situation-human-rights-myanmarmission-15-23-january-2020end?LangID=E&NewsID=25490>.

²³ *Christian Rohingya Refugees Attacked, Kidnapped in Bangladesh*, Morning Star News (Mar. 11, 2020), available at <https://morningstarnews.org/2020/03/christian-rohingya-refugees-attacked-kidnapped-in-bangladesh/>.

²⁴ OHCHR 'Ratification Status for Bangladesh' UN Treaty Body Database, available at https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=14&Lang=en.

²⁵ International Convention on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 (ICCPR), art. 18.

23. Criminalizing religious offense does not constitute an acceptable derogation from the right to freedom of expression, as ICCPR Article 19(3) only allows restrictions on expression where they are necessary “for the respect of the rights and reputations of others” or “for the protection of national security, public order or public health or morals”.²⁶ Consequently, restrictions must serve as a necessary protection of persons, not of religions as such.
24. The ambiguous wording and subjective interpretation of laws criminalizing so-called “offenses against religion” opens the door to arbitrary and unjustified restrictions and penalties, and also creates a chilling effect on the free expression of ideas or beliefs.
25. As stated by Professor Heiner Bielefeldt, former Special Rapporteur on freedom of religion or belief:
- “Freedom of religion or belief has a strong communicative dimension which includes, inter alia, the freedom to communicate within one’s own religious or belief group, share one’s conviction with others, broaden one’s horizons by communicating with people of different convictions, cherish and develop contacts across State boundaries, receive and disseminate information about religious or belief issues and try to persuade others in a non-coercive manner.”²⁷
26. ICCPR Article 26 commits states to “prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination,” including on the basis of religion.²⁸ Additionally, Article 27 asserts that States must respect the right of persons belonging to minorities, including religious minorities, “in community with others, [...] to profess and practice their own religion”.²⁹
27. Additionally, the Human Rights Committee has noted in its General Comment No. 22 on Article 18 of the ICCPR that:
- “The fact that a religion is recognized as a State religion or that it is established as official or traditional or that its followers comprise the majority of the population, shall not result in any impairment of the enjoyment of any of the rights under the Covenant, including articles 18 and 27, nor in any discrimination against adherents of other religions or non-believers.”³⁰
28. Accordingly, Bangladesh has an obligation to ensure that people belonging to religious minorities receive equal and effective protection from violence and discrimination, including from unfair treatment by local officials.

²⁶ Id., art. 19.

²⁷ H. Bielefeldt ‘Interim report of the Special Rapporteur on freedom of religion or belief’ (13 August 2012) A/67/303, 15.

²⁸ International Convention on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 (ICCPR), art. 26.

²⁹ Id., art. 27.

³⁰ UN Human Rights Committee ‘General Comment No. 22: Article 18 (Freedom of Thought, Conscience or Religion)’ (30 July 1993) CCPR/C/21/Rev.1/Add.4, 9.

(c) Recommendations

29. In light of the aforementioned, ADF International suggests the following recommendations be made to Bangladesh:

- a. Ensure full respect for the rights to freedom of religion or belief, freedom of expression, and freedom of association, in accordance with its human rights obligations in law and in practice;
- b. Repeal Sections 295A and 298 of the Penal Code criminalizing blasphemy and other offenses against religious feelings;
- c. Repeal Article 28 of the Digital Security Act;
- d. Immediately release those unjustly imprisoned for the exercise of their human rights to freedom of religion, expression, and association;
- e. Increase efforts to protect Christians and other religious minorities from all forms of violence and discrimination, including through the development and enforcement of religious freedom laws, increased police protection, and the prosecution of perpetrators;
- f. Improve protection for Rohingya Christians and other non-Muslim refugees living in Cox's Bazar District;
- g. Promote interfaith dialogue and religious tolerance in order to counter social hostility against religious minorities and prevent radicalization;



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