



# OPERATIONAL GUIDANCE NOTE

## BANGLADESH

CONTENTS	
<b>1. Introduction</b>	<b>1.1 – 1.5</b>
<b>2. Country assessment</b>	<b>2.1 – 2.10</b>
<b>3. Main categories of claims</b>	<b>3.1 – 3.5</b>
Members of political parties	3.6
Political activists in fear of members of opposing parties	3.7
Victims of domestic violence	3.8
Biharis	3.9
Hindus	3.10
Ahmadis	3.11
Prison Conditions	3.12
<b>4. Discretionary Leave</b>	<b>4.1</b>
Minors claiming in their own right	4.3
Medical treatment	4.4
<b>5. Returns</b>	<b>5.1 - 5.2</b>
<b>6. List of source documents</b>	

### 1. Introduction

- 1.1** This document evaluates the general, political and human rights situation in Bangladesh and provides guidance on the nature and handling of the most common types of claims received from nationals/residents of that country, including whether claims are or are not likely to justify the granting of asylum, Humanitarian Protection or Discretionary Leave. Caseworkers must refer to the relevant Asylum Policy Instructions for further details of the policy on these areas.
- 1.2** This guidance must also be read in conjunction with any COI Service Bangladesh Country of Origin Information at:

[http://www.homeoffice.gov.uk/rds/country\\_reports.html](http://www.homeoffice.gov.uk/rds/country_reports.html)

- 1.3** Claims should be considered on an individual basis, but taking full account of the guidance contained in this document. In considering claims where the main applicant has dependent family members who are a part of his/her claim, account must be taken of the situation of all the dependent family members included in the claim in accordance with the API on Article 8 ECHR. If, following consideration, a claim is to be refused, caseworkers should consider whether it can be certified as clearly unfounded under the case by case certification power in section 94(2) of the Nationality Immigration and Asylum Act 2002. A claim will be clearly unfounded if it is so clearly without substance that it is bound to fail.

### Source documents

- 1.4** A full list of source documents cited in footnotes is at the end of this note.

### 2. Country Assessment

- 2.1** Bangladesh is a Parliamentary Democracy with a non-executive President elected by Parliament. Parliament and President are both elected for five years.<sup>1</sup>

<sup>1</sup> FCO Bangladesh Country Profile: 17 March 2005

- 2.2** In the elections held in October 2001, the 'Four-Party' Alliance led by the *Bangladesh Nationalist Party (BNP)* won an overall majority, initially with 216 seats out of 300 (*BNP* – 193 seats; *Jamaat-e-Islami* – 17 seats; the *Jatiya Party (N- F)* – 4 seats; and the *Islami Oikya Jote (IOJ)* – 2 seats). The main opposition party, the *Awami League (AL)* won 62 seats. International observers reported that the election was generally free and fair although there were reports of election-related violence.<sup>2</sup> However the AL publicly refused to accept the result, and boycotted Parliament until June 2002.<sup>3</sup>
- 2.3** Since 2002, AL attendance in Parliament has been sporadic, and AL MPs complain of discrimination by the Speaker. In January 2004, the AL published a programme of 15 wide-ranging demands of the Government, which they later amended to a single demand – that the Government resign. However, they returned to Parliament in mid June, apparently acknowledging that this approach would not work, and ensured that the AL kept their seats (which had been under threat from non-attendance). They also agreed to resume participation in parliamentary committees.<sup>4</sup> AL then boycotted parliament from the session beginning 31 January 2005 until February 2006.<sup>5</sup>
- 2.4** The second quarter of 2006 was dominated by a legal dispute over the voter list for the next general election, due to be held in January 2007 at the latest. The opposition parties, led by the Awami League, accused the BNP-led government of manipulating the voter list to its own advantage, and threatened to boycott the general election unless the head of the Election Commission resigned. The dispute over the system for appointing the Caretaker Government also continued; the AL called for an impartial person, acceptable to all parties, to be appointed to head the interim government, contending that the current eligible candidate (former Chief Justice KM Hasan) has strong links with the BNP. A 36-hour general strike (*hartal*), called by the Awami League to demand electoral reforms, commenced on 13 June 2006; there were violent clashes in Dhaka between the police and protesters.<sup>6</sup> On 29<sup>th</sup> October 2006 the President of Bangladesh, Iajuddin Ahmed, announced that he was personally taking on the role of Chief Advisor, having failed to get party leaders to agree on a compromise candidate. Awami League leaders declined to attend his swearing-in ceremony, which took place the same day, and called on him to prove he was truly neutral.<sup>7</sup> The Chief Election Commissioner, MA Aziz, stood down on 22 November 2006 following ongoing demonstrations.<sup>8</sup>
- 2.5** Political violence increased over 2004 and into 2005. In August 2004, at least 20 were killed, including Woman's Affairs Secretary Ivy Rahman in a grenade attack on an AL political rally in Dhaka where Sheikh Hasina was speaking. Over 100 were injured. On 27 January 2005, the former Finance Minister, Shah Kibria, was assassinated along with four colleagues after a grenade attack at an AL rally in Northern Bangladesh.<sup>9</sup>
- 2.6** Bangladesh has been ranked worst on Transparency International's Corruption Perceptions Index for the past five years.<sup>10</sup> An Independent Anti Corruption Commission was set up in the second half of 2004 after concerted donor lobbying but has yet to become fully effective. However, there has been little progress made on other key reforms, such as the separation of the Judiciary and Executive in lower level courts, and the formation of an independent Humans Rights Commission.<sup>11</sup>
- 2.7** Bangladesh does not have a good human rights record. On coming to power the BNP-led government pledged to take a number of actions to improve human rights during its term in

<sup>2</sup> COIS Bangladesh Country Report: October 2006 Section 3

<sup>3</sup> FCO Bangladesh Country Profile: 17 March 2005

<sup>4</sup> FCO Bangladesh Country Profile: 17 March 2005

<sup>5</sup> COIS Bangladesh Country Report: October 2006 Section 6

<sup>6</sup> COIS Bangladesh Country Report: October 2006 Section 4

<sup>7</sup> COIS Bangladesh Country Report: October 2006 Latest News Section

<sup>8</sup> BBC News: Bangladesh poll chief stands down. November 2006

<sup>9</sup> FCO Bangladesh Country Profile: 17 March 2005

<sup>10</sup> COIS Bangladesh Country Report: October 2006 Section 9

<sup>11</sup> FCO Bangladesh Country Profile: 17 March 2005

office. However significant steps including the separation of the judiciary and the executive in lower level courts - a process which has commenced but is likely to take several more years to complete - and the establishment of an independent Human Rights Commission and Ombudsman have not been taken.<sup>12</sup> The higher levels of the judiciary have however displayed some degree of independence and often ruled against the Government in criminal, civil, and politically controversial cases.<sup>13</sup>

- 2.8** Law enforcement agencies, and in particular the Rapid Action Battalion (RAB) are reported to have committed a wide range of human rights abuses and nearly all abuses go un-investigated and unpunished. Police are often reluctant to pursue investigations against persons affiliated with the ruling party, and the Government frequently used the police for political purposes. The creation of the RAB in July 2004 to track down and apprehend criminal elements is said to have created an atmosphere of insecurity throughout the country. The RAB since its inception has pursued an aggressive strategy against criminal gang members that, according to Freedom House, has led to a large number of killings in so-called crossfire after people have been arrested. There were also reports of 'crossfire' deaths at the hands of police. The deaths, all under unusual circumstances, apparently occurred while the accused were in custody and during police operations; however, the Government described the deaths of some identified criminals as occurring in crossfire between the RAB and crime gangs. These crossfire custodial deaths are viewed by human rights groups as a form of extrajudicial execution arising from lack of civilian oversight of the RAB. These extrajudicial executions have generated serious disquiet within the political opposition as well as among civil society and have now drawn the attention of the international community as well.<sup>14</sup>
- 2.9** There have been attacks on religious minorities since the BNP government came into power in October 2001, including Hindus and the Ahmadiyya community. Towards the end of 2003, anti-Ahmadiyya groups grew more vociferous, demanding that the Ahmadiyyas be declared non-Muslim, and attacking Ahmadiyya mosques. AI has criticised the Bangladeshi government for not taking action against the hate campaign and for the January 2004 banning of Ahmadiyya publications.<sup>15</sup> Bangladesh's High Court has temporarily suspended the Order banning Ahmadiyya publications pending the hearing of a legal challenge brought by human rights groups.<sup>16</sup> The police have recently proved more effective at preventing some of the threatened sieges to mosques, but attacks continue to take place.<sup>17</sup>
- 2.10** On 23 February 2005 following a spate of murders, bombings and related terrorist activities across the country, the Bangladesh government banned two militant Islamic groups - *Jamatul Mujahedin Bangladesh* (JMB or JM) and *Jagrata Muslim Janata Bangladesh* (JMJB). On 17 October 2005 the Government also banned the Islamic group Harkat-ul-Jihad-al-Islami (Huji) as a 'terrorist' organisation. On 17 August 2005 more than 400 simultaneous bomb explosions occurred in 63 cities and towns around Bangladesh. according to officials, the targets included government offices, judicial buildings and journalists' clubs. Jamatul Mujahedin Bangladesh (JMB), one of two militant Islamic groups that were banned on 23 February 2005, reportedly claimed responsibility. Leaflets bearing JMB's name were found at some of the bombsites; the leaflets called for the implementation of Islamic Law and warned 'Bush and Blair' to get out of Muslim countries. Since then there have been a number of incidents involving the bombing of law courts and the assassination of judges which has also been attributed to JMB and other extremist Islamic groups. On 4 October 2005 a number of bomb attacks inside law court buildings were reported where leaflets were found again bearing the words 'Establish Islamic rule', followed by 'Jama'tul Mujahedin Bangladesh' (JMB). On 29 November 2005 it was reported that at least nine people were killed and over 40 injured in two separate attacks.<sup>18</sup>

<sup>12</sup> FCO Bangladesh Country Profile: 17 March 2005

<sup>13</sup> COIS Bangladesh Country Report: October 2006 Section 13

<sup>14</sup> COIS Bangladesh Country Report: October 2006 Section 10

<sup>15</sup> FCO Bangladesh Country Profile: 17 March 2005

<sup>16</sup> COIS Bangladesh Country Report: October 2006 Section 21

<sup>17</sup> FCO Bangladesh Country Profile: 17 March 2005

<sup>18</sup> COIS Bangladesh Country Report: October 2006 Section 3

**2.11** Police arrested over 800 people between 30 November 2005 and early January 2006 on suspicion of being involved in terrorist activity. On 9 February 2006 three men were convicted for the assassination of two judges on 14 November 2005. Two of the men received 30 year prison sentences, the third is to serve a 40-year sentence. On 28 February 2006 a court sentenced 21 men to death – three of them in absentia – for their part in the co-ordinated detonation of over 400 bombs throughout the country on 17 August 2005. All 21 were reported to be members of JMB. On 2 March 2006 it was reported that Shaikh Abdur Rahman, the leader of Jama'tul Mujahedin Bangladesh (JMB), had surrendered to police after a 30-hour siege. Siddiqui Islam, alias 'Bangla Bhai,' said to be the chieftain of the militant group Jagrata Muslim Janata Bangladesh (JMJB) and very senior member of JMB, was also arrested.<sup>19</sup> On 26 April 2006 it was reported that the Security forces arrested the last two senior leaders of JMB.<sup>20</sup> It was also reported on 14<sup>th</sup> May 2006 that a further ten militants were sentenced to life imprisonment for their involvement in the series of co-ordinated bomb attacks in August 2005.<sup>21</sup> On 29 May 2006, a court in the southern town of Jhalakathi convicted and sentenced to death Abdur Rahman and Siddiqui Islam (also known as 'Bangla Bhai'), the leader and second-in-command of Jama'tul Mujahedin Bangladesh (JMB), for the murder by bombing of two judges in November 2005.<sup>22</sup>

**2.12** Bangladesh retains the death penalty. A new faster trial court was introduced in 2003 which has lead to a rapid increase in the numbers on death row. In September 2004 there were 531 prisoners on death row, an increase from some 375 in June 2003. According to media reports, 11 people were executed in 2004, in comparison to 25 executions over the past 17 years.<sup>23</sup> The Ministry of Law, Justice and Parliamentary Affairs, on June 30, 2005, said there were 655 prisoners condemned to death in prisons across the country.<sup>24</sup>

### **3. Main categories of claims**

**3.1** This Section sets out the main types of asylum claim, human rights claim and Humanitarian Protection claim (whether explicit or implied) made by Bangladeshi nationals. It also contains any common claims which may raise issues covered by the API on Discretionary Leave. Where appropriate it provides guidance on whether or not an individual making a claim is likely to face a real risk of persecution, unlawful killing or torture or inhuman or degrading treatment/punishment. It also provides guidance on whether or not sufficiency of protection is available in cases where the threat comes from a non-state actor; and whether or not internal relocation is an option. The law and policies on persecution, Humanitarian Protection, sufficiency of protection and internal relocation are set out in the relevant APIs, but how these affect particular categories of claim are set out in the instructions below.

**3.2** Each claim should be assessed to determine whether there are reasonable grounds for believing that the claimant would, if returned, face persecution for a Convention reason - i.e. due to their race, religion, nationality, membership of a particular social group or political opinion. The approach set out in Karanakaran should be followed when deciding how much weight to be given to the material provided in support of the claim (see the API on Assessing the Claim).

**3.3** If the claimant does not qualify for asylum, consideration should be given as to whether a grant of Humanitarian Protection is appropriate. If the claimant qualifies for neither asylum nor Humanitarian Protection, consideration should be given as to whether he/she qualifies for Discretionary Leave, either on the basis of the particular categories detailed in Section 4 or on their individual circumstances.

<sup>19</sup> COIS Bangladesh Country Report: October 2006 Section 3

<sup>20</sup> BBC News Report 26 April 2006

<sup>21</sup> BBC News Report 14 May 2006

<sup>22</sup> COIS Bangladesh Country Report: October 2006 Section 4

<sup>23</sup> FCO Bangladesh Country Profile: 17 March 2005

<sup>24</sup> COIS Bangladesh Country Report: October 2006 Section 16

**3.4** This guidance is **not** designed to cover issues of credibility. Caseworkers will need to consider credibility issues based on all the information available to them. (For guidance on credibility see paragraph 11 of the API on Assessing the Claim).

**3.5** All APIs can be accessed via the IND website at:

[http://www.ind.homeoffice.gov.uk/ind/en/home/laws\\_policy/policy\\_instructions/apis.html](http://www.ind.homeoffice.gov.uk/ind/en/home/laws_policy/policy_instructions/apis.html)

### **3.6 Members of political parties**

**3.6.1** Many claimants will seek asylum or make a human rights claim based on ill treatment amounting to persecution at the hands of the Bangladesh authorities due to their involvement with political organisations. Claimants may fall into one of two categories:

- those who describe themselves as supporters or members of the main opposition party, the *Awami League*, and who have participated in low level political activity at local level, express fear of ill-treatment at the hands of the local police. Similar claims are also made by members of other political parties such as the ruling *Bangladesh National Party (BNP)* or *Jatiya Party* (who claim a fear of *local* police who are politically aligned in opposition to them)
- high profile political activists, i.e. those who are known beyond their local area perhaps because of police interest or media coverage, may claim a fear of persecution or ill-treatment on return to Bangladesh as a consequence of their political activity.

**3.6.2 *Treatment.*** Although the Constitution prohibits arbitrary arrest and detention, the Government arrested and detained persons arbitrarily and used national security legislation such as the Special Powers Act (SPA) of 1974 to detain citizens without filing formal charges or specific complaints. The law does not provide for the use of warrants in all cases. Section 54 of the Criminal Procedure Code and Section 86 of the Dhaka Metropolitan Police (DMP) Ordinance provide for the detention of persons on the suspicion of criminal activity without an order from a magistrate or a warrant, and the Government regularly arrested persons without formal charges, or specific complaints, for the expression of views critical of or different from the Government. Both ordinances were misused during 2005. Mass arrests, often politically motivated, continued to occur. In the Dhaka Metropolitan Area, a total of 4,126 persons were arrested for short periods of time between January and August 2004 under Section 54 and another 58,722 under Sections 86 and 100 of the DMP Ordinance.<sup>25</sup>

**3.6.3** It has been reported that arbitrary arrests were common in Bangladesh in 2005. The Police detained opposition activists in 2005 prior to and during demonstrations without citing any legal authority, holding them until the event was over. The police, Bangladesh Rifles (BDR), and the Rapid Action Battalion (RAB) reportedly use unwarranted lethal force. Violence, often resulting in deaths, was a pervasive element in the country's politics and supporters of different political parties, and often supporters of different factions within one party, frequently clashed with each other and with police during rallies and demonstrations. Nearly all abuses went uninvestigated and unpunished in 2005.<sup>26</sup>

**3.6.4** Opposition parties and human rights monitors claim that many political activists are arrested and convicted for unfounded criminal charges. There is no accurate estimate of the total number of detentions for political reasons. Many activists are charged with crimes, and many criminals claim to be political activists. The government stated in 2005 that it held no political prisoners; however, opposition parties and human rights monitors claimed the government arrested many political activists and convicted them on unfounded criminal charges. Reports suggest that most such detentions appear to last for several days or weeks, and defendants in most cases receive bail; however, dismissal of wrongful charges or acquittal can take considerably longer.<sup>27</sup>

<sup>25</sup> COIS Bangladesh Country Report: October 2006 Section 14

<sup>26</sup> COIS Bangladesh Country Report: October 2006 Section 17

<sup>27</sup> COIS Bangladesh Country Report: A October 2006 Section 17

- 3.6.5** On 24 September 2004, in Dhaka, police arrested large numbers of opposition party members prior to the opposition's planned public rallies on 3 October. The High Court, following the filing of a petition from human rights NGOs, barred police from arresting any citizen under Section 86 until October 3; however, police continued to arrest persons under Section 54.<sup>28</sup>
- 3.6.6** The opposition alliance, dominated by the Awami League, held mass rallies on 23 November 2005 and 5 February 2006. A large number of opposition activists were arrested during the three-day protest march in February 2006. Awami League leader Sheikh Hasina was quoted as saying that at least 10,000 activists and leaders had been rounded up prior to and during these demonstrations. Sheikh Hasina announced at the February 2006 rally that her party would return to parliament after a boycott of over a year, but would continue with the campaign to end the rule of the BNP led coalition government.<sup>29</sup>
- 3.6.7** Ill-treatment, which may amount to torture, is frequently used by the police in the course of criminal investigations, and also as a tool to extract money from detained suspects and their families. Political opponents have reportedly been subjected to ill-treatment and torture under various governments; during times of unrest there has been a marked increase in institutional violence against journalists, demonstrators, opposition members, etc.<sup>30</sup>
- 3.6.8** Individuals were not always able to criticize the government publicly without fear of reprisal, and the government often attempted to impede criticism by prohibiting or dispersing political gatherings.<sup>31</sup>
- 3.6.9** **Sufficiency of Protection** If the fear is of ill treatment amounting to persecution by the state authorities individuals cannot apply to those authorities for protection. However claimants in this category do not generally claim to be in fear of the state authorities themselves, but fear the *local* police who are politically motivated and with views in opposition to theirs. In this circumstance however they cannot approach the local police for protection.
- 3.6.10** **Internal Relocation** The Bangladesh Constitution provides for the right of free movement within the country and in practice the Government generally respected these rights, allowing citizens to move freely within the country. Although there were instances in which the Government restricted these rights, these related to the movement of major opposition political leaders and there is no indication that there are any restrictions on the movement of ordinary party members or officials.<sup>32</sup>
- 3.6.11** Where the ill treatment / persecution feared is at the hands of *local* police, individuals can relocate to areas where their political opinions do not bring them to the attention of the local police or areas where they are in the political majority. It is highly unlikely that such individuals will be pursued outside of the local area. It would not be unduly harsh to expect individuals to relocate in these circumstances.
- 3.6.12** **Caselaw**  
**H (Fair Trial) Bangladesh CG [2002] UKIAT 05410**  
 Based on information from 2002 the Tribunal found that the UK would not be committing any breach of Article 6 in returning to Bangladesh. The evidence at that time did not suggest that an appellant would not receive a fair trial. Para 29 and 30.
- 3.6.13** **Conclusion** It is most unlikely that anyone claiming involvement in *low-level* political activities would be able to demonstrate that the treatment they might suffer at the hands of *local* police would amount to a well-founded fear of persecution within the terms of the 1951 Convention. Although there may not be a sufficient protection provided at local level in their

<sup>28</sup> COIS Bangladesh Country Report: October 2006 Section 14

<sup>29</sup> COIS Bangladesh Country Report: October 2006 Section 3

<sup>30</sup> COIS Bangladesh Country Report: October 2006 Section 10

<sup>31</sup> COIS Bangladesh Country Report: October 2006 Section 17

<sup>32</sup> COIS Bangladesh Country Report: October 2006 Section 30

home areas they can relocate safely to escape the attention of local officials and therefore such claims will generally fall to be refused and be clearly unfounded. The exact nature of the political activity and level of involvement with any political party should be thoroughly investigated.

**3.6.14** There may however be some individual *high profile* activists who are able to demonstrate that they face persecution or ill-treatment by the Government as a consequence of their political opinion. Where individuals are able to demonstrate such a risk a grant of asylum is appropriate.

### **3.7 Political activists in fear of members of opposing parties**

**3.7.1** Some claimants make a human rights or asylum claim based on a fear of ill-treatment by members of opposing political parties or a fear of opposing factions within their own party.

**3.7.2 *Treatment*** The Bangladesh constitution guarantees freedom of association and assembly, subject to restrictions in the interest of public order and public health; however, the government frequently limited these rights in 2004. Violence, often resulting in deaths, was a pervasive element in the country's politics. Supporters of different political parties, and often supporters of different factions within one party, frequently clashed with each other and with police during local rallies and demonstrations in 2005.<sup>33</sup>

**3.7.3** Amnesty International, in August 2005, reported attacks on Awami League gatherings by BNP supporters on 15 August 2005. Hundreds of Awami League (AL) supporters were reportedly injured, including an MP and a local AL leader. According to reports received by Amnesty International, police who were present failed to stop the attackers and AL members reacted angrily, getting involved in physical clashes with the attackers. The Awami League had held gatherings and processions throughout the country on 15 August to observe the 30<sup>th</sup> anniversary of the assassination of Sheikh Mujibur Rahman, Bangladesh's first president. Amnesty International expressed concern about comments attributed to the Communications Minister which may have encouraged the attackers.<sup>34</sup>

**3.7.4** Tensions between the two main political parties, the Bangladesh National Party (BNP) and the Awami League (AL), continued in 2006, with frequent clashes between their supporters, as well as with police.<sup>35</sup>

**3.7.5 *Sufficiency of Protection.*** The Police are organised nationally, under the Ministry of Home Affairs (MOHA), and have a mandate to maintain internal security and general law and order. It was reported that in 2005 the police were generally ineffective, reluctant to investigate persons affiliated with the ruling party, and were used frequently for political purposes by the government. The RAB, a better-equipped police unit drawing personnel from various police units and security agencies, including the military, developed plans for overall police reform, but few concrete steps were taken in 2005 to address human rights problems.<sup>36</sup> Whilst not always fully effective the authorities have not shown that they are unwilling or unable to offer sufficiency of protection from members of opposing political parties or opposing factions of a claimants own party. However sufficiency of protection from those affiliated with the ruling party would not usually be available.

**3.7.6 *Internal Relocation.*** The Bangladesh Constitution provides for the right of free movement within the country and in practice the Government generally respected these rights, allowing citizens to move freely within the country. Although there were instances in which the Government restricted these rights, these related to the movement of major opposition political leaders and there is no indication that there are any restrictions on the movement of ordinary party members or officials.<sup>37</sup>

<sup>33</sup> COIS Bangladesh Country Report: October 2006 Section 17

<sup>34</sup> COIS Bangladesh Country Report: October 2006 Section 17

<sup>35</sup> COIS Bangladesh Country Report: October 2006 Section 17

<sup>36</sup> COIS Bangladesh Country Report: October 2006 Section 10

<sup>37</sup> COIS Bangladesh Country Report: October 2006 Section 30



**3.7.7** Political violence in Bangladesh is localised, and intensifies at election times. Internal relocation is, therefore, a viable option and claimants could relocate from areas where they are in the political minority to safer areas that are not dominated by political violence or where they are in the political majority.

### **3.7.8 Caselaw**

**UKIAT 08102 Islam [2002]** There is sufficiency of protection for BNP members, i.e. members of the party in power. In this case it was found that there was no reason why a local BNP party worker would be at risk from the authorities. There was no reason why she should not be able to look to the authorities for protection in respect of her claim to be at risk from the Awami League.

**EWHC 189 (Admin) Husan [2005]** In this case involving an individual who had left the student wing of the BNP and joined the student wing of the Awami League, the High Court held that there was no evidence that the individual concerned was a marked man nationally and that he could therefore relocate. The court upheld the Secretary of State's decision to certify this case as clearly unfounded.

**3.7.9 Conclusion** Whilst protection from governmental sources may not be available in all cases, those in fear of ill-treatment by members of opposing political parties or in fear of opposing factions within their own party will generally be able to relocate internally away from the area where they are at risk. Claims made on this basis are therefore also likely to be clearly unfounded and will fall to be certified. However, the precise nature of political activity and level of involvement of both the applicant and the opposing party member(s) with any political party should be investigated in detail.

**3.7.10** A grant of asylum or HP would only be appropriate in exceptional cases, where an individual was able to show that he/she remained at risk because of specific factors relating to his/her particular history, and internal relocation was not an option.

## **3.8 Victims of domestic violence**

**3.8.1** Some female claimants seek asylum or make a human rights claim on the grounds that they are the victims of domestic violence and are unable to seek protection from the authorities. Occasionally the claimant will state that the abuser bribed the police (or otherwise exerted influence on the police) not to take action on the complaints made against them.

**3.8.2 Treatment** Domestic violence is widespread in Bangladesh. Although violence against women was difficult to quantify because of unreliable statistics and societal inhibitions about reporting such violence, much of the reported violence against women was related to disputes over dowries. During 2005 the NGO Odhikar found 227 reports of dowry-related killings. The law prohibits rape and physical spousal abuse but makes no specific provision for spousal rape as a crime.<sup>38</sup>

**3.8.3** For a World Health Organisation (WHO) report in November 2005 covering ten countries, 1,603 women were interviewed in Dhaka and 1,527 were interviewed in the rural area of Matlab in Bangladesh between 2000 and 2003. Among women who were or had been married, 40 per cent in Dhaka and 42 per cent in Matlab reported physical violence by their husband at some point in their lives; 37 per cent in Dhaka and 50 per cent in Matlab reported sexual violence by their husband. Of ever-married women, 19 per cent in Dhaka and 16 per cent in Matlab had been physically abused within the past year. In both areas, 66 per cent of the women who had been physically abused did not tell anyone about the violence and over half did not seek help. Over 50 per cent of those said they did not seek help because they did not think the violence was very serious, while 31 per cent in Dhaka and 43 per cent in Matlab remained silent because of feelings of shame or because they feared they would not be believed.<sup>39</sup>

<sup>38</sup> COIS Bangladesh Country Report: October 2006. Section 25

<sup>39</sup> COIS Bangladesh Country Report: October 2006. Section 25



- 3.8.4** The patriarchal nature of society and of the household, especially in rural areas, permits socially acceptable violence against women in the form of physical chastisement by a husband. An interpretation of religious teaching reinforces this social sanction.<sup>40</sup>
- 3.8.5** The Penal Code provides sanction: All forms of physical violence, some forms of psychological violence and threats of physical injury constitute criminal offences. In practice, however, when such an offence is committed by a husband against his wife, it is not considered as an offence punishable in the same way. The Women and Children Repression Prevention Act (2000), as Amended in 2003, lays down severe penalties for violent offences against women; it also provides for the speedy trial of offenders in special tribunals situated throughout the country. The Act specifies deterrent punishment for dowry-related crimes and also covers such 'stranger' offences as rape, trafficking and abduction; however, it has been stated that there is no mention of punishment for husbands for abusing wives, except in dowry offences. The Dowry Prohibition Act, passed in 1980, also makes giving, taking or demanding dowry a punishable offence. There are no specific civil law remedies to which victims of wife abuse can resort, other than divorce and claims for dower, maintenance and custody. A wife can seek an injunction under the Civil Procedure Code, the Specific Relief Act or the Family Court Ordinance of 1985, but these are ancillary to other proceedings. The various special laws to protect women from abuse have not proved as effective as they were designed to be; their deterrent value has been diminished by low conviction rates.<sup>41</sup>
- 3.8.6** Acid attacks on women by rejected suitors, angry husbands, or those seeking revenge is also a serious problem. Assailants threw acid in the faces of women and a growing number of men, leaving victims disfigured and often blind.<sup>42</sup>
- 3.8.7** Two new laws were introduced in 2002 - the Acid Crime Prevention Act 2002 and the Acid Control Act 2002 - to restrict the import and sale of acid in open markets, allow for trials in acid throwing cases by a special tribunal (with a right of appeal to a higher court) to make the maximum punishment for acid throwing offences the death penalty and to provide for the treatment and rehabilitation of victims. Statistics provided by the Acid Survivors Foundation (ASF) – as updated January 2006 – showed that 211 acid attack incidents were recorded in 2005, with a total of 267 victims; in 2004, 266 incidents were recorded, with 322 victims; in 2003 there had been 335 recorded incidents involving 412 victims. Of the 267 victims in 2005, there were 145 women, 69 men and 53 children under 18 years. Case conviction rates increased after the introduction of the two new acid-related laws in 2002; there was then a lower number of convictions in 2004 and 2005. The motives for acid attacks are not always gender-related. For example, 45 per cent of recorded acid attacks in 2005 were, according to ASF, in connection with land or property or money disputes; 17 per cent of attacks related to marital or dowry disputes and 15 per cent of attacks were categorised as 'refusal/rejection of love/marriage/ sex'.<sup>43</sup>
- 3.8.8** Under the Suppression of Violence against Women and Children Act 2000 carries the death penalty or life imprisonment for rape if death or injury results or is intended. Attempted rape is subject to a penalty of five to ten years' imprisonment. Amnesty International's 2004 Annual Report (covering events of 2003) stated: "Women's rights groups blamed the low rate of convictions for violence against women on a lack of government institutions to support the victims and a lack of trained police officers to investigate the cases."<sup>44</sup>
- 3.8.9** **Sufficiency of Protection** Owing to the prevalent patriarchal attitude towards women, in most cases complaints are not recorded properly by the police, evidence is hard to produce or establish and there is a very slim chance of the perpetrator being punished. A study by the Family Court in Dhaka shows that husbands rarely appear and thus suits are dismissed

<sup>40</sup> COIS Bangladesh Country Report: October 2006. Section 25

<sup>41</sup> COIS Bangladesh Country Report: October 2006. Section 25

<sup>42</sup> COIS Bangladesh Country Report: October 2006. Section 25

<sup>43</sup> COIS Bangladesh Country Report: October 2006. Section 25

<sup>44</sup> COIS Bangladesh Country Report : October 2006. Section 25

in their absence and wives are denied justice. There is, in general, reluctance among abused women to seek relief against their husbands, often due to social stigma, economic insecurity, fear of retribution, or acceptance of violence as a social norm.<sup>45</sup> Laws specifically prohibit certain forms of discrimination against women, provide for special procedures for persons accused of violence against women and children, call for harsher penalties, provide compensation to victims, and require action against investigating officers for negligence or wilful failure of duty. However, enforcement of these laws was weak. The Women and Children Repression Prevention Act provides special procedures for persons accused of violence against women and children. The law calls for harsher penalties, provides compensation to victims, and requires action against investigating officers for negligence or willful failure in duty. An amendment to this act was passed on 20 July 2003, weakening provisions for dowry crimes and attempting to address the issue of suicide committed by female victims of acts of 'dishonour'.<sup>46</sup>

**3.8.10** Bangladesh is a gradually changing society where the position, status and roles of men and women have primarily been shaped by the stereotype of male predominance and authority over women. Traditional socio-cultural values and practices work against raising the status of women. Women still have limited opportunities for education, technical and vocational training, employment and activities. Under the Constitution, women enjoy the same status and rights as men in terms of education, health, political process, employment, development processes and social welfare. However, in practice, they do not enjoy the fundamental rights and freedom to the extent men do. The unequal status of women in society and in public life is largely due to the fact of having unequal status in the family life. Women's lower socio-economic status, lower literacy, and lesser mobility are some of the practical obstacles to the establishment of their fundamental rights. The government and NGOs have launched initiatives to reduce discrimination and gender-based oppression.<sup>47</sup>

**3.8.11** The law prohibits rape and physical spousal abuse but makes no specific provision for spousal rape as a crime. During 2005 local NGOs found 907 reported incidents of rape and 91 of attempted rape. The press reported that 126 of the rape victims were killed and that another 14 committed suicide after being raped. Human rights monitors insisted that the actual number of rapes was higher, as many rape victims did not report the incidents in order to avoid social disgrace. Prosecution of rapists was uneven in 2005.<sup>48</sup>

**3.8.12** The Bangladeshi Women Affairs Department runs six shelters, one in each Division of Bangladesh, for abused women and children, with a total capacity of 2,300 individuals. The Bangladesh National Women Lawyers Association (BNWLA) also ran facilities to provide shelter to destitute persons and distressed women and children; however, these were reported to be insufficient to meet victims' shelter need.<sup>49</sup> Whilst some women may be reluctant to report incidents of domestic violence it has not been shown that the authorities are unwilling or unable to offer some form of protection in the majority of cases.

**3.8.13 *Internal Relocation*** The Bangladesh Constitution provides for the right of free movement within the country and in practice the Government generally respected these rights, allowing citizens to move freely within the country.<sup>50</sup> Internal relocation may be a viable option for women who fear domestic violence, however factors such as the social and professional background of an individual claimant must be carefully considered when determining relocation as an option.

#### **3.8.14 *Caselaw***

**UKIAT 00070 RA and others [2005]** The IAT found that: a) women in Bangladesh who are subject to domestic violence are not a particular social group (the evidence of discrimination isn't at the Shah and Islam level); b) the adjudicator did not err in law in finding that appropriate protection was

<sup>45</sup> COIS Bangladesh Country Report: October 2006. Section 25

<sup>46</sup> COIS Bangladesh Country Report: October 2006. Section 25

<sup>47</sup> COIS Bangladesh Country Report: October 2006. Section 25

<sup>48</sup> COIS Bangladesh Country Report: October 2006. Section 25

<sup>49</sup> COIS Bangladesh Country Report: October 2006. Section 25

<sup>50</sup> COIS Bangladesh Country Report: October 2006. Section 30

available in Bangladesh; and c) the adjudicator did not err in law in finding that internal relocation was an option.

**3.8.15 Conclusion** Domestic violence is widespread in Bangladesh but there are constitutional and legal safeguards aimed at protecting women's rights. Application of these safeguards is however uneven. Internal relocation to escape domestic violence is also an option where, in the particular circumstances of the claimant it is not considered unduly harsh for the victim to do so. Claims based on fear of domestic violence are unlikely to engage the UK's obligations under the 1951 UN Refugee Convention and do not in general qualify for asylum as women in this category are not in a particular social group. However, caseworkers should consider each case on its individual facts to assess whether a grant of Humanitarian Protection may be appropriate.

### 3.9 Biharis

**3.9.1** Claimants of Bihari ethnic origin may claim asylum or make a human rights claim on the grounds of being "stateless" in Bangladesh. Many claimants are likely to have lived in camps reserved for the Biharis but there are individual claimants who have moved out of the camps and have lived and worked among the Bangladeshi majority. Some claimants may have applied for Bangladeshi citizenship whilst others may not have made an application. In addition to the issue of statelessness some Bihari claimants may claim affiliation to one of the political parties and may have experienced political violence in clashes with political opponents, Biharis may cite poverty and lack of educational or employment opportunities, particularly in the camps.

**3.9.2 Treatment** Approximately 300,000 non-Bengali Bihari Muslims who emigrated to the former East Pakistan during the 1947 partition of British India and who supported Pakistan during the 1971 War of Independence continued to live in camps throughout Bangladesh in 2005. According to NGO Refugees International, they lived in camps in the country with little access to education, medical attention, and in unsanitary conditions. Some Biharis declined citizenship in 1972 and were awaiting repatriation to Pakistan, where the Government was reluctant to accept them. Many of the stranded Biharis born after 1971 have assimilated into the mainstream Bengali-speaking environment and likely would accept citizenship if it was offered. The Bihari remained in Bangladesh after independence, but later asked to be 'repatriated' to Pakistan. Pakistan accepted some 170,000 in 1973. In 1992 Pakistan agreed to take in a further 3,000 families. This repatriation process began in 1993 but - after only 325 families had relocated - Pakistan suspended the process, apparently due to funding constraints. The two countries have yet to agree on a resumption of the resettlement process. The Bihari population in Bangladesh is currently estimated to number about 300,000 and are mainly Urdu speaking (although many also speak Bengali). They are accommodated in 66 special camps throughout the country, though many Biharis now live outside of those camps. It has been reported that by 2004 half of the Biharis lived outside of camps, were integrated into the local community, were eligible to receive passports, to vote, and to attend college, and were able to exercise most of the rights of citizens.<sup>51</sup>

**3.9.3** The legal status of the Biharis has been the subject of a major controversy. The Citizenship Law bars from citizenship those who have acknowledged allegiance to a foreign state, and the Bangladesh Government has claimed that the Biharis have done so by seeking resettlement to Pakistan. In 2003 the Bangladesh High Court recognised ten Bangladeshi-born Biharis as citizens; however, the Government is appealing the Court's ruling and has not as yet granted Bangladeshi citizenship to any other members of the Bihari community. Hundreds of Biharis demanding resettlement marched on the Pakistani High Commission in February 2006, where clashes with the police resulted in 30 injuries.<sup>52</sup>

**3.9.4** In the 66 Bihari camps, living conditions are generally poor and said to be deteriorating. Many families live in very cramped accommodation. Water and sanitation were inadequate and healthcare and education facilities were minimal. Poverty is widespread in Bangladesh, and the basic situation for the Biharis resembles that of the poorest citizens of the country.

<sup>51</sup> COIS Bangladesh Country Report: October 2006. Section 22

<sup>52</sup> COIS Bangladesh Country Report: October 2006. Section 22

Denial of citizenship creates additional disadvantages for the Bihari. Having no official government recognition and identification papers prohibits a person from holding a government job and other professions which require higher education. Lack of status also restricts the Biharis' chances to develop their own economic opportunities and prohibits access to processes that would enable them to safeguard their rights.<sup>53</sup>

**3.9.5** The US Committee for Refugees and Immigrants (USCRI) 2006 report confirmed that half of the Biharis lived outside of the camps, had been integrated into the local community and were eligible to receive passports, but noted that "The Government allowed camp-based Biharis to travel freely throughout the country but did not issue them international travel documents. Upon UNHCR request, International Committee for Red Cross (ICRC) could issue travel documents to refugees but there were no such requests during 2005."<sup>54</sup>

**3.9.6 Sufficiency of Protection** As this category of claimants' fear is of ill treatment amounting to persecution by the state authorities they cannot apply to these authorities for protection. The Police are organised nationally, under the Ministry of Home Affairs (MOHA), and have a mandate to maintain internal security and general law and order. It was reported that in 2005 the police were generally ineffective, reluctant to investigate persons affiliated with the ruling party, and were used frequently for political purposes by the government. The RAB, a better-equipped police unit drawing personnel from various police units and security agencies, including the military, developed plans for overall police reform, but few concrete steps were taken in 2005 to address human rights problems.<sup>55</sup> There is no evidence to suggest that Biharis suffer persecution or that they are unable to access protection from the police in Bangladesh on grounds of ethnicity. There is no evidence that they are any less likely than other citizens of the country to access protection from the State.

**3.9.7 Internal relocation** The Bangladesh Constitution provides for the right of free movement within the country and in practice the Government generally respected these rights, allowing citizens to move freely within the country. Although there were instances in which the Government restricted these rights, these related to the movement of major opposition political leaders and there is no indication that there are any restrictions on the movement of ordinary party members or officials.<sup>56</sup> It has been estimated that half of the Biharis live outside of camps, are integrated into the local community, are eligible to receive passports, to vote, and to attend college, and are able to exercise most of the rights of citizens.<sup>57</sup> Therefore internal relocation would not be unduly harsh in the majority of cases.

### **3.9.8 Caselaw**

**AU [2004] UKIAT 00121** The IAT examine the position of a Bihari appellant by considering the CIPU report of October 2003. They stated "There is nothing to indicate that a Bihari is less likely to receive a fair hearing than any other citizen of Bangladesh...Even if they (warrant/documents) are genuine and there is a risk of prosecution, there is no real risk of persecution for a Convention reason or treatment contrary to Article 3."

**Syed Mahmud Hossin [2002] UKIAT 02751** The IAT find that there is no breach of Article 3 to return a Bihari to a refugee camp.

**Abu Quashem [2002] UKIAT 04999** The Tribunal determined that the objective country evidence does not support the Bihari appellant's argument that he would not get Bangladeshi citizenship if he were to apply. A stateless person, in accordance with Article 1 of the Convention, must demonstrate that he is outside the country of his former habitual residence and is unable or unwilling to return. The latter was not demonstrated in this particular case.

**GA [2002] UKIAT 05810 CG** "The background evidence does not establish that all Biharis are at risk of persecution or treatment contrary to their human rights."

<sup>53</sup> COIS Bangladesh Country Report: October 2006. Section 22

<sup>54</sup> COIS Bangladesh Country Report: October 2006. Section 22

<sup>55</sup> COIS Bangladesh Country Report: October 2006. Section 10

<sup>56</sup> COIS Bangladesh Country Report: October 2006. Section 30

<sup>57</sup> COIS Bangladesh Country Report: October 2006. Section 22

**3.9.9 Conclusion** There is no evidence to suggest that Biharis suffer persecution in Bangladesh on grounds of ethnicity and there is no evidence that they are any less likely than other citizens of the country to access protection from the State. It is therefore unlikely that a Bihari claimant would be able to demonstrate a well founded fear of persecution on account of their ethnic origin alone. Whilst living conditions within camps in Bangladesh are harsh, over half of Biharis live outside the camp and are integrated into the wider society, and conditions in camps are not such as to amount to torture or inhuman or degrading treatment and engage the UK's obligations under Article 3 of the ECHR. Claims made under this category are therefore likely to be clearly unfounded and as such fall to be certified.

### **3.10 Hindus**

**3.10.1** Hindus may claim asylum or make a human rights claim on the basis that as members of minority religion they face attacks or intimidation by members of other religious groups particularly Islamic fundamentalists.

**3.10.2 Treatment** Sunni Muslims constitute 88 percent of the population. Approximately 10 percent of the population is Hindu. The remainder of the population is mainly Christian (mostly Catholic) and Buddhist. There also are small populations of Shi'a Muslims, Sikhs, Baha'is, animists, and Ahmadis. Estimates of their numbers in 2005 vary from a few thousand to 100,000 adherents for each faith.<sup>58</sup>

**3.10.3** Reports of harassment by BNP supporters of Hindus, who traditionally vote for the *Awami League (AL)*, preceded and followed the 2001 election. Reported incidents included killings, rape, looting, and torture. The BNP acknowledged reports of atrocities committed between Muslims and Hindus; however, the BNP claimed that they were exaggerated. In 2001, the High Court ordered the Government to investigate and report on attacks on religious minorities and to demonstrate that it was taking adequate steps to protect minorities. The Government submitted its report to the High Court in 2002. The report claimed that some of the incidents of post-election violence were not connected to communal relations. It also alleged that some of the reports of violence were fabricated or exaggerated. Since the submission of the report, neither the High Court nor the Government has taken further action.<sup>59</sup>

**3.10.4** The UK Bangladesh Hindu Baudha Christian Unity Council (BHBCUC), an independent human rights organisation, has provided a series of reports listing a total of 404 incidents of violent and other crime or acts of intimidation which occurred in Bangladesh during the eight month period April to November 2005 in which the victims were members of minority religious communities, or in which sacred images or property belonging to religious minorities was destroyed or damaged. It is not clear from the reports how many of these criminal incidents were religiously motivated. In most cases the perpetrators were said to be either "fundamentalists" or "miscreants".<sup>60</sup>

**3.10.5** In 2005 and 2006, reported incidents in which Hindus were the victims have included rape, torture, kidnappings, land grabbing and forced evictions, as well as the destruction of Hindu temples and/or religious icons. Some of these incidents were reportedly carried out by BNP supporters and Islamic extremists.<sup>61</sup>

**3.10.6** Many Hindus have been unable to recover landholdings lost because of discrimination in the application of the law, especially under the Vested Property Act. The act was an East Pakistan-era law that allowed 'enemy' (in practice Hindu) lands to be expropriated by the Government. Approximately 2.5 million acres of land were seized from Hindus, and almost all of the 10 million Hindus in the country were affected. However, in April 2001, Parliament passed the Vested Property Return Act. This law stipulated that land remaining under government control be returned to its original owners, provided that the original owners or

<sup>58</sup> COIS Bangladesh Country Report: October 2006. Section 21

<sup>59</sup> COIS Bangladesh Country Report: October 2006. Section 21

<sup>60</sup> COIS Bangladesh Country Report: October 2006. Section 21

<sup>61</sup> COIS Bangladesh Country Report: October 2006. Section 21

their heirs remain resident citizens. In 2002, Parliament passed an amendment to the Vested Property Return Act, allowing the Government unlimited time to return the vested properties.<sup>62</sup>

**3.10.7 Sufficiency of Protection** The Constitution establishes Islam as the state religion but provides for the right to practice – subject to law, public order, and morality – the religion of one's choice. The Government generally respects this provision in practice; however, Hindu, Christian, and Buddhist minorities experienced discrimination by the Muslim majority, and the year [July 2004 to June 2005] was marked with harassment of Ahmadis.<sup>63</sup>

**3.10.8** Religion is said to exert a powerful influence on Bangladeshi politics, and the Government is sensitive to the Muslim consciousness of its political allies, *Jamaat-e-Islami* and the *Islami Okiyya Jote*, as well as the majority of its citizens. The Government has taken some steps to promote interfaith understanding and to provide police protection for the religious festivals of other minorities, most notably the Hindus. No major incident of Hindu–Muslim communal violence was reported in the media in 2004. However, over the past few decades, Hindus have faced continual discrimination. For example, immediately following the 2001 elections, the Hindus were subjected to various forms of violence including killing, assault, rape, ransom-seeking, and loss of property.<sup>64</sup> Citizens are generally free to practice the religion of their choice; however, government officials, including the police, were often ineffective in upholding law and order and were sometimes slow to assist religious minority victims of harassment and violence.<sup>65</sup>

**3.10.9** The Police are organised nationally, under the Ministry of Home Affairs (MOHA), and have a mandate to maintain internal security and general law and order. It was reported that in 2005 the police were generally ineffective, reluctant to investigate persons affiliated with the ruling party, and were used frequently for political purposes by the government. The RAB, a better-equipped police unit drawing personnel from various police units and security agencies, including the military, developed plans for overall police reform, but few concrete steps were taken in 2005 to address human rights problems.<sup>66</sup> It has not been shown that the authorities are unwilling or unable to offer protection to Hindus in Bangladesh therefore in the majority of cases sufficiency of protection would be available.

**3.10.10 Internal Relocation** The Bangladesh Constitution provides for the right of free movement within the country and in practice the Government generally respected these rights, allowing citizens to move freely within the country. Although there were instances in which the Government restricted these rights, these related to the movement of major opposition political leaders and there is no indication that there are any restrictions on the movement of ordinary party members or officials.<sup>67</sup> Religious violence in Bangladesh is not state-sponsored. Internal relocation is, therefore, generally a viable option and claimants could relocate from areas where they are in the religious minority to safer areas that are not dominated by such violence or where they are in the majority.

**3.10.11 Conclusion** The Government of Bangladesh and the country's political leaders do not condone religious violence perpetrated by their supporters, and in the majority of cases sufficiency of protection would be available. The threshold for persecution, torture or inhuman and degrading treatment may be passed in individual cases. However this is not inevitable, each case should still be considered individually on its own merits. In the majority of cases internal relocation, to an area where the claimant's specific religious group is in the majority, is not considered unduly harsh. Therefore a grant of asylum or Humanitarian Protection would not usually be appropriate. In certain cases claimants may be able to establish a valid claim for asylum if it is shown that internal relocation would be

<sup>62</sup> COIS Bangladesh Country Report: October 2006. Section 21

<sup>63</sup> COIS Bangladesh Country Report: October 2006. Section 21

<sup>64</sup> COIS Bangladesh Country Report: October 2006. Section 21

<sup>65</sup> COIS Bangladesh Country Report: October 2006. Section 21

<sup>66</sup> COIS Bangladesh Country Report: October 2006. Section 10

<sup>67</sup> COIS Bangladesh Country Report: October 2006. Section 30

unduly harsh, due to the specific facts of their case, and sufficiency of protection is not available.

### 3.11 Ahmadis (or Ahmadiyyas)

**3.11.1** Ahmadis may claim asylum or make a human rights claim on the basis that as members of minority religion they face attacks or intimidation by members of other religious groups particularly Islamic fundamentalists.

**3.11.2 *Treatment*** The Ahmadi community was founded in the 1880s by *Mirza Ghulam Ahmad*, who was born in the Punjab town of Qadiyan. It later split into two groups, of which *Qadiani* is the larger; the other is the *Lahore* branch. While they identify as a Muslim community, Ahmadis are considered heretics by mainstream Islam because *Mirza Ghulam Ahmad* proclaimed himself to be the expected *Mahdi*, or prophet, thereby rejecting a fundamental tenet of Islam.<sup>68</sup>

**3.11.3** Anti-Ahmadi agitations began during 2003, since then they have been the targets of attacks and harassment prompted by clerics and the rhetoric of leaders of the *Islami Okkiya Jote*, an Islamic party and coalition partner of the ruling BNP. Throughout 2004 and into 2005, the Khatme Nabuwat (K.N.), an umbrella organization of Islamist groups dedicated to the preservation of “*the finality of the prophethood*” of Mohammad, has threatened the Ahmadiyya community with attacks on their mosques and campaigned for Ahmadis to be declared non-Muslim. The KN enjoys links to the ruling BNP through the BNP’s coalition partners, the *Jama’at-e-Islami* and the *Islami Okkiya Jote*.<sup>69</sup>

**3.11.4** Following demands for the ban of Ahmadi publications and that Ahmadis be declared non-Muslims, the Government announced a ban on publications on 8 January 2004. Bangladesh’s High Court has temporarily suspended the Order banning Ahmadiyya publications pending the hearing of a legal challenge brought by human rights groups. The government ban on the publishing of Ahmadiya literature continued to be stayed by the high court, and the government did not appeal the stay to the appellate court, effectively allowing Ahmadiyas, for the time being, to publish their materials. By June 2006, the ban on Ahmadiyya publications was still not being enforced; with few exceptions, the police had respected the High Court’s ruling of January 2004. The Prime Minister has also announced that the Government would not declare Ahmadis to be non-Muslims.<sup>70</sup>

**3.11.5** Ahmadis have continued to be the target of hate campaigns by a number of Islamic groups in Bangladesh. These groups have mobilised crowds to chant anti-Ahmadi slogans, have sought confiscation of Ahmadi mosques, and have demanded that the government declare the sect non-Muslim. These agitators have been involved in “excommunication” and illegal house arrest of Ahmadis, the killing of an Ahmadi Imam (preacher), beating of Ahmadis, and marches to occupy Ahmadi mosques. On 22<sup>nd</sup> June 2005 an Ahmadiyya mosque was set ablaze, followed two days later by several bombs at two Ahmadiyya mosques. Eight persons were arrested in connection with the attacks. It was reported that on 23 December 2005 hundreds of Khatme Nabuwat (KN) supporters marched on an Ahmadiyya mosque in an attempt to hang a sign stating that that the Ahmadiyya mosque was not a mosque. Police used batons and teargas to disperse the KN supporters.<sup>71</sup>

**3.11.6 *Sufficiency of Protection*** The Constitution establishes Islam as the state religion but provides for the right to practice – subject to law, public order, and morality – the religion of one’s choice. The Government generally respects this provision in practice; however, Hindu, Christian, and Buddhist minorities experienced discrimination by the Muslim majority, and the year [July 2004 to June 2005] was marked with harassment and violent attacks against the Ahmadiyya community.<sup>72</sup>

<sup>68</sup> COIS Bangladesh Country Report: October 2006. Section 21

<sup>69</sup> COIS Bangladesh Country Report: October 2006. Section 21

<sup>70</sup> COIS Bangladesh Country Report: October 2006. Section 21

<sup>71</sup> COIS Bangladesh Country Report: October 2006. Section 21

<sup>72</sup> COIS Bangladesh Country Report: October 2006. Section 21



**3.11.7** Religion is said to exert a powerful influence on Bangladeshi politics, and the Government is sensitive to the Muslim consciousness of its political allies, *Jamaat-e-Islami* and the *Islami Okiyya Jote*, as well as the majority of its citizens. The Government has taken some steps to promote interfaith understanding and to provide police protection for the religious festivals of other minorities.<sup>73</sup> The Government has also acted to prevent the crowds from entering Ahmadi mosques, but on the other hand it has taken no action against the perpetrators of the hate campaign. Fundamental rights of the Ahmadis have been further eroded by the government ban on their publications. However it was reported that on 27 August 2004 fourteen platoons of police had been deployed to protect an Ahmadiyya central complex in Dhaka and “foiled” plans by religious extremists to lay siege to the Ahmadiyya complex. The police arrested four leaders of Aamra Dhakabashi prior to the planned siege. In 2006 the government continued not to enforce the ban on Ahmadiyya publications. Furthermore, protesters were generally stopped from hanging signs outside of Ahmadiyya mosques declaring them nonmosques or threatening the lives or property of Ahmadis. This contrasted sharply from previous years, when police sometimes facilitated the hanging of such signs.<sup>74</sup>

**3.11.8** Whether there is sufficiency of protection needs to be considered in light of the particular facts of the case i.e. whether attempts were made to seek protection and if not why not and, if protection was sought, what the police response was.

**3.11.9 Internal Relocation** The Bangladesh Constitution provides for the right of free movement within the country and in practice the Government generally respected these rights, allowing citizens to move freely within the country. Although there were instances in which the Government restricted these rights, these related to the movement of major opposition political leaders and there is no indication that there are any restrictions on the movement of ordinary party members or officials.<sup>75</sup> Religious violence in Bangladesh is not state-sponsored. Internal relocation is, therefore, generally a viable option and claimants could relocate from areas where they are in the religious minority to safer areas that are not dominated by such violence.

**3.11.10** In July 2004 it was estimated that Bangladesh had a total population of 141 million with Ahmadis only constituting 100,000 of that.<sup>76</sup> Whilst violence against Ahmadis is localised caseworkers will need to consider whether, in the light of the size of the Ahmadi community in Bangladesh, it would be unduly harsh to expect the claimant to relocate to an area where Ahmadis may not be present.

**3.11.11 Conclusion** Official and societal attitudes towards Ahmadis may result in the harassment of individuals. The threshold for persecution, torture or inhuman and degrading treatment may be passed in individual cases. However this is not inevitable, each case should still be considered individually on its own merits to assess whether the claimant sought and was provided with protection and/or whether internal relocation is an option. In certain cases claimants may be able to establish a valid claim for asylum.

## **3.12 Prison conditions**

**3.12.1** Claimants may claim that they cannot return to Bangladesh because there is a serious risk that they will be imprisoned on return and prison conditions in Bangladesh are so poor as to amount to torture or inhuman treatment or punishment contrary to Article 3.

**3.12.2** According to the United States Department of State Report of 2005, prison conditions were abysmal and were a contributing factor to custodial deaths. All prisons were overcrowded and lacked adequate facilities. Government figures indicated that the existing prison population of 76,328 was nearly 300 percent of the official prison capacity of 27,545. Of the entire prison population, 51,801 were awaiting trial and 24,317 had been convicted

<sup>73</sup> COIS Bangladesh Country Report: October 2006. Section 21

<sup>74</sup> COIS Bangladesh Country Report: October 2006. Section 21

<sup>75</sup> COIS Bangladesh Country Report: October 2006. Section 30

<sup>76</sup> COIS Bangladesh Country Report: October 2006. Section 21

according to figures received by a human rights organisation. In most cases, cells were so crowded that prisoners slept in shifts.<sup>77</sup>

**3.12.3** Women prisoners are held separately from men but face the same extremely poor conditions. United News of Bangladesh reported on 10 February 2004 that a new women's prison was being constructed at Kashimpur, near Dhaka. It will eventually accommodate 2,550 inmates. A United News article of 29 September 2004 noted also that a new prison was due to be opened in the district of Habiganj on 12 October 2004 – it has a separate accommodation building and separate hospital for women, as well as separate facilities for juveniles.<sup>78</sup>

**3.12.4** In general, the government does not permit visits by independent human rights monitors. Government-appointed committees of prominent private citizens in each prison locality monitored prisons monthly but did not release their findings. District judges occasionally also visited prisons but rarely disclosed their findings.<sup>79</sup>

#### **3.12.5 Caselaw**

**UKIAT 00054 Chowdhury [2002].** It was found that the prison conditions in which the claimant would be detained “*are not reasonably likely to be such as to amount to inhuman or degrading treatment*”.

**3.12.6 Conclusion.** Whilst prison conditions in Bangladesh are poor, with overcrowding in some establishments being a particular problem, these conditions will not normally be sufficiently severe to meet the high Article 3 threshold. Similarly, where the risk of imprisonment is for reason of one of the five Refugee Convention grounds, a grant of asylum will not be appropriate. The information available does not suggest that particular groups of inmates are more at risk of such mistreatment than others. There is no evidence that the mistreatment is of such a systematic nature as to make removal a breach of Article 3 on these grounds.

**3.12.7** Even where claimants can demonstrate a real risk of imprisonment on return to Bangladesh a grant of Humanitarian Protection will not generally be appropriate. However, the individual factors of each case should be considered to determine whether detention will cause a particular individual in his particular circumstances to suffer treatment contrary to Article 3, relevant factors being the likely length of detention the likely type of detention facility and the individual's age and state of health. Where in an individual case treatment does reach the Article 3 threshold a grant of Humanitarian Protection will be appropriate unless the risk of imprisonment is for reason of one of the five Refugee Convention grounds in which case a grant of asylum will be appropriate.

#### **4. Discretionary Leave**

**4.1** Where an application for asylum and Humanitarian Protection falls to be refused there may be compelling reasons for granting Discretionary Leave (DL) to the individual concerned. (See API on Discretionary Leave) Where the claim includes dependent family members consideration must also be given to the particular situation of those dependants in accordance with the API on Article 8 ECHR.

**4.2** With particular reference to Bangladesh the types of claim which may raise the issue of whether or not it will be appropriate to grant DL are likely to fall within the following categories. Each case must be considered on its individual merits and membership of one of these groups should *not* imply an automatic grant of DL. There may be other specific circumstances related to the applicant, or dependent family members who are part of the claim, not covered by the categories below which warrant a grant of DL - see the API on Discretionary Leave and the API on Article 8 ECHR.

<sup>77</sup> COIS Bangladesh Country Report: October 2006. Section 15

<sup>78</sup> COIS Bangladesh Country Report: October 2006. Section 15

<sup>79</sup> COIS Bangladesh Country Report: October 2006. Section 15

### 4.3 Minors claiming in their own right

- 4.3.1** Minors claiming in their own right who have not been granted asylum or HP can only be returned where they have family to return to or there are adequate reception, care and support arrangements. At the moment we do not have sufficient information to be satisfied that there are adequate reception, care and support arrangements in place.
- 4.3.2** Minors claiming in their own right without a family to return to, or where there are no adequate reception, care and support arrangements, should if they do not qualify for leave on any more favourable grounds be granted Discretionary Leave for 12 months or until their 18th birthday, whichever is the shorter period.

### 4.4 Medical treatment

- 4.4.1** Claimants may claim they cannot return to Bangladesh due to a lack of specific medical treatment. See the IDI on Medical Treatment which sets out in detail the requirements for Article 3 and/or 8 to be engaged.
- 4.4.2** It is reported that medical facilities in the Bangladesh are 'extremely scarce'; in 2001 there were 32,022 hospital beds, 32,498 registered doctors, 18,135 registered nurses and 15,794 midwives in the public sector. This translates to approximately 24 doctors and 13 registered nurses per 100,000 population. The private sector provides the major proportion of outpatient curative care, especially among the poor, while the public sector serves the larger proportion of inpatient care.<sup>80</sup>
- 4.4.3** The Bangladesh government has been operating a National Integrated Population and Health Programme (NIPHP), or Health and Population Sector Programme (HPSP). The health policy is directed at improving equity and accessibility to the Essential Services Package (ESP). Since 1997, USAID has funded the NIPHP employing a network of technical assistance organisations and local NGOs to deliver the Government's ESP. The USAID website, accessed on 2 March 2006, states: "*The NGO Service Delivery Program (NSDP) supports 41 local NGOs to deliver an essential package of health services (ESP) including child health, maternal health care, reproductive health care, clinical and non-clinical family planning services, communicable disease control, tuberculosis, safe delivery including first aid emergency obstetric care, post-abortion care, and limited curative care. This network of NGOs works through 346 urban and rural clinics, nearly 8000 satellite clinics and almost 7000 female depot holders nationwide, serving approximately 17 per cent of the national population. Over 1.5 million customers are served each month.*"<sup>81</sup>
- 4.4.4** Mental health care is provided at the primary level by primary care physicians and health workers, at the secondary level by district hospitals, though only one hospital is equipped to provide the services, and at tertiary level by teaching hospitals. Of the 14 drugs for psychiatric treatment listed in the WHO Project Atlas survey, only three were not available in Bangladesh.<sup>82</sup>
- 4.4.5** Bangladesh is a country with low HIV prevalence but high 'vulnerability'. Bangladesh has documented the lowest condom use, very high numbers of clients of sex workers, low knowledge of HIV/AIDS, and extensive needle/syringe sharing by drug users in the region. In spite of this, national commitment to HIV/AIDS prevention and care is high. UNAIDS comments that Bangladesh has the key ingredients for a successful response, a nationwide network of NGOs implementing effective interventions, effective examples of government organisation/NGO collaboration, a sector-wide approach to health with mechanisms for donor collaboration, an enabling multi-sectoral policy, and a strong commitment from the government as well as civil society. The UNAIDS website, on 2 March 2006, noted that a National Strategic Plan for the period 2004-2010 had been developed in 2004 to coordinate

<sup>80</sup> COIS Bangladesh Country Report: October 2006. Section 28

<sup>81</sup> COIS Bangladesh Country Report: October 2006. Section 28

<sup>82</sup> COIS Bangladesh Country Report: October 2006. Section 28

and fund a national response to HIV. It had been estimated that, by end-2003, between 2,500 and 15,000 people in Bangladesh were living with HIV.<sup>83</sup>

- 4.4.6** Where a caseworker considers that the circumstances of the individual claimant and the situation in the country reach the threshold detailed in the IDI on Medical Treatment making removal contrary to Article 3 a grant of discretionary leave to remain will be appropriate. Such cases should always be referred to a Senior Caseworker for consideration prior to a grant of Discretionary Leave.

## **5. Returns**

- 5.1** Factors that affect the practicality of return such as the difficulty or otherwise of obtaining a travel document should not be taken into account when considering the merits of an asylum or human rights claim. Where the claim includes dependent family members their situation on return should however be considered in line with the Immigration Rules, in particular paragraph 395C requires the consideration of all relevant factors known to the Secretary of State, and with regard to family members refers also to the factors listed in paragraphs 365-368 of the Immigration Rules.
- 5.2** Bangladesh nationals may return voluntarily to any region of Bangladesh at any time by way of the Voluntary Assisted Return and Reintegration Programme run by the International Organisation for Migration (IOM) and co-funded by the European Refugee Fund. IOM will provide advice and help with obtaining travel documents and booking flights, as well as organising reintegration assistance in Bangladesh. The programme was established in 2001, and is open to those awaiting an asylum decision or the outcome of an appeal, as well as failed asylum seekers. Bangladesh nationals wishing to avail themselves of this opportunity for assisted return to Bangladesh should be put in contact with the IOM offices in London on 020 7233 0001 or [www.iomlondon.org](http://www.iomlondon.org).

## **6. List of source documents**

- COIS Bangladesh Country Report October 2006  
[http://www.homeoffice.gov.uk/rds/country\\_reports.html](http://www.homeoffice.gov.uk/rds/country_reports.html)
- Foreign and Commonwealth Office (FCO) Country Profile on Bangladesh:17 March 2005  
<http://www.fco.gov.uk/servlet/Front?pagename=OpenMarket/Xcelerate/ShowPage&c=Page&cid=1007029394365&a=KCountryProfile&aid=1018965297515>
- BBC News:
  - 14 November 2005. Judges Killed in Bangladesh Blast  
[http://news.bbc.co.uk/1/hi/world/south\\_asia/4434436.stm](http://news.bbc.co.uk/1/hi/world/south_asia/4434436.stm)
  - 26 April 2006. Bangladesh Militants Arrested  
[http://news.bbc.co.uk/1/hi/world/south\\_asia/4948144.stm](http://news.bbc.co.uk/1/hi/world/south_asia/4948144.stm)
  - 14 May 2006. Militants Sentenced in Bangladesh  
[http://news.bbc.co.uk/1/hi/world/south\\_asia/4770265.stm](http://news.bbc.co.uk/1/hi/world/south_asia/4770265.stm)
  - 22 November 2006. Bangladesh poll chief stands down.  
[http://news.bbc.co.uk/1/hi/world/south\\_asia/6172764.stm](http://news.bbc.co.uk/1/hi/world/south_asia/6172764.stm)

<sup>83</sup> COIS Bangladesh Country Report: October 2006. Section 28