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House Committee on Foreign Affairs

“Human Rights in Bangladesh”

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Mr. Chairman and members of the committee:

I want to start by thanking you for holding this hearing today. The human rights situation of Bangladesh certainly deserves close attention, not merely from this committee and the US Congress but from the world over: governments, United Nations bodies, businesses, labor groups, humanitarian agencies, and the media. The people of Bangladesh have suffered a great deal of human rights abuses under successive governments, abuses that have all too often been ignored outside of the country.

First, some context. The current government of Prime Minister Sheikh Hasina came into power after her Awami League party won the 2008 elections, replacing a highly abusive military-backed caretaker regime. In the past three-and-a-half years, the government has taken some good steps, including enacting a law against domestic violence and introducing a national policy to advance women's rights. The government has taken an important step to protect the rights of minorities, at least on paper—it passed the Vested Properties Return Act, 2011 and the Cabinet also approved the Hindu Marriage Registration Bill, 2012. The overall environment for human rights nongovernmental organizations (NGOs) has improved from the dismal standard under the previous two governments. Human rights workers and critical journalists have not been subjected to threats as frequently as in the past, although problems remain (see below). Media freedom has also improved, again from a very poor situation.

After a Human Rights Watch report on the subject, the Bangladeshi authorities have started demanding an end to the indiscriminate and excessive use of force by Indian border guards against its nationals when they cross into India illegally.

However, Bangladesh's general human rights situation remains poor, both for structural and policy reasons. The primary structural problem, we believe, is that the army continues to wield tremendous power over the civilian authorities. The military acts as if it is above the law. The ever-present threat of a destabilization campaign by the military against the elected government hangs in the air in Bangladesh.

After its landslide victory in 2008 and a commitment in its campaign to end abuses and impunity, the Awami League had the opportunity to take steps to rein in the army and other security forces. Foreign Minister Dipu Moni told the UN Human Rights Council in early 2009 that Bangladesh would have "zero tolerance" for abuses. Yet extrajudicial killings and impunity continue to characterize the human rights situation in Bangladesh. Repeatedly, the government has failed to take action even in cases of abuse that are similar to what members of the Awami League suffered while in opposition.

Bangladesh's rights problems are consistent and acute across successive governments and we believe that the situation in the country deserves regular and high-level attention from the US, the UN and others. The US government appears to appreciate this, understanding that Bangladesh, as one of the largest suppliers of apparel for import to the United States and an increasingly important regional security player, cannot be ignored.

Human Rights Watch welcomes the greater attention the United States gives to Bangladesh. Secretary of State Hillary Clinton made a key visit to Dhaka this year—the first by a US secretary of state since 2003. Notably, human rights concerns were strongly and publicly raised by Secretary Clinton during her visit. Assistant Secretary Robert Blake, Ambassador Steven Rapp, and other State Department officials have raised human rights issues regularly. The embassy in Dhaka is active and responsive on rights issues.

Unfortunately, much more should be done. The current government has been largely hostile to efforts to offer advice on key rights issues, arguing that facts presented are “fabricated and politically motivated” and that critics are part of an “international conspiracy” against the government. This makes all of our efforts to improve the rights situation for the people of Bangladesh much more difficult. It compels us to redouble our efforts, which we at Human Rights Watch will do.

We urge the Bangladesh government to rethink its approach to human rights reporting and related recommendations. The recalcitrance it has shown on human rights and related issues has made it difficult and sometimes impossible to engage in any meaningful way with the government on issues that affect large numbers of Bangladeshis. This approach has severely affected both domestic and international opinion about the government and its sincerity in promoting and protecting human rights. Instead of adopting an “us-against-them” mentality, summarily dismissing reports, and treating human rights work as a conspiracy to undermine the ruling party, the government should address allegations and recommendations seriously. It is time for a reset in Dhaka on rights, and we hope this hearing can contribute to this.

Now, please let me take a few minutes to run through six of the key human rights issues facing Bangladesh, though unfortunately there are many others.

Labor Rights

You have already heard in detail about labor rights issues from Mr. Ryan. Human Rights Watch was among the groups raising questions about the killing of the labor activist Aminul Islam and urging Secretary Clinton to press the government for an independent investigation, which she did during her visit.

Sadly, however, I am obliged to report today that there has been no progress on the Aminul Islam case. Aminul Islam's family, as well as most labor rights groups, have asked for the case to be referred to the Bangladesh CID—the criminal investigation

department, a special unit in the Bangladesh police—since it has greater capacity than the local police department currently heading up the investigation. Of course, given the evidence of intelligence agency involvement in monitoring Aminul Islam before his death, there are concerns that the CID could fall under political influence in this investigation, but on balance enlisting the CID seems like a more hopeful approach. When representatives of Human Rights Watch met the Home Ministry earlier this month, the home minister and her officials told us that if the investigation did not advance quickly, they would indeed refer the case to the CID.

Government harassment of labor leaders in Bangladesh is an ongoing problem. Human Rights Watch had earlier drawn attention to an 2010 incident in which Aminul Islam was detained and tortured, and is aware of over a dozen labor rights leaders currently facing criminal charges on a variety of spurious grounds, including some facing charges under the Explosive Substances Ordinance, which carries the death penalty. Labor rights groups are facing registration problems, which in turn affects their funding and operations.

The government has continued to pursue legal action aimed at intimidating the Bangladesh Center for Worker Solidarity (BCWS), a trade union group. After revoking BCWS's registration, one agency demanded that two union leaders, Kalpona Akhter and Babul Akhter, both facing criminal charges, resign as a precondition to renewed registration of the organization. BCWS has denied all allegations against it and continues to struggle against government harassment.

And there are of course many rights issues organizers are struggling to address, such as worker safety, excessive hours, the right to organize, and obtaining the minimum wage. These are the issues that make Bangladesh's record so especially problematic – workers get hit twice: once at work while on the factory floor, and a second time outside the gate when they try to organize or speak out to better their situation.

Extrajudicial Killings, Torture and Impunity

Although the government has publicly committed to “zero tolerance” for human rights violations, Bangladesh has not shown a great amount of progress in key areas in the last few years. The Awami League government, ushered in several years ago after an extremely abusive military-run caretaker government, has largely failed to use its significant parliamentary mandate to adopt policies and enact laws to ensure strong protections of human rights.

Perhaps the most important example is the country's abusive paramilitary security force, the Rapid Action Battalion (RAB). We have labeled RAB a “death squad” because we and others have documented large numbers of cases in which RAB forces have identified individuals, detained them, and then staged a shootout in which the detainee is killed, claiming self-defense. The RAB would then issue very similar press statements explaining how victims died in the “crossfire.”

We began reporting on RAB in 2005 during the Bangladesh National Party (BNP) government. As we have previously documented, the BNP set RAB up to fight organized crime. BNP officials told Human Rights Watch that extrajudicial killings were part of its mandate from the outset because, they argued, corruption in the police and courts meant that powerful criminals could avoid arrest or buy their way out of prison. We continued reporting on RAB during the 2007-2009 military-backed government. We released another lengthy report on RAB in 2011. Earlier this month, we released a report on the government response to the 2009 mutiny of the Bangladesh Rifles in which we documented RAB involvement in killings and torture. All of those reports are available on our website, at <http://www.hrw.org/asia/bangladesh>.

I will add that the governing Awami League knows full well what RAB is capable of. It is notable that when it was in opposition, the Awami League often claimed that its members were killed, tortured and illegally detained by RAB.

During the 2008 campaign for parliament several years ago, the Awami League promised to crack down on RAB and investigate abuses. But instead of prosecuting members of RAB who have been shown to have engaged in extrajudicial killings, the Awami League government now denies that RAB is even implicated in abuses—even in cases where internal ministry investigations have found evidence of wrongdoing. Now in government, the Awami League has made a remarkable about-face. In meetings with Human Rights Watch in Dhaka in 2010, 2011, and earlier this month, the home minister, to whom RAB reports, has stated that RAB has not committed any unlawful killings since the Awami League came to power. The law minister has made similar claims to us. Both have made statements to this effect in the media. The government has steadfastly refused to even consider the facts contained in our reports, much less launch investigations into individual cases or set up an independent inquiry into RAB.

We do not know why the government takes this completely untenable position. While many Bangladeshis appreciate RAB's role in combating organized crime, no one in Bangladesh believes that RAB does not commit unlawful killings or torture. The media regularly report on RAB killings and allegations of abuse. The National Human Rights Commission has called for an end to RAB abuses. Respected Bangladeshi human rights organizations such as Odhikar and Ain o Salish Kendra (ASK) have documented RAB abuses on a regular basis. We have repeatedly asked the government for information on any case in which a RAB member has been prosecuted for a human rights violation, but to date, have never received a reply. This request was made again earlier this month to the home minister, who promised to send us details. It hasn't happened.

Meanwhile, new allegations of torture, arbitrary arrest, and enforced disappearances by police continue to emerge. More recently, it seems the cheap trick of claiming that a killing occurred in "crossfire" has simply given way to outright disappearances.

The US government, through the Department of Justice, has provided training to RAB to set up an internal investigative unit, but it remains to be seen whether it will help chip away at the sense of impunity. While setting up such a unit may sound like a good idea, such a unit will not produce any results until RAB and the government are willing to admit that RAB does indeed commit abuses. At present it is not clear that RAB has agreed to allow the US access to information that would enable it to monitor the unit's progress, and it does not appear that there are measurable benchmarks of success. The US ambassador has indicated that RAB have asked for more assistance in the same vein, and further training to set up other such units, so we can expect ongoing engagement between the Department of Justice and RAB on this issue. The US, we believe, should use this leverage to monitor progress. Reportedly a handful of cases have been slated for prosecution, but mostly for disciplinary issues. There has been no action yet on serious human rights violations.

On July 4, 2012 Human Rights Watch was in Dhaka to issue a report about the 2009 mutiny and massacre of army officers by members of the Bangladesh Rifles. In February 2009 BDR soldiers turned on officers during an annual ceremony, killing 74 people in the process, including over 50 officers. Prime Minister Sheikh Hasina and Home Minister Sahara Khatun displayed extraordinary courage in refusing to give the army permission to use heavy weapons against the BDR in a heavily populated area, saving many lives in the process. Both went to the site of the massacre and negotiated with members of the BDR and then with the army to mediate a peaceful resolution.

Human Rights Watch has called for perpetrators of this violence to be brought to justice. However, our research documents custodial deaths, torture and mass roundups of BDR soldiers across the country. RAB is implicated in many cases. Many of the suspects were denied access to legal counsel, particularly in the few months directly after the mutiny. We documented detainees being subjected to beatings, often on the soles of their feet or palms of their hands, and to electric shock. Some victims described being hung upside down from the ceiling. Many of those who survived the torture suffered long-term physical ailments, including kidney failure and partial paralysis. We believe that a sizable number of the approximately 6,000 people arrested – for a single episode of violence on one day – played no significant role in the mutiny and can be considered to have been arbitrarily detained.

So far about 4,000 people have been found guilty by military tribunals, all in mass trials – and there are more to come. And a specially appointed civilian court, established under the Bangladesh Criminal Procedure Code, is hearing a case against 847 people accused of serious criminal conduct such as murder. Some of the charges in this case carry the death penalty as a possible sentence.

Our recent report on this case is available on our Bangladesh page:

<http://www.hrw.org/asia/bangladesh>.

Restrictions on Civil Society

There are continuing worrying signs about the health of Bangladesh's civil society. We are particularly concerned by public statements by government officials after the publication of our report on the Bangladesh Rifles munity earlier this month, in which they suggested our work was part of a Western plot against Bangladesh, and in which they appeared to threaten action against domestic rights groups that participated or assisted us in research for the report. All of the report's findings were ours, as were the recommendations, but local groups have the right to investigate allegations of human rights abuses. The government's response was quite shocking.

This comes in the wake of increased surveillance of the human rights organization Odhikar and in particular, Adilur Rahman Khan, Odhikar's secretary advocate. In the last year, Odhikar staff have been threatened and harassed, while government approval for foreign funded projects has been arbitrarily delayed by the NGO Affairs Bureau, which is located in the prime minister's office (the same office that has denied registration to the Bangladesh Center for Worker Solidarity).

One particularly worrying issue is a draft law purporting to regulate foreign donations to Bangladeshi NGOs. We have seen a version of the bill. Based on a reading of the bill, and our experience with how the government has treated NGOs and civil society in the past, we have serious concerns with it, which we have shared with the Bangladeshi government and State Department. It would be useful if the committee were to weigh in on this important topic and make clear your concerns about any legislation that would impose burdensome and unnecessary restrictions on human rights and other civil society groups.

We recognize that governments may wish to adopt neutral laws and regulations to regulate charities and organizations—and here in the United States we know of tax laws, lobbying laws, disclosure laws. The issue here is the content of the law and the context in which it is used. We have every reason to believe that this law has the potential to be used not for legitimate regulatory or tax purposes but rather as a cudgel to silence or neuter civil society groups whose work is out of favor with the government. The law includes vague language that could be used to deny registration or allow the government to close an NGO arbitrarily. It would require government approval for each project. This approval would have to come from the NGO Affairs Bureau, the relevant line ministry, and the local officials where the project would be carried out. It is not hard to imagine that a project that could take a critical view of local or national government officials may not receive approval from those very same officials. These applications could conveniently be put at the bottom of the stack, never to see the light of day. At a meeting of NGOs in Dhaka in July we heard vociferous complaints about the draft law, with fears that it will be used to target critical NGOs or used to extract bribes in order to gain approval.

Along these same lines, we would note that a draft law proposing restrictions on media, which would prohibit the broadcast of certain religious and political speech, is also under consideration.

Refugees and Asylum Seekers

Let me now turn to refugee issues. As you have likely heard about already, the government's response to the recent influx of Rohingya refugees and asylum seekers fleeing sectarian violence in Arakan State in Burma has been to push them back at the border, while denying any obligations under customary international law not to forcibly return them to Burma. The foreign minister claimed in parliament that Bangladesh has no legal obligation to admit asylum seekers despite their being a situation of large-scale influx, a point Human Rights Watch rebutted in a letter to the prime minister.

Instead of providing refuge, government officials have labeled Rohingya fleeing violence in Burma as "intruders" and "criminals." Some have alleged that asylum seekers are linked to groups suspected of terrorism, without providing any evidence.

In a July meeting with Human Rights Watch, the home minister said that Rohingya would not be admitted to Bangladesh. Her deputy said that they would be given bottles of water, and a medical check, and then pushed back to sea. And this is indeed what our research in Bangladesh confirmed was happening. Officials in Dhaka have ordered house-to-house searches in border areas to find Rohingya and expel them. While conducting research along the Naf river bordering Burma last month, my colleagues heard devastating accounts from Rohingya—traumatized children who lost their parents in the violence, and some men so desperate that they swam across the river using clusters of sealed empty water jugs for flotation. Their stories make the Bangladesh government's intransigence seem all the more cruel. And indeed even some Bangladesh border guards seemed reluctant to enforce the government's policies; one officer noting that "no one should be forced to face abuses in their homeland."

There are, of course, many Rohingya already in Bangladesh. While there are no exact figures, estimates suggest that hundreds of thousands of long-term Rohingya refugees continue to exist on the margins of society in Bangladesh. The government has rejected more than US\$30 million in international assistance to improve conditions in the communities in which they live, funds that would also have benefitted poor Bangladeshi citizens. They have, also for the same reason, refused to allow third-country resettlement for some 29,000 registered refugees.

The US embassy and other embassies, along with the United Nations, have been raising concerns about the response to the emergency emanating from Burma, but report no progress in modifying Bangladeshi government policy. We urge the highest-level

intervention possible from the US and other governments to appeal, at the very least, to the Bangladeshi government's sense of humanity.

Women's and Girls' Rights

Violence against women and girls and their discriminatory treatment under personal status laws persists in Bangladesh. While Bangladesh has a strong set of laws to tackle violence against women, especially domestic violence, the implementation remains poor. Violence against women including rape, dowry-related assaults and other forms of domestic violence, acid attacks, and illegal punishments in the name of "fatwas" (opinions that are supposed to be issued by Islamic scholars), and sexual harassment continue.

New cases were reported in 2011 of beatings, isolation, and other public humiliation of girls, all imposed following so-called fatwas on issues such as talking to a man, pre-marital relations, having a child outside wedlock, and adultery. Women's groups are particularly concerned that such abuses continue even though the High Court division of the Bangladesh Supreme Court ordered government authorities to take preventive measures and prosecute perpetrators.

Since Bangladesh's independence in 1971, the bulk of the country's laws are applicable to all citizens without discrimination based on sex or religious belief, with one major anomaly: its personal laws. Some reforms, especially laws against domestic violence and acid attacks, have addressed family issues and apply across the religious spectrum. But personal laws on marriage, separation, and divorce, some dating to the 19th century, have remained largely frozen in time and adversely impact hundreds of thousands of women in the country and require urgent reform.

All personal laws discriminate against women; they fail to recognize marital property or provide for its equal control and use during marriage or its division on an equal basis after divorce or upon separation. This almost always benefits men and disadvantages women, who have no claim or control over property to which they may have contributed unless the title happens to be in their names.

Polygamy forms a key basis for discrimination in Muslim personal law. The Muslim Family Laws Ordinance of 1961 aims at restricting polygamy by imposing procedural conditions but these are rarely implemented. Muslim personal law also makes it far easier for men than for women to divorce with very limited rights to maintenance after divorce—Muslim women are only entitled to maintenance for 90 days from the date of divorce or for the duration of pregnancy, if they are pregnant at the time of divorce. Marital property is not recognized for Muslims.

Hindu personal law, which is only minimally codified, has similar discriminatory elements. It allows Hindu men to marry any number of times, without any procedural preconditions. Divorce is not permitted for men or for women. Hindu women can seek judicial separation on limited grounds and seek maintenance in court.

Christian personal law also discriminates against women. Divorce is allowed on limited grounds for both men and women, but the grounds are far more restrictive for women. Men can divorce if they allege their wife committed adultery. Wives, on the other hand, must prove not only that the husband committed adultery but also another wrongful act. Christian women are entitled to maintenance during marriage and alimony after divorce, but this is tied to their “chastity.”

Family courts have primary responsibility for enforcing Bangladesh’s personal laws, although community leaders and local authorities also play a role in informal mediation. Enforcement of court orders can take years and is often riddled with problems around summons and notice procedures and processes for executing court decrees. Other problems include inconsistent practices among judges related to evidence, unpredictable awards, failure to award interim maintenance during court proceedings, and lack of clear criteria for awarding maintenance, including women’s contributions to households, making it difficult for them to get timely financial relief after divorce or separation. The Bangladesh government has yet to streamline and amend family court procedures to ensure that women seeking relief get timely intervention.

We have urged the US to ensure that measures to protect women’s rights in Bangladesh pay adequate attention to reform in personal laws, justice reform in family courts, and implementation of the law against domestic violence.

Also in need of urgent reform are protections for Bangladeshi migrant domestic workers. Recruiters in the Middle East are increasingly turning to Bangladesh to hire women domestic workers as other labor-sending countries tighten their regulations or impose bans in response to widespread exploitation. The Bangladeshi government has failed to introduce minimum protection measures for these workers during training or recruitment or to ensure that embassies abroad are adequately equipped with labor attaches and shelters to respond to cases of abuse. As a result, Bangladeshi women migrants are at high risk of deception and coercion during the recruitment process, for abuses like unpaid wages, forced confinement, and workplace violence while abroad, and extremely limited access to remedies and support.”

International Crimes Tribunal (ICT)

Human Rights Watch has long supported the desire of victims of atrocities in Bangladesh’s 1971 war of independence to gain justice, however belated. We have urged the government to conduct investigations that follow the evidence so that individuals responsible are held accountable (Pakistani army officers and government officials, who

were the primary authors and architects of the crimes, are exempt from the trial process by the 1973 ICT statute). We have urged the government to ensure that the law and trial process meet international fair trial standards.

We have been disappointed by key aspects of the process. Following engagement with Ambassador Rapp's office, the government amended the International Crimes Act in 2011, allowing among other things the presumption of innocence to the accused, a fair and public hearing, and shifting burden of proof beyond reasonable doubt on the prosecutor. They also allowed for a kind of interlocutory appeal in which the parties are able to move the court to review its orders. But importantly, the review, if allowed, is done by the same bench which made the initial ruling, thereby failing to meet international standards of independence of review. We have continued to urge the government to further amend the law to:

- Enumerate the crimes to ensure that the definitions of war crimes, crimes against humanity, and genocide conform with international standards.
- Ensure that the defense is given adequate time to prepare, instead of the current three weeks, which is not enough time given the quantity of evidence involved.
- Establish a defense office, as has been done when dealing with similar crimes in other countries.
- Perhaps most importantly, repeal article 47(A) of the constitution, which states, "This Article further denies any accused under the ICT Act from moving the Supreme Court for any remedies under the Constitution, including any challenges as to the unconstitutionality of Article 47(A)." This denies the accused in these cases basic protections such as safeguards against arrest and detention; protections in respect of trial and punishment; and the enforcement of fundamental rights, including a right to apply to the High Court for protection of these rights.

We have other concerns with the proceedings: Defense counsel have credibly alleged harassment and intimidation, though the prosecution denies this. There are credible rumors that the chief defense counsel for most of the accused may himself be charged. While we have no opinion on the merits of this since we have not seen the evidence, there are serious concerns that such a course could be a politically motivated prosecution.

Most recently, the bench allowed the prosecution to introduce 15 witness statements without live testimony, claiming that the witnesses were unavailable because they were either too ill or too afraid to appear in person. The defense challenged this and produced what they claim are the logbooks of the government safe house where the witnesses had stayed during the time that they were supposedly unavailable. That challenge was rejected. When we met the law minister in Dhaka, he said that the log books were inauthentic because the government keeps no logbooks from safe houses, which is unlikely, since keeping a record of movements in and out of the safe house is standard

practice. Please see the following links for more information:

<http://www.hrw.org/news/2011/11/02/bangladesh-stop-harassment-defense-war-tribunal>;
and <http://www.hrw.org/news/2011/07/11/bangladesh-guarantee-fair-trials-independence-era-crimes>.

There have been some positive developments. After much argument, the judges have allowed a 90-year-old diabetic accused to receive home-cooked meals; they have given the defense a large amount of time to cross-examine witnesses, although they are still not allowing prior inconsistent statements to challenge the credibility of witnesses. These do not, however, resolve the larger issues mentioned above.