



# OPERATIONAL GUIDANCE NOTE

## BANGLADESH

### CONTENTS

<b>1. Introduction</b>	<b>1.1 – 1.3</b>
<b>2. Country assessment</b>	<b>2.1 – 2.2</b>
Actors of protection	2.3
Internal relocation	2.4
Country guidance caselaw	2.5
<b>3. Main categories of claims</b>	<b>3.1 – 3.8</b>
Members of political parties	3.6
Victims of domestic violence	3.7
Prison conditions	3.8
<b>4. Discretionary Leave</b>	<b>4.1 – 4.2</b>
Minors claiming in their own right	4.3
Medical treatment	4.4
<b>5. Returns</b>	<b>5.1 – 5.4</b>

#### 1. Introduction

- 1.1** This document provides UK Border Agency caseowners with guidance on the nature and handling of the most common types of claims received from nationals/residents of Bangladesh, including whether claims are or are not likely to justify the granting of asylum, Humanitarian Protection or Discretionary Leave. Caseowners must refer to the relevant Asylum Instructions for further details of the policy on these areas.
- 1.2** Caseowners *must not* base decisions on the country of origin information in this guidance; it is included to provide context only and does not purport to be comprehensive. The conclusions in this guidance are based on the totality of the available evidence, not just the brief extracts contained herein, and caseowners must likewise take into account all available evidence. It is therefore essential that this guidance is read in conjunction with the relevant COI Service country of origin information and any other relevant information.

COI Service information is published on Horizon and on the internet at:

<http://www.ukba.homeoffice.gov.uk/policyandlaw/guidance/coi/>

- 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 Asylum Instruction on Article 8 ECHR. If, following consideration, a claim is to be refused, case owners 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.

#### 2. Country assessment

- 2.1** Caseowners should refer the relevant COI Service country of origin information material. An overview of the country situation including headline facts and figures about the population,

capital city, currency as well as geography, recent history and current politics can also be found in the relevant FCO country profile at:

<http://www.fco.gov.uk/en/travel-and-living-abroad/travel-advice-by-country/country-profile/>

- 2.2** An overview of the human rights situation in certain countries can also be found in the FCO Annual Report on Human Rights which examines developments in countries where human rights issues are of greatest concern:

<http://centralcontent.fco.gov.uk/resources/en/pdf/human-rights-reports/accessible-hrd-report-2010>

## **2.3 Actors of protection**

- 2.3.1** Case owners must refer to the Asylum Policy Instruction on considering the protection (asylum) claim and assessing credibility. To qualify for asylum, an individual not only needs to have a fear of persecution for a Convention reason, they must also be able to demonstrate that their fear of persecution is well founded and that they are unable, or unwilling because of their fear, to avail themselves of the protection of their home country. Case owners should also take into account whether or not the applicant has sought the protection of the authorities or the organisation controlling all or a substantial part of the State, any outcome of doing so or the reason for not doing so. Effective protection is generally provided when the authorities (or other organisation controlling all or a substantial part of the State) take reasonable steps to prevent the persecution or suffering of serious harm by for example operating an effective legal system for the detection, prosecution and punishment of acts constituting persecution or serious harm, and the applicant has access to such protection.
- 2.3.2** The internal security establishment in Bangladesh consists primarily of the Police and four auxiliary forces: the Bangladesh Rifles (BDR), the Rapid Action Battalion (RAB), the Ansars and the Village Defence Party, all of which are organised nationally under the control of the Ministry of Home Affairs.<sup>1</sup> Police were organised nationally under the Ministry of Home Affairs (MOHA) and have a mandate to maintain internal security and law and order.<sup>2</sup>
- 2.3.3** The Bangladesh Police are made up of 123,000 employees serving under police divisions across the country and were responsible to the Ministry of Home Affairs. According to the website of the Rapid Action Battalion, Bangladesh had one police officer per 1,200 population, compared with ratios of 1:728 for India and 1:625 for Pakistan.<sup>3</sup>
- 2.3.4** Under recent governments, police generally were ineffective and reluctant to investigate persons affiliated with the ruling party but the government took steps to improve police professionalism, discipline, training, responsiveness and reduce corruption. The Inspector General of Police continued to implement a new strategy, partially funded by international donors for training police, addressing corruption and creating a more responsive police force.<sup>4</sup>
- 2.3.5** A Police Reform Programme (PRP), designed to assist the Bangladesh Police to improve performance and professionalism, to ensure equitable access to justice and to be more responsive to the needs of vulnerable people, commenced in 2005 and then progressed more rapidly under the Caretaker Government between October 2006 and January 2009. A comprehensive public attitude baseline survey was carried out in 2006 and submitted in January 2007, designed under the Programme, had so far opened in different regions of the country and officers were receiving training on human rights, on gender awareness and on accountability.<sup>5</sup>

<sup>1</sup> Country Of Origin Information Report (COIS) Bangladesh December 2011 Section 8

<http://www.ukba.homeoffice.gov.uk/policyandlaw/guidance/coi/>

<sup>2</sup> U.S Department of State (USSD) 2010 Human Rights Report: Bangladesh April 2011 Section 1

<http://www.state.gov/documents/organization/160056.pdf>

<sup>3</sup> COIS Report Bangladesh December 2011 Section 8 <http://www.ukba.homeoffice.gov.uk/policyandlaw/guidance/coi/>

<sup>4</sup> USSD 2010 Section 1 <http://www.state.gov/documents/organization/160056.pdf>

<sup>5</sup> COIS Report Bangladesh December 2011 Section 8 <http://www.ukba.homeoffice.gov.uk/policyandlaw/guidance/coi/>

- 2.3.6** Under the PRP, a draft ordinance was prepared to replace the Police Act of 1861; it was meant to redefine the roles and responsibilities of police and recommended pay increases and improved allowances for the police workforce, and offered specialised training of officers. The draft ordinance proposed the establishment of a Police Complaints Commission, as well as a Summary Court for quick adjudication of cases against police workers accused of abuse of power or other irregularities. It was reported on 16 February 2009 that the government had not yet selected the draft Ordinance for ratification by Parliament.<sup>6</sup>
- 2.3.7** The constitution prohibits torture and cruel, inhuman, or degrading punishment but security forces including the RAB, and police frequently employed torture and severe physical and psychological abuse during arrests and interrogations. Abuse consisted of threats, beatings and the use of electric shock. According to human rights organisations, security forces tortured at least 22 persons in 2010. The government rarely charged, convicted, or punished those responsible and a climate of impunity allowed such abuses by the RAB and police to continue.<sup>7</sup>
- 2.3.8** Security forces committed extrajudicial killings and were responsible for custodial deaths, torture and arbitrary arrest and detention. The failure to investigate fully extrajudicial killings by security forces, including several deaths in custody of alleged criminals detained by the RAB remained a matter of serious concern.<sup>8</sup>
- 2.3.9** The government did not release statistics for total killings by all security workforce. The government also did not take comprehensive measures to investigate cases, despite public statements by high-ranking officials that the government would show "zero tolerance" and would fully investigate all extrajudicial killings by security forces. The number of killings by police and combined security forces also increased. According to the media and local human rights organisations, no case resulted in criminal punishment and in the few instances in which the government brought charges, those found guilty generally received administrative punishment.<sup>9</sup>
- 2.3.10** Disappearances and kidnappings, allegedly by the security services, increased significantly during 2010, but precise figures were unavailable. At least some of the kidnappings were politically motivated, although many were often for money or as a result of localised rivalries. According to Odhikar, a Bangladeshi human rights organisation based in Dhaka, there were nine disappearances with alleged ties to security workers, although some incidents may have involved private citizens impersonating security workers.<sup>10</sup>
- 2.3.11** In February 2009 the country's first Victim Support Centre was established in Dhaka by the Bangladesh Police. Its personnel included 17 trained female police officers and the Centre was supported by a network of health care professionals, social workers, lawyers and non-governmental organisations workers. The UN Development Programme's Country Director, Stefan Priesner, commented at the Centre's inauguration and stated that it reflected the significant shift that had taken place in the police mindset in recent years.<sup>11</sup>
- 2.3.12** Citizens who wished to file a complaint with the police faced many hurdles. Among those were the fear of reprisal and frequent refusal to accept the case. Under Bangladeshi law, the government must provide sanction for courts to consider any offence by a public servant on official duty, including members of the police and other security forces. A Human Rights Watch report of 18 May 2009 noted that, in certain cases where the police had

<sup>6</sup> COIS Report Bangladesh December 2011 Section 8 <http://www.ukba.homeoffice.gov.uk/policyandlaw/guidance/coi/>

<sup>7</sup> USSD 2010 Section 1 <http://www.state.gov/documents/organization/160056.pdf>

<sup>8</sup> USSD 2010 Section 1 <http://www.state.gov/documents/organization/160056.pdf>

<sup>9</sup> USSD 2010 Section 1 <http://www.state.gov/documents/organization/160056.pdf>

<sup>10</sup> USSD 2010 Section 1 <http://www.state.gov/documents/organization/160056.pdf>

<sup>11</sup> COIS Report Bangladesh December 2011 Section 8 <http://www.ukba.homeoffice.gov.uk/policyandlaw/guidance/coi/>

refused to accept a complaint, individuals had turned directly to the judiciary which had the power to conduct its own investigations into those cases.<sup>12</sup>

**2.3.13** The law provides for an independent judiciary, but in practice a longstanding temporary provision of the constitution placed the executive in charge of the lower courts, judicial appointments, and compensation for judicial officials. Legislation from 2007 separating the judiciary from the executive remained in effect throughout the year. Despite ostensible separation of the judiciary from the executive, the political authority made judicial appointments to the higher courts and allegedly influenced many judicial decisions on politically sensitive cases, including decisions regarding bail and detention for political opponents of the government.<sup>13</sup>

## **2.4 Internal relocation**

**2.4.1** Caseowners must refer to the Asylum Policy Instructions on both internal relocation and gender issues in the asylum claim and apply the test set out in paragraph 339O of the Immigration Rules. It is important to note that internal relocation can be relevant in both cases of state and non-state agents of persecution, but in the main it is likely to be most relevant in the context of acts of persecution by localised non-state agents. If there is a part of the country of return where the person would not have a well founded fear of being persecuted and the person can reasonably be expected to stay there, then they will not be eligible for a grant of asylum. Similarly, if there is a part of the country of return where the person would not face a real risk of suffering serious harm and they can reasonably be expected to stay there, then they will not be eligible for humanitarian protection. Both the general circumstances prevailing in that part of the country and the personal circumstances of the person concerned including any gender issues should be taken into account, but the fact that there may be technical obstacles to return, such as re-documentation problems, does not prevent internal relocation from being applied.

**2.4.2** Very careful consideration must be given to whether internal relocation would be an effective way to avoid a real risk of ill-treatment/persecution at the hands of, tolerated by, or with the connivance of, state agents. If an applicant who faces a real risk of ill-treatment/persecution in their home area would be able to relocate to a part of the country where they would not be at real risk, whether from state or non-state actors, and it would not be unduly harsh to expect them to do so, then asylum or humanitarian protection should be refused.

**2.4.3** The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice except in the cases of some opposition political figures. As the government moved to prosecute war crimes from the 1971 War of Independence, it created a list -consisting entirely of opposition party leaders- of those suspected of war crimes who it considered ineligible to travel outside the country. However, it did not move to strip these individuals of their passports. Immigration officials at Hajrat Shah Jalal International Airport in Dhaka prevented numerous politicians belonging to the opposition BNP and Jamaat-e-Islami from leaving the country, citing the no-fly list and instructions from undisclosed higher authorities. Some of the politicians successfully challenged the unannounced restrictions on their travel abroad and managed to depart and return to the country.<sup>14</sup>

**2.4.4** It may be practical for applicants who may have a well-founded fear of persecution in one area to relocate to other parts of Bangladesh where they would not have a well-founded fear and, taking into account their personal circumstances, it would not be unduly harsh to expect them to do so.

<sup>12</sup> COIS Report Bangladesh December 2011 Section 8 <http://www.ukba.homeoffice.gov.uk/policyandlaw/guidance/coi/>

<sup>13</sup> USSD 2010 Section 2 <http://www.state.gov/documents/organization/160056.pdf>

<sup>14</sup> USSD 2010 Section 2 <http://www.state.gov/documents/organization/160056.pdf>

## 2.5 Country guidance caselaw

### **SA (Divorced woman- illegitimate child) Bangladesh CG [2011] UKUT 00254**

(1) There is a high level of domestic violence in Bangladesh. Despite the efforts of the government to improve the situation, due to the disinclination of the police to act upon complaints, women subjected to domestic violence may not be able to obtain an effective measure of state protection by reason of the fact that they are women and may be able to show a risk of serious harm for a Refugee Convention reason. Each case, however, must be determined on its own facts.

(2) Under Muslim law, as applicable in Bangladesh, the mother, or in her absence her own family members, has the right to custody of an illegitimate child.

(3) In custody and contact disputes the decisions of the superior courts in Bangladesh indicate a fairly consistent trend to invoke the principle of the welfare of the child as an overriding factor, permitting departure from the applicable personal law but a mother may be disqualified from custody or contact by established allegations of immorality.

(4) The mother of an illegitimate child may face social prejudice and discrimination if her circumstances and the fact of her having had an illegitimate child become known but she is not likely to be at a real risk of serious harm in urban centres by reason of that fact alone.

(5) The divorced mother of an illegitimate child without family support on return to Bangladesh would be likely to have to endure a significant degree of hardship but she may well be able to obtain employment in the garment trade and obtain some sort of accommodation, albeit of a low standard. Some degree of rudimentary state aid would be available to her and she would be able to enrol her child in a state school. If in need of urgent assistance she would be able to seek temporary accommodation in a woman's shelter. The conditions which she would have to endure in re-establishing herself in Bangladesh would not as a general matter amount to persecution or a breach of her rights under Article 3 of the ECHR. Each case, however, must be decided its own facts having regard to the particular circumstances and disabilities, if any, of the woman and the child concerned. Of course, if such a woman were fleeing persecution in her own home area the test for internal relocation would be that of undue harshness and not a breach of her Article 3 rights.

**SH (prison conditions) Bangladesh CG [2008] UKAIT 00076.** The Tribunal concluded that prison conditions in Bangladesh, at least for ordinary prisoners; do not violate Article 3 of the ECHR. The Tribunal stated that this does not mean an individual who faces prison on return to Bangladesh can never succeed in showing a violation of Article 3 in the particular circumstances of his case. The individual facts 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.

In view of the significant changes in Bangladesh politics in recent years, the Tribunal removed **AA (Bihari-Camps) Bangladesh CG [2002] UKIAT 01995, H (Fair Trial) Bangladesh CG [2002] UKIAT 05410 and GA (Risk-Bihari) Bangladesh CG [2002] UKIAT 05810** from the list of country guidance cases.

**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

### **[2005] UKIAT 00070 RA and others Bangladesh (Particular Social Group - Women)**

(Particular Social Group - Women) The appellant claimed that as a Bangladeshi woman who suffered domestic violence she was a member of a particular social group. Objective evidence confirms there is discrimination against women in Bangladesh but the Tribunal consider it does not reach Shah and Islam level

## 3. Main categories of claims

- 3.1** This Section sets out the main types of asylum claim, humanitarian protection claim and discretionary leave claim on human rights grounds (whether explicit or implied) made by those entitled to reside in Bangladesh. 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 Asylum Instructions, 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 applicant 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 Asylum Policy Instruction on considering the protection (asylum) claim and assessing credibility).
- 3.3** If the applicant does not qualify for asylum, consideration should be given as to whether a grant of Humanitarian Protection is appropriate. If the applicant 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.
- 3.4** All Asylum Instructions can be accessed via the on the Horizon intranet site. The instructions are also published externally on the Home Office internet site at:

<http://www.ukba.homeoffice.gov.uk/policyandlaw/guidance/coi/>

### **3.5 Credibility**

- 3.5.1** This guidance is not designed to cover issues of credibility. Case owners will need to consider credibility issues based on all the information available to them. For guidance on credibility see the Asylum Policy Instruction on considering the protection (asylum) claim and assessing credibility. Caseowners must also ensure that each asylum application has been checked against previous UK visa applications. Where an asylum application has been biometrically matched to a previous visa application, details should already be in the Home Office file. In all other cases, the case owner should satisfy themselves through CRS database checks that there is no match to a non-biometric visa. Asylum applications matched to visas should be investigated prior to the asylum interview, including obtaining the Visa Application Form (VAF) from the visa post that processed the application.

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

- 3.6.1** Some applicants will apply for 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. Applicants may fall into one of three categories:
- 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.
  - those who have participated in low level political activity at local level, and who express fear of ill-treatment at the hands of local police (or rogue state agents) politically aligned in opposition to them.
  - fear of ill-treatment by non state agents for example members of opposing political parties or opposing factions within their own party.



- 3.6.2 Treatment.** Bangladesh is a parliamentary democracy of 155 million citizens. President Sheikh Hasina Wazed became Prime Minister on the 6 January 2009.<sup>15</sup>
- 3.6.3** The military's quasi-authoritarian experiment finished with the much-anticipated parliamentary election on 29 December 2008. Despite some procedural irregularities, domestic and international election observers found that the results reflected the will of the voters. Sheikh Hasina's Awami League (AL)-led alliance achieved a landslide victory, with 262 seats in the country's 300-seat parliament (popularly known as the Jatiya Sangsad).<sup>16</sup>
- 3.6.4** In a break from the past, the election was relatively peaceful, possibly due to supervision by 50,000 troops, 75,000 police and 600 members of the RAB, along with other security forces. Nevertheless, the Election Violence Education and Resolution program monitored violence in 40 of the country's 64 districts and reported some 110 incidents of election-related violence, causing bodily injuries to about 336 people.<sup>17</sup>
- 3.6.5** The Jatiya Sangsad was a unicameral legislature; members were directly elected for a five-year term on the basis of universal adult franchise from single territorial constituencies i.e. a member of parliament for each constituency was elected by simple majority, on a 'first-past-the-post' basis. Persons aged eighteen and over were entitled to vote.<sup>18</sup> The President was the constitutional Head of State and was elected by the Jatiya Sangsad for a period of five years. Executive power was held by the Prime Minister, who was the head of the Council of Ministers.<sup>19</sup>
- 3.6.6** The main opposition parties in Bangladesh were Bangladesh Nationalist Party (BNP), Islami Oikya Jote (IOJ), Jamaat-e-Islami (JIB), Jatiya Party (Ershad), Bangladesh Jatiya Party (N-F) and Jatiya Party (Manju).<sup>20</sup> Violence involving members of student organisations affiliated to the main political parties had occurred frequently in Bangladesh. This has not been co-ordinated on a nationwide basis, but has typically involved small groups of students/youths in a specific university or college or area who were vying for control of local territory. In most instances over the past few years, clashes have been between activists of the Awami League-affiliated student organisation 'Bangladesh Chhatra League (BCL)' on the one side, and the BNP's 'Jatiyabadi Chhatra Dal (JCD)' and/or Jamaat-e-Islami's 'Islami Chhatra Shibir' (ICS) on the opposing side.<sup>21</sup>
- 3.6.7** Politically motivated violence increased since the AL government held office with opposition party supporters claiming harassment by ruling party supporters. Motivations for the violence often were uncertain.<sup>22</sup> According to information gathered by Odhikar, there were 220 persons killed and 13,999 injured in political violence during 2010. There were also 576 incidents of internal violence in the AL and 92 within the BNP.<sup>23</sup>
- 3.6.8** According to Odhikar 62 people were killed and over 4,000 were injured in violence between supporters of various political parties during the first three months of 2009. Most of those had been killed in clashes between supporters/activists of the Awami League, BNP and Jamaat-e-Islami and their affiliated student organisations, and between members of two opposing factions of Bangladesh Chhatra League, the student association of the AL. In most instances, the violence involved students and it took place at several different universities and colleges throughout the country. For example, clashes between AL and

<sup>15</sup> COIS Report Bangladesh December 2011 Section 3 <http://www.ukba.homeoffice.gov.uk/policyandlaw/guidance/coi/> and USSD 2010 Section 1 <http://www.state.gov/documents/organization/160056.pdf>

<sup>16</sup> UNHCR Countries at the Crossroads 2011 – Bangladesh <http://www.unhcr.org/refworld/country,...BGD,,4ecba653c,0.html>

<sup>17</sup> UNHCR Countries at the Crossroads 2011 – Bangladesh <http://www.unhcr.org/refworld/country,...BGD,,4ecba653c,0.html>

<sup>18</sup> COIS Report Bangladesh December 2011 Section 6 <http://www.ukba.homeoffice.gov.uk/policyandlaw/guidance/coi/>

<sup>19</sup> COIS Report Bangladesh December 2011 Section 6 <http://www.ukba.homeoffice.gov.uk/policyandlaw/guidance/coi/>

<sup>20</sup> COIS Report Bangladesh December 2011 Section 15 <http://www.ukba.homeoffice.gov.uk/policyandlaw/guidance/coi/>

<sup>21</sup> COIS Report Bangladesh December 2011 Section 15 <http://www.ukba.homeoffice.gov.uk/policyandlaw/guidance/coi/>

<sup>22</sup> USSD 2010 Section 1 <http://www.state.gov/documents/organization/160056.pdf>

<sup>23</sup> USSD 2010 Section 1 <http://www.state.gov/documents/organization/160056.pdf>

BNP student wings in early January 2009 at Jahangir Nagar University, located 30 km from the centre of Dhaka, spread and led to the temporary closures of a number of other higher-education institutions. According to the Economist Intelligence Unit, the violence at Jahangir Nagar University was started by an attempt by some students to ‘establish control’ over certain dormitories.<sup>24</sup>

- 3.6.9** Individual members of student wings from all major parties were responsible for numerous acts of on-campus violence. During 2010 auxiliary student wings were formally detached from the political parties and, according to media and human rights sources, many incidents of violence were related to criminal activities or personal as opposed to political retaliation, Despite the ban, some politicians from all major parties mobilised members of student wings for movements and demonstrations. There were also a significant number of reports of killings involving political party supporters, although there was no evidence of support from party leadership.<sup>25</sup>
- 3.6.10** Extrajudicial killings by security forces, deaths in police custody, harassment of political opponents, arbitrary arrest and detention, and the use of the lower judiciary to serve partisan interests of the ruling party all continue.<sup>26</sup>
- 3.6.11** In 2009, the AL government began a massive plan to withdraw what it considered to be politically-motivated cases filed against politicians and others under the code of criminal procedure, regular penal code and the Anti-Corruption Commission Act. A committee was set up under the leadership of Quamrul Islam, State Minister for Law, Justice, and Parliamentary Affairs, to review applications for such cases. As of March 2011, the committee had withdrawn 4,687 cases, most of which involved members of the ruling party. At its first meeting the committee dropped 12 corruption cases against Prime Minister Sheikh Hasina as well as other cases filed against senior party leaders, known party supporters and their relatives. The committee has come under sharp criticism for reversing the significant inroads the caretaker government had made in targeting official corruption in favour of political considerations. For example, the committee has been reluctant to drop criminal charges filed against opposition party leaders and has refused to withdraw charges against journalists and human rights activists. This includes journalist Jahangir Alam Akash, whom the caretaker government reportedly falsely accused of protesting extrajudicial killings.<sup>27</sup>
- 3.6.12** The constitution prohibits arbitrary arrest and detention; however, the law permits authorities to arrest and detain persons suspected of criminal activity without an order from a magistrate or a warrant.<sup>28</sup>

**See also:**     [Actors of Protection](#)             **(Section 2.3 above)**  
                   [Internal Relocation](#)            **(Section 2.4 above)**  
                   [Caselaw](#)                                 **(Section 2.5 above)**

- 3.6.13 Conclusion.** Case owners should assess on an individual case by case basis whether there may be a real risk that high profile activists will encounter persecution or ill-treatment by the government as a consequence of their political opinion. The exact nature of the applicants claimed political activity and level of political involvement should be thoroughly investigated. There is no evidence to suggest any systematic persecution of political opponents, indeed the evidence is that the government is actively reviewing the cases of those detained under the former government for alleged “politically motivated” reasons. Case owners should carefully examine whether those claiming asylum on this basis are in

<sup>24</sup> COIS Report Bangladesh December 2011 Section 15 <http://www.ukba.homeoffice.gov.uk/policyandlaw/guidance/coi/>

<sup>25</sup> USSD 2010 Section 1 <http://www.state.gov/documents/organization/160056.pdf>

<sup>26</sup> UNHCR Countries at the Crossroads 2011 – Bangladesh  
<http://www.unhcr.org/refworld/country,,,BGD,,4ecba653c,0.html>

<sup>27</sup> UNHCR Countries at the Crossroads 2011 – Bangladesh  
<http://www.unhcr.org/refworld/country,,,BGD,,4ecba653c,0.html>

<sup>28</sup> USSD 2010 Section 1 <http://www.state.gov/documents/organization/160056.pdf>



fact fearing prosecution for criminal offences (for example corruption) rather than persecution for reason of their political opinion.

**3.6.14** Whilst protection from governmental sources may not be available in all cases, those in fear of ill-treatment by local police/rogue state agents or 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. A grant of asylum or HP would only be appropriate in 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.

### **3.7 Victims of domestic violence**

**3.7.1** Some female applicants 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 applicant 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.

**3.7.2 *Treatment.*** According to the Human Rights Watch, domestic violence in Bangladesh was “a daily reality for many women” so discrimination and violence against women remained a major impediment to gender equity in Bangladesh.<sup>29</sup> It was noted that 2010 was the worst in three years in terms of violence against women, including increases in reported rapes, acid attacks, dowry-related violence, torture and other attacks.<sup>30</sup>

**3.7.3** In October 2010 parliament passed the Domestic Violence (Protection and Prevention) Bill, which criminalised domestic violence. Women's rights groups previously criticised the government for its dormancy on the issue, which was widespread and increased during 2010, although data quantifying was difficult to obtain. After the passage of the bill, critics expressed doubts about its effectiveness. A 2000 study by the UN Population Fund indicated that at least 50 percent of women experienced domestic violence at least once in their lives. The Bangladesh National Women Lawyers' Association filed 1,721 cases relating to violence against women during 2010 and received over 6,000 reports. Most efforts to oppose domestic violence were funded by non-governmental organisations (NGOs) with insignificant support from the government.<sup>31</sup>

**3.7.4** The most common reason for domestic violence in Bangladesh occurred due to dowry demands. A total of 319 women reportedly became victims of dowry demands during 2010. However, Odhikar believed that the actual number of victims of dowry demands could be more, because it was believed that there were lot of incidents which were not taken into account and many women did not talk about dowry-related abuse. In the socio-economic context of Bangladesh, most of the women were dependent on their husbands and tolerated torture silently. Furthermore, women in Bangladesh had to live with dowry-related violence due to socio-political pressure and lack of legal support. Due to dowry related violence, a total of 227 women were reportedly killed, 81 were tortured and 11 allegedly committed suicide after failing to tolerate the dowry related torture.<sup>32</sup>

**3.7.5** Despite the Dowry Prohibition Act (1980) dowry transactions continued to increase and have become a socially legitimate part of marriage negotiations. During 1995-97, 207 brides were murdered by either husbands or in-laws over dowry related disputes. Many were burned to death after being doused with petrol or kerosene. The Ministry of Women's and Children's Affairs explained this as a lack of knowledge about women's rights in

<sup>29</sup> UNHCR Bangladesh: Domestic violence, including legislation, state protection and services available to victims (2007-2011) [http://www.ecoi.net/local\\_link/203055/308008\\_en.html](http://www.ecoi.net/local_link/203055/308008_en.html)

<sup>30</sup> Countries at the Crossroads 2011 – Bangladesh <http://www.unhcr.org/refworld/country,,,BGD,,4ecba653c,0.html>

<sup>31</sup> COIS Report Bangladesh December 2011 Section 23 <http://www.ukba.homeoffice.gov.uk/policyandlaw/guidance/coi/>

<sup>32</sup> COIS Report Bangladesh December 2011 Section 23 <http://www.ukba.homeoffice.gov.uk/policyandlaw/guidance/coi/>

general and the lack of implementation and enforcement by the judiciary and law enforcement agencies and argued that it was more a reflection of the total devaluation of women in society whereby she was considered a burden on the man and his family upon whom she was considered foisted through marriage.<sup>33</sup>

- 3.7.6** Acid assaults were another prevalent form of violence that may well be a phenomenon unique to Bangladesh. Acid attacks usually occurred when men wanted to take revenge for the refusal of proposals for sex or marriage, when demands for dowry were not met or when there was a political clash. The acid was used as a weapon and usually thrown on the face of a woman with the aim of damaging her appearance in order to destroy her marriage prospects or on sexual organs. Acid attacks remained a serious problem as it frequently left the victims blind and disfigured. Acid attacks often related to allegations of spousal infidelity. During 2010 according to Odhikar, 137 persons were attacked with acid. Of these victims, 84 of the victims were women, 32 were men, and 16 were children.<sup>34</sup>
- 3.7.7** The State party report to the UN Convention on the Elimination of All Forms of Discrimination Against Women recorded that two 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, to make the maximum punishment for acid throwing offences the death penalty and to provide for the treatment and rehabilitation of victims.<sup>35</sup>
- 3.7.8** The law provides for speedier prosecutions of acid-throwing cases in special tribunals and generally does not allow bail. The Women and Child Repression Control Act seeks to control the availability of acid and reduce acid-related violence directed toward women, but lack of awareness of the law and poor enforcement limited the law's effect. According to the Acid Survivors Foundation (ASF), a local NGO, the special tribunals were not entirely effective and prosecutors were able to obtain a conviction in an estimated 10 to 12 percent of attacks each year.<sup>36</sup>
- 3.7.9** Rape, dowry-related assaults, acid throwing, and other forms of violence against women occur regularly. A law requiring rape victims to file police reports and obtain medical certificates within 24 hours of the crime in order to press charges stopped most rape cases from reaching the courts. Police also accepted bribes to quash rape cases and rarely enforced existing laws protecting women. While attacks have declined since the passage of the Acid Crime Prevention Act in 2002, investigation of acid-related crimes remains inadequate, with only seven convictions for perpetrators of such attacks in 2010.<sup>37</sup>
- 3.7.10** There were several agencies working to assist women in abused situations. Typically, an agency would serve a notice to the husband to appear at the agency for mediation, following a written complaint made by the wife. If the husband did not attend, the agency had a right to issue a warrant and to seek help from the police. If mediation failed to work, the case could be taken up in court by family lawyers supplied by the agency, who would normally handle the case free of charge. Research suggested that most abuse victims were reluctant to report their cases directly to the police and, of those who did, most were not given adequate assistance. There was a widely-held belief that police officers did not like to become involved in 'family matters' and were likely to ask the parties to reconcile matters between themselves. There was often also a refusal by victims to inform doctors of the injuries they had sustained. Most women in Bangladesh could not afford to approach lawyers directly and most women, even some educated ones, were unaware of the legal machinery and were also discouraged from contacting lawyers by family, friends and sometimes even the lawyers themselves. Women in villages commonly sought arbitration through Shalish (local mediation councils) – even though the arbiters were usually the 'local

<sup>33</sup> COIS Report Bangladesh December 2011 Section 23 <http://www.ukba.homeoffice.gov.uk/policyandlaw/guidance/coi/>

<sup>34</sup> COIS Report Bangladesh December 2011 Section 23 <http://www.ukba.homeoffice.gov.uk/policyandlaw/guidance/coi/>

<sup>35</sup> COIS Report Bangladesh December 2011 Section 23 <http://www.ukba.homeoffice.gov.uk/policyandlaw/guidance/coi/>

<sup>36</sup> COIS Report Bangladesh December 2011 Section 23 <http://www.ukba.homeoffice.gov.uk/policyandlaw/guidance/coi/>

<sup>37</sup> Freedom in the World 2011 – Bangladesh <http://www.unhcr.org/refworld/country,,,BGD,,4dde17c51d,0.html>

male elite' and a Shalish decision was not binding. However, there was, in general, a refusal among abused women to seek relief against their husbands, often due to social stigma, or economic insecurity, or fear of retribution, or acceptance of violence as a social norm.<sup>38</sup>

**3.7.11** The USSD 2010 reported that there were no adequate support groups for victims of domestic violence however NGOs such as the BNWLA operated facilities to provide shelter to destitute persons and distressed women and children. According to the Bangladeshi Society for the Enforcement of Human Rights, persons in "safe custody" were no longer housed in prisons. Courts sent most of them to shelter homes. In a few cases, they were sent to prison as a transit destination for short periods.<sup>39</sup>

**3.7.12** In the country guidance case **SA (Divorced woman - illegitimate child)** the Tribunal found that a woman who was able to show that she was at a real risk of domestic violence on return to Bangladesh (to which there was no viable internal relocation alternative) may well be able to demonstrate on the evidence which was adduced before us, that despite the efforts of the government to improve the situation of such women, on account of the disinclination of the police to act upon complaints of domestic violence, she would not be able to obtain an effective measure of state protection by reason of the fact that she was a woman. If so, in these circumstances, the persecution to which she would fear being subjected would be domestic violence against which she would have no protection on account of the fact that she was a woman. Therefore she may be able to show a risk of serious harm for a Refugee Convention reason, i.e. membership of a particular social group, namely women in Bangladesh (para.74 of the determination).

**See also:**        [Actors of Protection](#)        **(Section 2.3 above)**  
                   [Internal Relocation](#)        **(Section 2.4 above)**  
                   [Caselaw](#)                                **(Section 2.5 above)**

**3.7.13 Conclusion.** Domestic violence is widespread in Bangladesh and, whilst the government has made efforts to improve the situation for women, the disinclination of the police to act on reports on domestic violence means that women applicants may be unable to obtain effective state protection. Applicants may be able to escape persecution by internally relocating to another area of Bangladesh and the personal circumstances of an individual applicant should be taken into account when assessing whether it would be unduly harsh to expect them to do so.

**3.7.14** In accordance with **SA** (see above), women applicants who can demonstrate that they have a well-founded fear of persecution as a result of domestic violence and have no recourse to state protection or internal relocation should be granted asylum as a member of a particular social group.

### **3.8 Prison conditions**

**3.8.1** Applicants may claim that they cannot return to Bangladesh due to the fact that there is a serious risk that they will be imprisoned on return and that prison conditions in Bangladesh are so poor as to amount to torture or inhuman treatment or punishment.

**3.8.2** The guidance in this section is concerned solely with whether prison conditions are such that they breach Article 3 of ECHR and warrant a grant of Humanitarian Protection. If imprisonment would be for a Refugee Convention reason or in cases where for a Convention reason a prison sentence is extended above the norm, the asylum claim should be considered first before going on to consider whether prison conditions breach Article 3 if the asylum claim is refused.

<sup>38</sup> COIS Report Bangladesh December 2011 Section 23 <http://www.ukba.homeoffice.gov.uk/policyandlaw/guidance/coi/>

<sup>39</sup> COIS Report Bangladesh December 2011 Section 23 <http://www.ukba.homeoffice.gov.uk/policyandlaw/guidance/coi/>

- 3.8.3 Consideration.** Prison system conditions remained life threatening at times due to overcrowding, inadequate facilities and lack of proper sanitation. Human rights observers stated that these conditions contributed to custodial deaths. Unlike in 2009, there were no accounts of security forces holding detainees in temporary or military detention facilities.<sup>40</sup>
- 3.8.4** According to Odhikar, 46 persons died in prison and 109 persons died in the custody of police and other security forces during 2010.<sup>41</sup>
- 3.8.5** According to the government, the existing prison population at the end of 2010 was 69,650, which was more than over 200 percent of the official prison capacity of 29,240. Approximately one-third of the detainees had been convicted. The rest were either awaiting trial or detained for investigation. Due to the severe backlog of cases, individuals awaiting trial often spent more time in jail than if they had been convicted and served a maximum sentence. In most cases, prisoners slept in shifts because of the overcrowding and did not have adequate bathroom facilities.
- 3.8.6** During 2010 the government ordered the release of 1,000 prisoners to help ease overcrowding. Some human rights groups expressed concern over the methods used to determine which prisoners qualified for the release. Conditions in prisons varied widely often within the same prison complex as some prisoners were subject to high temperatures, poor ventilation and overcrowding while others were placed in divisional custody, which featured better conditions such as increased family visitation and access to household staff. Political and personal connections often influenced the conditions that a prisoner would be placed in. All prisoners had the right to water access and medical care; however, throughout 2010, human rights organisations and the media stated that many prisoners did not enjoy these rights.<sup>42</sup>
- 3.8.7** The law requires that juveniles be detained separately from adults, but in practice many juveniles were incarcerated with adults. Over 300 children were imprisoned, some with their mothers, despite laws and court decisions prohibiting the imprisonment of minors. In some places, the figure was much higher, mainly because there was no proper means of recording age in the criminal justice system.<sup>43</sup>
- 3.8.8** In general, the government did not permit prison visits by independent human rights monitors, including the International Committee of the Red Cross. Government-appointed committees composed of prominent private citizens in each prison locality monitored prisons monthly but did not publicly release their findings. District judges, occasionally, visited prisons but rarely disclosed their findings to the public. In 2008, the inspector general of prisons tried to address prisoner morale by allowing low-level offenders to meet family and friends inside jail cells without any physical barriers between them. There were few additional efforts to improve the prison system during 2010.<sup>44</sup>
- 3.8.9** On the 1 January 2010 Odhikar noted in its Human Rights Report that the prisons of Bangladesh were afflicted with various problems, including gross overcrowding, poor nutrition, lack of vocational and educational facilities, lack of proper and appropriate medical care. There was not much done to improve the situation of the inmates since the prisons were built a century ago. One of the main problems was the condition of the prison buildings. The cells were small and cramped, sanitation poor and ventilation inadequate. Many of the buildings were dilapidated and throughout the years, accommodated prisoners beyond cell capacity; supply of low quality food; lack of adequate medical facilities; crime, the spread of various kinds of disease; harassment of inmates and inadequate/insufficient budget allocation.had all led to the slow dilapidation of the prison system in Bangladesh.<sup>45</sup>

<sup>40</sup> USSD 2010 Section 1 <http://www.state.gov/documents/organization/160056.pdf>

<sup>41</sup> USSD 2010 Section 1 <http://www.state.gov/documents/organization/160056.pdf>

<sup>42</sup> USSD 2010 Section 1 <http://www.state.gov/documents/organization/160056.pdf>

<sup>43</sup> USSD 2010 Section 1 <http://www.state.gov/documents/organization/160056.pdf>

<sup>44</sup> USSD 2010 Section 1 <http://www.state.gov/documents/organization/160056.pdf>

<sup>45</sup> COIS Report Bangladesh December 2011 Section 13 <http://www.ukba.homeoffice.gov.uk/policyandlaw/guidance/coi/>

**3.8.10 Conclusion.** Prison conditions in Bangladesh are harsh and sometimes life threatening and taking into account overcrowding and unsanitary conditions are likely to reach the article 3 threshold in some cases. Where an individual applicant is able to demonstrate a real risk of significant period of detention or imprisonment on return to Bangladesh, and exclusion under Article 1F is not justified, a grant of Humanitarian Protection 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 Asylum Instructions 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 Asylum Instructions 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 Asylum Instructions on Discretionary Leave and the Asylum Instructions on Article 8 ECHR.

#### **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 (a) they have family to return to; or (b) there are adequate reception and care arrangements. At the moment we do not have sufficient information to be satisfied that there are adequate reception, support and care arrangements in place for minors with no family in Bangladesh. Those who cannot be returned should, if they do not qualify for leave on any more favourable grounds, be granted Discretionary Leave for a period as set out in the relevant Asylum Instructions.

#### **4.4 Medical treatment**

**4.4.1** Applicants 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** According to the Ministry of Health and Family Welfare (MOHFW) Health Bulletin 2009 Bangladesh had made some significant progress in health outcomes. Infant and child mortality rates had been markedly reduced. The prevalence of malaria has dropped and had achieved significant success in halting and reversing the spread of tuberculosis. Polio and leprosy were virtually eliminated and HIV prevalence was very low. Development of countrywide network of health care infrastructure in the public sector was remarkable. However, availability of drugs at the health facilities, deployment of adequate health professionals along with maintenance of the health care facilities remain crucial issues, impacting on optimum utilization of public health facilities.<sup>46</sup>

**4.4.3** Bangladesh has managed to develop a nationwide network of health services delivering different levels of health care. A wide range of government and non-government institutes had also been developed with the aim of providing a need-based health workforce, capable

---

<sup>46</sup> Government of the People's Republic of Bangladesh. Ministry of Health and Family Welfare – Health bulletin 2009 [http://www.dghs.gov.bd/index.php?option=com\\_docman&task=doc\\_download&gid=2&Itemid=58](http://www.dghs.gov.bd/index.php?option=com_docman&task=doc_download&gid=2&Itemid=58)  
DGHS Bangladesh Health Bulletins



in addressing the health of the people and efficient in utilizing the available resources. The government owned health workforce had produced institutes include one medical university, five post-graduate medical institutes, thirteen medical colleges, one dental college, one nursing college, thirty eight nursing institutes, two institutes for health technology and eight medical assistant training schools. The non-government sector ran nineteen medical colleges, six dental colleges and three institutes for health technology. Admission capacity and output of each category and institute varied. The Service Delivery Survey and repeated Annual Performance Reviews of the Health and Population Sector Programme, highlighted the essential need for improving the human resource management and development functions, in order to achieve the goal of the health system in Bangladesh, of which was improving the health of the people and fulfilling their expectation.<sup>47</sup>

- 4.4.4** Significant changes in human resources for health have taken place in recent years leading to overall improvement in the coverage of health services. These incorporated the production and deployment of more health and health-related workers, refresher training for health workers in service and greater use of health volunteers. Actions were being taken, which include the establishment of a permanent health institute, formulation of a human resource development plan and enhancing the quality of medical education. As early as the 1980s, Bangladesh had a national essential drugs policy and a list of essential drugs to be procured and used in health services. These have been maintained to date. Most of the essential drugs were known by their generic name and were less costly than brand name drugs. Production and distribution facilities, both in the private sector and public limited companies were adequate. Despite these advantages, government run health facilities did not have sufficient essential drugs to meet their actual needs, since the budgetary allocation for the procurement of drugs was not enough.<sup>48</sup>
- 4.4.5** According to the Bangladesh MOHFW Health Bulletin 2009 there were 38,171 hospital beds, 49,994 registered physicians and 14,377 registered nurses in the public sector. The private sector supplied the major proportion of outpatient curative care, especially among the poor, while the public sector served the larger proportion of inpatient care.<sup>49</sup>
- 4.4.6** According to the World Health Organisation (WHO) mental health has been hidden behind a curtain of stigma and discrimination. In Bangladesh, mental health activities were generally concentrated on hospital-based psychiatry, which was grossly inadequate. There was an increasing awareness of the need to shift the emphasis to a community-based mental health programme. Development of mental health policy, innovative community-based programme, advocacy and awareness campaigns and support for research were essential. Substance abuse and drug dependence had shown significant increase in Bangladesh so capacity building, advocacy and awareness campaigns, innovative community-based management programmes, development of training material, support for research on issues related to substance abuse were required. There were no reliable data on the prevalence of mental illness in the country. Based on global estimates, there were 14 million mentally ill people in the country that is 0.5% of the population were mentally disabled. There were seventy qualified psychiatrists and 1 hospital bed for 200,000 people in the country.<sup>50</sup>
- 4.4.7** Mental healthcare was supplied at the primary level by primary care physicians and health workers, at the secondary level by district hospitals (though only one hospital has been equipped to provide the services) and at tertiary level by teaching hospitals. Of the 14 drugs

<sup>47</sup> World Health Organisation Bangladesh: Human Resources for Health April 2010

[http://www.whoban.org/hr\\_for\\_health.html](http://www.whoban.org/hr_for_health.html)

<sup>48</sup> COIS Report Bangladesh December 2011 Section 26 <http://www.ukba.homeoffice.gov.uk/policyandlaw/guidance/coi/>

<sup>49</sup> MOHFW – Health bulletin 2009

[http://www.dghs.gov.bd/index.php?option=com\\_docman&task=doc\\_download&qid=2&Itemid=58](http://www.dghs.gov.bd/index.php?option=com_docman&task=doc_download&qid=2&Itemid=58)

[DGHS Bangladesh Health Bulletins](#)

<sup>50</sup> World Health Organisation : Mental Health and Substance Abuse: May 2010

[http://www.who.int/mental\\_health/en](http://www.who.int/mental_health/en)

for psychiatric treatment listed in the WHO Project Atlas survey for 2005, only three were not available in Bangladesh.<sup>51</sup>

- 4.4.8** Alternative Medicine has been playing a significant role in the health care delivery system in Bangladesh. Although tremendous progress has taken place in the field of modern medicine, the practice and use of Alternative Medicine is being continued through the country. To provide quality service on Alternative Medicine 45 Medical Officers have been appointed so that patients have the option to receive this type of treatment according to their choice.<sup>52</sup>
- 4.4.9** The prevalence of HIV in Bangladesh was low in the general population and the estimated number of HIV positive cases in the country was around 7500.<sup>53</sup> There were no comprehensive national study to measure the prevalence of HIV among the general population and in December 2009, on World AIDS Day, the National AIDS/STD Program had confirmed a total of 1745 HIV cases reported in Bangladesh. The first Voluntary Counselling and Testing Centre in Bangladesh was set up in 2002 and by 2009 numbers have gone up to about 105 Centres. The quality and range of services varied and only a few Centres had professionally trained counsellors, physicians to offer medical examinations when other STIs was suspected, gold-standard HIV test and laboratory procedures and quality assurance and validation of HIV test results. There were numerous reports of denial of treatment to high risk individuals by the health care providers. There were only a few facilities in Bangladesh, mostly in Dhaka, who were able to treat HIV-related infections or provide anti-retroviral treatment.<sup>54</sup>
- 4.4.10** The Article 3 threshold will not be reached in the majority of medical cases and a grant of Discretionary Leave will not usually be appropriate. Where a case owner considers that the circumstances of the individual applicant and the situation in the country reach the threshold detailed in the IDI on Medical Treatment making removal contrary to Article 3 or 8 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** There is no policy which precludes the enforced return to Bangladesh of failed asylum seekers who have no legal basis of stay in the United Kingdom.
- 5.2** 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.
- 5.3** Bangladeshi nationals may return voluntarily to any region of Bangladesh at any time in one of three ways: (a) leaving the UK by themselves, where the applicant makes their own arrangements to leave the UK, (b) leaving the UK through the voluntary departure procedure, arranged through the UK Immigration service, or (c) leaving the UK under one of the Assisted Voluntary Return (AVR) schemes.
- 5.4** The AVR scheme is implemented on behalf of the UK Border Agency by Refugee Action which will provide advice and help with obtaining any travel documents and booking flights, as well as organising reintegration assistance in Bangladesh. The programme was established in 1999, and is open to those awaiting an asylum decision or the outcome of an appeal, as well as failed asylum seekers. Bangladeshi nationals wishing to avail themselves

<sup>51</sup> COIS Report Bangladesh December 2011 Section 26 <http://www.ukba.homeoffice.gov.uk/policyandlaw/guidance/coi/>

<sup>52</sup> MOHFW Health Bulletin 2009

[http://www.dghs.gov.bd/index.php?option=com\\_docman&task=doc\\_download&qid=2&Itemid=58](http://www.dghs.gov.bd/index.php?option=com_docman&task=doc_download&qid=2&Itemid=58)  
[DGHS Bangladesh Health Bulletins](#)

<sup>53</sup> COIS Report Bangladesh December 2011 Section 26 <http://www.ukba.homeoffice.gov.uk/policyandlaw/guidance/coi/>

<sup>54</sup> COIS Report Bangladesh December 2011 Section 26 <http://www.ukba.homeoffice.gov.uk/policyandlaw/guidance/coi/>

of this opportunity for assisted return to Bangladesh should be put in contact with Refugee Action Details can be found on Refugee Action's web site at:

[www.refugee-action.org/ourwork/assistedvoluntaryreturn.aspx](http://www.refugee-action.org/ourwork/assistedvoluntaryreturn.aspx)

Country Specific Litigation Team  
Immigration Group  
UK Border Agency  
April 2012