

WCC-CCIA

International Study Consultation on Freedom of Religion and Rights of Religious Minorities (Istanbul, Turkey. 27 Nov – 2 Dec 2011)

Country Situation – Bangladesh

Introduction

With the dawn of the New Year 2009 the prospects of Bangladesh seem to be on the ascendancy. The US Government quickly removed the country from its watch list. There was great expectation all round as both the military regimes as well as the government of Khaleda Zia could not deliver what the people of Bangladesh wanted.

The Awami League government of Sheikh Hasina, which was sworn-in in January 2009, was quick to sense the pulse of the people. It maintained untouched that which related to the faith and belief of the people, but affirmed to usher in the re-discovery of secular Bangladesh which was crucial if Bangladesh had to share the big stage of global political dynamics.

This compulsion of the times to be and to keep proved fruitful for the incumbent government to establish itself as a harbinger of hope and the upholder of human rights and international covenants and accords for an otherwise battered and beleaguered nation. Bangladesh is party to the International Covenant on Civil and Political Rights.

Country Profile

The country has an area of 55,126 square miles and a population of 154 million. According to the 2001 census Sunni Muslims constitute 90 percent of the population and Hindus 9 percent. The rest of the population is mainly Christian (mostly Roman Catholic), and Theravada-Hinayana Buddhist. Ethnic and religious minority communities often overlap and are concentrated in the Chittagong Hill Tracts and northern regions . . . There also are small populations of Shi'a Muslims, Sikhs, Baha'is, animists, and Ahmadis. Estimates of their numbers varied from a few thousand to 100,000 adherents per group. Religion is an important part of community and cultural identity for citizens, including those who did not participate actively in prayers or services. Separately, there are approximately 30,000 registered Rohingya refugees and 200,000 to 500,000 unregistered Rohingyas practicing Islam in the southeast around Cox's Bazar (IRF Report, 17 November 2010)

State position on freedom of religion

- Constitution passed in 1972, supposedly with secularism, socialism, nationalism and democracy as its four pillars
- Till date the constitution has been amended 15 times
- Between 15th August 1975 to 9th April 1979 through different promulgations and Promulgatory orders the martial law administrators tried to Islamise the constitution

- On 6th April 1979 the Fifth amendment to the constitution was passed giving constitutional validity to the promulgations of the 1975-79 period giving it immunity from review or other such processes by any court
- Islam as State Religion introduced through the eighth amendment in 1988
- Bismilla-Ar-Rahman-Ar-Rahim introduced in the Preamble (Proclamation Order No.1, 1997)
- In 2008 Sheikh Hasina's Awami League came to power with an overwhelming majority riding on a promise, among other things, to turn Bangladesh into a Digital Bangladesh by 2021. She was sworn in as the PM for the second term on 6th January 2009. "Soon thereafter, new Prime Minister Sheikh Hasina made a public commitment that her government would repeal all laws that discriminate against members of minority communities, ensure freedom of expression for members of all religious communities, and uphold equality of opportunity and equal rights for all citizens. Due to these positive developments, USCIRF removed Bangladesh from its Watch List in 2009" (UCIRF Report 28 April 2011).
- The Fifteenth amendment to the constitution passed on 30th June 2011 seeks to annul large portions of the Fifth Amendment, on account of which secular character of the constitution is said to be restored.
- Among its 13 odd salient features of the 15th Amendment (2011), Article 12 of the constitution which provides for secularism and freedom of religion will be restored; *Bismillah-Ar-Rahman-Ar-Rahim*(in the preamble to the constitution) and provision in the Article 2A that Islam is state religion will however stay (Daily Star June 30, 2011)

It follows therefore that the spirit of secularism, socialism, democracy and nationalism with which the 1972 constitution was passed is sought to be upheld, while at the same time giving prominence to the faith of the 90% Muslim population in the country without jeopardising the interests of the followers of other religious traditions (Article 2A).

Relevant Constitutional Provisions

- **Article 1** The Republic: Bangladesh is a unitary, independent, sovereign Republic to be known as the People's Republic of Bangladesh
- **Article 2A** The State Religion (inserted by the Eighth amendment to the constitution in 1988): The state religion of the Republic is Islam, but other religions may be practiced in peace and harmony in the Republic
- **Article 8** Fundamental Principles - Substituted for the former Clause 1 with 1 and 1A below by Promulgation Order 1 in 1977

- The principles of absolute trust and faith in the Almighty Allah, nationalism, democracy and socialism meaning economic and social justice, together with the principles derived from them as set out in this Part, shall constitute the fundamental principles of state policy
- Absolute trust and faith in the Almighty Allah shall be the basis of all actions

This will however stand altered since the 15th Amendment to the constitution passed in June 2011 annuls the fifth amendment of 1979 which accorded constitutional validity to the Promulgations made between August 1975 and April 1979.

- **Article 27** Equality before law: All citizens are equal before law and are entitled to equal protection of law
- **Article 28** Discrimination on grounds of religion, etc.: (1) The State shall not discriminate against any citizen on grounds only of religion, race caste, sex or place of birth. (2) Women shall have equal rights with men in all spheres of the State and of public life. (3) No citizen shall, on grounds only of religion, race, caste, sex or place of birth be subjected to any disability, liability, restriction or condition with regard to access to any place of public entertainment or resort, or admission to any educational institution. (4) Nothing in this article shall prevent the State from making special provision in favour of women or children or for the advancement of any backward section of citizens
- **Article 29** Equality of opportunity in public employment: (1) There shall be equality of opportunity for all citizens in respect of employment or office in the service of the Republic. (2) No citizen shall, on grounds only of religion, race, caste, sex or place of birth, be ineligible for, or discriminated against in respect of, any employment or office in the service of the Republic
- **Article 41** Freedom of religion: (1) Subject to law, public order and morality - 1. Every citizen has the right to profess, practice or propagate any religion; 2. Every religious community or denomination has the right to establish, maintain and manage its religious institutions (2) No person attending any educational institution shall be required to receive religious instruction, or to take part in or to attend any religious ceremony or worship, if that instruction, ceremony or worship relates to a religion other than his own

Other legislations and accords relevant to freedom of religion and rights of minority communities

- **Vested Property Act:** Prior to 1971 this was known as the Enemy Property Act and was rechristened as vested property act in 1974. The target was property of hindu families

whose members left the country for political or economic reasons, who were labelled as enemies of the nation.

By 1977 it was estimated that 702,335 acres of cultivable agricultural lands and 22,835 homes were listed as enemy property (Sangbad, 21 March 1977)

Professor Abul Barkhat of Dhaka University in his study 'Inquiry into Causes and Consequences of Deprivation of Hindu Minorities in Bangladesh through the Vested Property Act' (published in 1997) noted that "the total amount of land lost by Hindu households as a result of this discriminatory act was estimated at 1.64 million acres (6,640 km²), which is equivalent to 53 per cent of the total land owned by the Hindu community and 5.3 per cent of the total land area of Bangladesh"

It is observed that the family property of Nobel Prize winning economist Amartya Sen (in Wari, Dhaka) had been confiscated by the Pakistan government. In 1999, the Bangladesh government announced that it was investigating opportunities to return the property to Sen's family.

In 2001 the **Vested Property Return Act** was passed. The implementation of the Act was rather slowly under the Khaleda Zia regime (2001-2008) and is now embroiled in litigation. A recent court ruling has dispensed with any need to clear cases relating to return of property under the act.

- **Chittagong Hill Tracts Accord:** Chittagong Hill Tract is inhabited by non-bengali non-muslim indigenous communities often referred to as *adivasis* or *paharis*. From the time of Ziaur Rahman this Tract had been witness to ethnic and religious conflicts due to attempts to illegally settle Bengali Muslim people in traditional tribal lands (1984). The CHT Accord was made in 1997. Strong resentments exist among this people over settler encroachment on tribal lands, human rights abuses by the military, and the slow and inconsistent implementation of the 1997 accord. Despite assurance by the present PM (as soon as she assumed office in 2009), nothing substantial has happened with regard to upholding the rights of Bangladeshi citizenship to the indigenous minorities of the CHT envisaged under the 1997 accord.
- **Fatwas under Shari'a:** Despite the 2001 High Court ruling that all fatwas legal under the shari'a are yet illegal, and the fact that fatwas can be pronounced only by learned 'muftis' (which have value in settling disputes and conflicts outside the court), declarations by village

religious leaders continue to be understood as fatwas and unscrupulously implemented. This is compounded by a legal impediment that has stayed the implementation of the 2001 ruling. In the resultant milieu innocents and those in the most vulnerable positions such as women, in a patriarchal setting, are dealt with brutally driving more and more people to suicide.

Instances of violations

The National Council of Churches in Bangladesh has documented the following violations with regard to the freedom of religion and the rights of minority communities from among innumerable instance of violations of the rights of minority communities. According to the documentation available from the NCCB, there are many reports of societal abuses in recent years where clashes and discrimination based on religious belief or practices happened. Violence directed against religious minority communities continued to result in the loss of lives and property, but the motives, religious animosity, criminal intent, or property disputes, were often unclear. The International Religious Freedom Report 2010 also documents recent happenings in which the rights of minority communities have been transgressed.

Religious minorities were seen to be vulnerable due to their relatively limited influence with political elites. Only post 2009 there are four ministers in the Awami League government, out of a total cabinet strength of 44, belonging to minority communities (two Buddhists and one each from the Hindu and Christian communities). Like many citizens, the minorities were often reluctant to seek recourse from a corrupt and ineffective criminal justice system. Police were often ineffective in upholding law and order and were sometimes slow to assist religious minorities. This even promoted an atmosphere of impunity for acts of violence against them.

- Several years back the government in Dinazpur district razed the homes of 65 families to make room for a government project. According to press reports, the evicted families consisted to 15 families from the indigenous Santali Christian community and 50 Hindu families. All those families have been distressed and homeless.
- Though the Constitutional rights ensure to profess or propagate all religions, but that right is made subject to law, public order and morality. In what appears to be an isolated case, in February 2011, Biplob Marandi was arrested and sentenced to One year in prison for creating chaos at a religious gathering by selling and distributing Christian literature.
- In June 2008, according the press reports, a group of Muslim villagers attacked recent converts to Christianity in the village of Durbachari as several Hindus and Muslim converted to Christianity. Two or three Christian were injured badly when they were struck with sticks and with the ultimatum of attacker's Christian leave their villages to save their lives within 24 hrs
- According to press report, in April 2008 several forest officials with local Muslim religious leaders were filing false cases against members of Catholic Khasia community including their head of the catholic mission in Moulvibazar.

- There are about 100,000 Ahmadis concentrated in Dhaka and several other parts of the country. Between June and August 2010 there were series of attacks reported on the male members in the community. While mainstream Muslim rejected some of the Ahmadiyya teachings, the majority supported Ahmadis right to practice their religion without fear or persecution. But Ahmadis continued to be subject to harassment and violence from those who denounced their teachings.
- According to the New Age, a daily English-language newspaper, between March and May 2010 an individual allegedly attempting to seize land felled 40 trees belonging to the Hindu community and occupied the Arpara Bazar Temple land in the Sadar upazila (sub district).
- According to BHBCOP and the New Age, members of the Hindu community of Chitalmari in Bagerhat sought protection against a group of new migrants to the area attempting to seize land by using intimidation.
- According to Naya Diganta, a daily Bangla-language newspaper, on April 20, 2010, a group of individuals attempting to seize land, backed by the local Chhatra League, the student wing of the Awami League party, occupied the Shree Shree Rajeshwari Temple in the village of Ambaria. The temple property was still in dispute, and the local Hindu community was unable to worship there during the reporting period.
- According to the Times of India, on February 5, 2010, a group of 30 to 35 men attacked an ancient Hindu temple in Narayanganj's Sonargaon subdivision district. The group vandalized the temple and four houses, injuring at least five persons and destroying six idols. The attack followed an altercation between a devotee and three youths from the village. Community leaders worked together and resolved the issue without involving the police.
- According to the Daily Star, an English-language newspaper, on March 20, 2010, a clash over a land dispute involving a Christian church in the Mithapukur upazila resulted in injuries to 20 of the involved parties. The church purchased some adjacent land that was previously used as a school playground. Local MPs worked to defuse the tension and managed to avert further violence.
- Human rights groups and press reports indicated that vigilantism against women accused of moral transgressions occurred in rural areas, often under a fatwa, and included punishments such as whipping. During 2009 and until the end of the reporting period, religious leaders issued 33 fatwas, demanding punishments that ranged from lashings and other physical assaults to shunning by family and community members, according to the Bangladesh Mahila Parishad, a human rights organization focused on women's rights.

Response of the Government (as documented by NCCB)

a. Overall responses: On October 2010 Bangladesh's High Court declared that the 1972 constitution would be restored. The Constitution of 1972 espouses secularism, democracy, socialism, and nationalism as the political philosophy of the Country and has no reference to Islam as the state religion. This ruling could provide a legal basis for banning existing Islamist political parties, even those that espouse achieving Islamist goals through democratic means. However, Prime Minister Sheikh Hasina has stated publicly that while secularism will be restored to the Constitution, Bangladesh will remain an Islamic state.

b. In January 2010 Bangladesh's national Assembly began consideration of government-backed legislation on the issue of 'Vested Property Act', and minority group representatives were permitted to express their concerns in testimony before parliament. Mass people welcomed this development, while many urging the government to consult legal scholars and representatives of affected communities in order to devise remedies for past abuses and prevent further property seizures based on the owner's religion affiliation. By late November 2010, the Bangladeshi cabinet had approved the Vested Property Return (Amendment) Act. And as of December 2010 the land Minister had tabled an Amendment in Parliament, and the proposed legislation was on hold.

c. In December 2009, government established a three-member official judicial commission to investigate the violence, primarily against minorities, that followed the October 2001 national elections. The commission members reportedly received almost 5,500 allegations of violence. The Commission submitted its final report to the Home Ministry in late January 2011. Concerned government officials are still working on it.

d. The government's appointments, public statements and actions have given increased confidence to members of religious minority communities. For the last two years, Bangladesh has generally been free of the Muslim extremist violence that had escalated earlier in the decade. A press analytical report says that societal abuses and discrimination on religious minorities have declined significantly.

e. The Government executed six top leaders at a time and subsequently many others up to this time, of the banned extremist group Jamaat-ul-Mujahideen Bangladesh (JMB), identified internationally linked force, in March 2007. They had been charged with a series of bombings and suicide attacks in 2005 in 64 districts at a time, including the assassination of two judges in 2005.

f. The Ministry of Religious Affairs administered Four Funds for respected religious and socio-cultural interests based initiatives of religious communities: the Islamic Foundation, the Hindu Welfare Trust, the Buddhist Welfare Trust and the Christian Welfare Trust. Though the Chairperson of these Trust always any government high official, but as the other members of the Trust are from the religious community, the Trust have some controlled autonomy in decision making and they are playing an important role to serve their respective community as whole.

g. The Bangladesh Law Commission, a Government instrument on Law, has taken a collaborative initiative to reform the Personal or Family laws concerning marriage, divorce,

adoption and possession for respective religious communities with the South Asian Institution of Advanced Legal and Human Rights Studies. The process of reformation of Muslim and Hindu Personal Laws already has been completed, while Christian and Buddhist Personal Laws reformation are under process. NCC Bangladesh made the Christian Law Reformation Amendments to submit them to the Bangladesh Law Commission within this year. After completion of preparation of all religious laws reformation amendment, the Bangladesh Law Commission will submit them to National parliamentary board on Law and Judicial Affairs of National parliament.

Stories of tolerance and dynamic intermingling of communities

a. Tradition of Communal Harmony: The glorious tradition of communal harmony based on Bengali Culture and Language has made the mindset of the people of the Bangladesh soil tolerant to other religion. An attitude of mutual co-existence of various religious faith and practice has been gradually developed here because of the Bengali Culture and Language. From very beginning of Bengali nation, the unity among Buddhist, Hindu, Muslim and then Christian religious people has been characterized by some of its non-religious and non-communal factors such as humanitarian concerns and cultural integrity.

b. Language Movement: The origin of Bengali Language is in this rich womb of Culture. From its very beginning the Bengali Language has been a pre-dominantly major cultural element of Bengali Nation. Irrespective of religion, race, class and ethnic identity all Bengali people of this land fought and offered their lives for this Language. The whole nation was strongly united to fight against Pakistani power party, who were linguistically and culturally alien, but in religion or faith alike. It is therefore evidenced that the so-called 'Religious sentiment' has failed here and Culture and Language has been successful to uphold the Unity of a Nation.

c. Movement and Independence War of Bangladesh: The nine-month long Independence War waged by the people of Bangladesh in 1971 will forever remain recorded as one of the most glorious chapters in human history. The sovereign and independent People's Republic of Bangladesh, as it stands today, is the outcome of an arduous struggle of the people. The very nomenclature of the country, the declaration of independence, proclamation of the glorious War of Liberation, the national flag- the crimson sun on the canvas of green and the inspiring national anthem - all these were the inspiring and unique vision and courage. This courage binds all Bengalis of different faiths to protect the mother land and during the war they had the only similarity that everyone is Bengali. This is the effective evidence of tolerance which inspire to struggle for freedom and achievement of sovereignty.

d. Celebration of Bengali New Year's Day: Pohela Baisakh or Bengali New Year is celebrated with immense excitement and enthusiasm by all people of Bangladesh. This is the time to bid adieu to the past year and welcome with all the happiness and joy, the New Year. Irrespective of the barriers of caste, religion and regional differences, Pohela Boishakh is the time for all the Bengalis to connect to each other, celebrate and spread the message of love and hope. During week long vigorous colourful and joyful Pohela Baishakh no body will be able to identify any individual's religious identity - all people are strongly united only as Bengali, and this a unique element to create and promote the sense of religious freedom directly and indirectly.

e. Seasonal Festivals: There is a proverb that 'Bangladesh has thirteen festivals in twelve months'. Mainly Bangladesh is a country where colourful national seasonal festivals are held throughout the year in a befitting manner and with great zeal and zest. Most of these festival are inter-religious in nature. With changes in social and economic structures, the nature of festivals also changes. But some festivals are so deeply rooted in the social organism that they continue to entertain people from generation to generation. Some of the festivals bear the mark of the community and nation, some have the stamp of religion, and again some bear the impression of politics. Festivals, which evolved in the primitive society out of the prayer for food, have now become varied and colourful. The main foundation of festivals is ritual and most of the ancient rituals were collective activities. Many of the rituals were related to agriculture and their dates were determined according to the lunar calendar. The ancient rituals were magical processes to tame supernatural powers; in subsequent cultures, this characteristic feature was usually retained. The spontaneous agro-based ancient festivals lost their spontaneity with the passage of time and became more formal. All these festivals make a unique platform to unite all Bangladeshis in spite of their different faiths.

Ecumenical initiatives

- a. Bangladesh Hindu, Buddhist and Christian Oikya Parishad, an inter-faith activist group has always been outspoken and has seriously dealt any minority issue or interest with their demonstration, protest rally, press conferences and negotiating sharing with government and concerned bodies since its inception.
- b. The Council for Interfaith Harmony-Bangladesh, a government backed organization created in 2005 with a mandate to promote understanding and peaceful coexistence of religious communities. This initiative came out in a response to a bombing campaign in the fall of 2005 by Islamist extremist group seeking the imposition of Shari'a law. It has helped to facilitate dialogue and panel discussion on religious matters.
- c. The Bangladesh Christian Association(BCA), an active group of Christians who also seriously dealing with any occurrence, incidents and issue relevant with interest of Christian Community through their protest rally, demonstration, press conference, directly serving the victims and many other means since its inception in the late eighties. Already it has been identified as a serious pressure group in the country.

- d. Like BCA other minority communities have their separate Organizations who are also playing active role to ensure their interests of the communities.
- e. The National United Christian Forum of Bangladesh (NUCFB), comprising Catholic Bishop Conference of Bangladesh(CBCB, the main catholic authority), National Council of Churches-Bangladesh (NCCB, the national ecumenical forum of main line protestant churches and organizations) and National Christian Fellowship of Bangladesh (NCFB, the main evangelical forum of protestant Churches) has been formed, which is playing an important role to ensure following need of Christian Community –to share internal and global concern of the Community; to voice officially the opinion of the Community on different national issues; to deal the concerns of the Community with the Government; to response to the different Government policies and actions affecting the life and activities of the Church; to act in unity on the above matters as Christian Community in Bangladesh.
- f. The Bangladesh Inter-religious Gathering for Peace and Justice (BIGPAJ) is also a old Ecumenical inter-faith Organisation, who are actively taking initiative in inter-faith Dialogue, Seminar and Workshop mainly on inter-religious issues.

Conclusion

To improve the present human rights and religious standard of the Country as a whole the NCCB endorses the suggestion that the party in power should have the key role to ensure a true 'Good Governance' in order to take more serious action on the following issues and ensure consistent implementation :

- a. Proper investigation and prosecution of perpetrators of violent acts against members of religious minority groups/communities, women, and non-governmental organizations promoting international human rights standards;
- b. Immediately take initiative to make the Vested Property Return Act 2001 operational and commit to restoring and providing compensation for properties seized, including to the heirs of original owners;
- c. Enforce to implement all provisions of the CHT Peace Accords and ensure that members of all tribal communities are afforded the full rights of Bangladeshi citizenships;
- d. Immediately ensure that the national Human Rights Commission is truly independent, empowered, adequately funded, inclusive of women and minorities, and given a broad mandate that includes freedom of religions/faiths;
- e. Ensure adoption of a proper policy so that the members of minority communities have equal access to government services and public employment, including in defence, judiciary and high level government positions.
- f. Rescind the 2004 order banning Ahmadi Publications, and ensure adequate protection to the Ahmadis.

The NCCB is also of the opinion that a South Asian Ecumenical Forum which will at once serve both as a watch to monitor the violations with regard to ICCPR, the ICESCR and UDHR,

and as a resource for training churches and ecumenical councils to sharpen their political witness in the countries of the South Asian region. In this we can see the scope for the revival of the spirit of ecumenism which is fast deteriorating, while the ecumenical councils are slipping into becoming higher echelon of power in the hierarchical super structures of ecclesial autocracy.