

ASIA PACIFIC CENTRE - RESPONSIBILITY TO PROTECT

# ATROCITY CRIMES RISK ASSESSMENT SERIES

BANGLADESH

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# INTRODUCTION

Despite its enormous economic successes over the past decades, Bangladesh still bears the scars of a bloody War of Independence in 1971, as well as numerous authoritarian governments in the years that followed, through which numerous atrocity crimes were committed. Deep wounds remain between political factions and various minority groups struggling against persistent discrimination. These include the indigenous tribes of the Chittagong Hill Tracts, the Bihari people, religious minorities such as the Hindu population, and people of diverse sexual and gender identities and expressions. These groups, particularly those in the Chittagong Hill Tracts, are most at risk of atrocity crimes, and the persistent threat of Islamic extremism exacerbates religious tensions.

These issues are compounded by increasing government corruption, the weakening of institutions and extra-judicial killings, which significantly affect the capacity of Bangladesh to effectively mitigate and address these tensions. Moreover, several ongoing crises further affect the capacity of the government of Bangladesh, chief among them the COVID-19 pandemic, the spill over of conflict and refugees from neighbouring Myanmar, as well as the state's continued vulnerability to natural disasters. The refugees that have fled Myanmar now number close to one million and are subject to increasingly deteriorating conditions.

This report assesses Bangladesh's current susceptibility to the commission or incitement of atrocity crimes. Using the UN Framework of Analysis for Atrocity Crimes: A Tool for Prevention, risk factors relevant to Bangladesh are identified, as well as triggering factors that increase the risks for atrocities. Through this analysis, this Risk Assessment finds the risk of atrocity crimes occurring in Bangladesh to be high. Furthermore, the analysis presents a set of recommendations regarding policies and actions that may be undertaken by stakeholders in Bangladesh and the international community to mitigate these risks and cease current violations.

# MAP BANGLADESH



Map :United Nations

## TERMINOLOGY

Chittagong Hill Tracts-CHT

Awami League-AL

Bangladesh Nationalist Party-BNP

Jamaat-e-Islami-JI

Parbatya Chattagram Jana Samhati Samiti-PCJSS

United Nations High Commission for Refugees-UNHCR

Ain O Salish Kendra-ASK

Bangladesh Bureau of Statistics-BBS

Bangladesh Policewomen Network-BPWN

Directorate General of Forces Intelligence-DGFI

Rapid Action Battalion-RAB

Public prosecutors-PP

Transparency International's Corruption Perception Index-TICP

Index World Bank Worldwide Governance Indicators-WGI

Anti-Corruption Commission-ACC

Islamic State-IS

Digital Security Act-DSA

Arakan Rohingya Salvation Army-ARSA

United Nations-UN

# FRAMEWORK OF ANALYSIS

The Framework of Analysis consists of fourteen (14) Risk Factors of atrocity crimes, with each Risk Factor accompanied by a suite of 6 to 18 specific Indicators that are used to help to determine the degree of Risk present. Combined, these Risk Factors and associated Indicators guide the collection and analysis of data to determine the degree and kinds of atrocity crime risk present in a given country. This assessment deals only with the Risk Factors considered most relevant to the Papua New Guinea context; hence, some Risk Factors are not engaged with (note that the absence of a Risk Factor or Indicator does not indicate that are not important or may not be a risk in the future, simply that they are presently of minimal concern).

The Risk Factors are delineated into two different groups: Common Risk Factors, which are the conditions that increase the probability of atrocity crimes occurring; and, Specific Risk Factors, which are divided into the risks associated with genocide, crimes against humanity, and war crimes (ethnic cleansing is incorporated into the other atrocity crimes). A greater number of Risk Factors and Indicators denote an enhanced risk of atrocity crimes. The Risk Factors are not ranked by importance. In some cases, the Risk Factors assessed in this report relate to events and conditions that occurred decades ago. Nevertheless, how such events are being dealt with today can still contribute to the likelihood of other types of atrocity crimes arising in the future.

COMMON RISK FACTORS		
Risk Factor	1	Situations of armed conflict or other forms of instability
Risk Factor	2	Record of serious violations of international human rights and humanitarian
Risk Factor	3	Weakness of State structures
Risk Factor	4	Motives or incentives
Risk Factor	5	Capacity to commit atrocity crimes
Risk Factor	6	Absence of mitigating factors
Risk Factor	7	Enabling circumstances or preparatory action
Risk Factor	8	Triggering factors
SPECIFIC RISK FACTORS		
<b>Genocide</b>		
Risk Factor	9	Inter group tensions or patterns of discrimination against protected groups
Risk Factor	10	Signs of an intent to destroy in whole or in part a protected group
<b>Crimes Against Humanity</b>		
Risk Factor	11	Signs of a widespread or systematic attack against any civilian population
Risk Factor	12	Signs of a plan or policy to attack any civilian population
<b>War Crimes</b>		
Risk Factor	13	Serious threats to those protected under international humanitarian law
Risk Factor	14	Serious threats to humanitarian or peacekeeping operations

Each of these Risk Factors are accompanied by 6-18 more specific Indicators, which can be used to more precisely identify and analyse the risks of atrocity crimes. These Indicators and further information on the full UN Framework of Analysis for Atrocity Crimes can be found by visiting the UN website at [www.un.org](http://www.un.org).

# COMMON RISK FACTORS

## RISK FACTOR 1: SITUATIONS OF ARMED CONFLICT OR OTHER FORMS OF INSTABILITY

**Risk Factor 1 concerns situations that place a State under stress and generate an environment conducive to atrocity crimes.**

### Armed Conflict

**Indicator 1.1** refers to “international and non-international armed conflicts”. While Bangladesh is not currently involved in an international or non-international armed conflict, Bangladesh originated because of armed conflict. In 1971, Bangladesh, then known as East Pakistan, won the Bangladesh Liberation War resulting in the independence of the People’s Republic of Bangladesh.<sup>1</sup> Bangladesh also previously suffered from internal armed conflict in the Chittagong Hill Tracts (CHT). In the immediate aftermath of independence from Pakistan in 1971, the indigenous peoples of the CHT attempted to incorporate regional autonomy into the Bangladeshi constitution and restore constitutional safeguards for their region, which previously existed during British and early Pakistani rule; however, these elements were not included in the 1972 constitution.<sup>2</sup>

The following civil war formally ended on 2 December 1997 with the signing of the Chittagong Hill Tracts Accord, negotiated between the Government of Bangladesh and the PCJSS. Despite being hailed a historic agreement by many, a portion of the indigenous population rejected the accord as not fulfilling their aspirations and demand for autonomy.<sup>3</sup>

Between 1991 and 2015 Bangladesh was involved in several short-lived armed conflicts including two border skirmishes with Myanmar in 1991 and 2000-2001; a border skirmish with India in 2001; a Bangladesh Rifles Revolt (a paramilitary force tasked with guarding Bangladesh’s borders) in 2009; and a border clash with the Arakan Army, an insurgent group from Myanmar.<sup>4</sup>

### Defection from Peace Arrangements and Armed Conflict in Neighbouring Countries

**Indicator 1.2** refers to “security crisis caused by... defection from peace arrangements, armed conflict in neighbouring countries”. The Chittagong Hill Tracts Accord was signed in 1997, bringing a formal end to the civil war; however, in 2011 the United Nations Economic and Social Council carried out a study on the status of the Accord’s implementation and found that 13 years after the signing of the Accord, many of the critical clauses remain unimplemented or only partially addressed.<sup>5</sup> This was reconfirmed in a 2019 report on the implementation of the CHT Accord by the PCJSS and a public statement made by Amnesty International in December of 2020, in which the organization stated that the status of the implementation of the Accord remained depressingly similar to 2013.<sup>6</sup> According to the PCJSS, only 15 per cent of the provisions outlined in the Accord have been fully implemented, while more than 50 per cent remain unimplemented and a quarter are either partially implemented or have seen some progress.<sup>7</sup> The government, however, has a vastly different opinion of the situation, claiming that none of the key provisions remain unimplemented, that 56 per cent of the provisions have been fully implemented, and that the remaining 44 per cent are either partially implemented, or in progress.<sup>8</sup> It must be noted that no time frame was developed for the implementation of the various provisions of the Accord and that no independent body overseeing its implementation was agreed upon.<sup>9</sup>

Bangladesh shares a common border with Myanmar. Since the 1970s the Rohingya people of Myanmar have fled persecution and human rights abuses by seeking refuge in Bangladesh. While respite occurred between the early 2000s and 2015, in 2016 a military crackdown saw Rohingya again fleeing to Bangladesh.<sup>10</sup> In 2017 a mass exodus began when over 700,000 ethnic Rohingya crossed into Bangladesh fleeing atrocities committed by the Myanmar military.<sup>11</sup> Bangladesh now hosts close to one million Rohingya refugees and is home to the largest refugee camp in the world. Settlement has taken thousands of acres of land and has increased the strain on already tight national resources; therefore, tension has increased between the Bangladeshi population and the refugees in the camps (see also **Indicator 8.2**).<sup>12</sup>

### Insecurity from Humanitarian Crises, Natural Disasters, and Epidemics

**Indicator 1.3** refers to “humanitarian crisis or emergency, including those caused by natural disasters or epidemics”. The abovementioned Rohingya refugee crisis poses the risk of becoming a humanitarian crisis, however, the

## RISK FACTOR 1: SITUATIONS OF ARMED CONFLICT OR OTHER FORMS OF INSTABILITY

government of Bangladesh and aid organisations such as World Vision and Médecins Sans Frontières are working to prevent such a crisis from escalating.<sup>13</sup> As of July 2022, approximately 919,000 Rohingya refugees reside in 34 extremely congested camps in the Cox's Bazar District.<sup>14</sup> While Bangladesh's humanitarian response has saved the lives of many, the current policy framework states that the presence of Rohingya refugees is temporary and voluntary, and that sustainable returns to Myanmar must take place as soon as possible.<sup>15</sup> Thankfully, the international community has been assisting the Bangladeshi government, with the UNHCR providing funds and volunteers, as well as the United States providing \$170 million in humanitarian assistance as of 22 September 2022.<sup>16</sup>

Bangladesh is one of the most disaster-prone countries in the world and is similarly vulnerable to climate change. Bangladesh's land mass is largely made up of a low-lying delta characterized by a dense network of rivers.<sup>17</sup> Its topography, low-lying and monsoon climatic features, combined with its population density and socio-economic environment make it highly susceptible to many natural hazards. The Bangladeshi government has identified floods, cyclones, droughts, tidal surges, tornadoes, earthquakes, river and coastal erosion, water logging, rising water and soil salinity as some of the major hazards facing Bangladesh.<sup>18</sup> On average the country experiences severe tropical cyclones every three years and severe flooding occurs every 4-5 years, covering 60 per cent of the land mass. However, every year about 25 per cent of the land mass is inundated by flood waters.<sup>19</sup> More than 80 per cent of the population is exposed to flooding, earthquakes, and droughts and more than 70 per cent is exposed to cyclones. Due to the country's topography and high population density, its frequent natural disasters often result in loss of life and economic damage, and it is estimated that 14 per cent of Bangladesh's GDP is exposed to disasters on an annual basis.<sup>20</sup> Climate change is exacerbating the vulnerability of coastal populations due to rising sea levels and saline intrusion penetrating over a hundred kilometres inland, which, along with various other impacts of climate change could cause as many as 13.3 million Bangladeshis to be displaced. Climate migrants will likely flee to the urban slums of cities such as Dhaka which will struggle to absorb the millions of migrants. However, due to their nature the slums are often situated on low-lying land and are themselves at a substantial risk of flooding.<sup>21</sup>

Environmental crises also serve to exacerbate the refugee crisis. The Cox's Bazar region is particularly vulnerable to natural disasters; the monsoon season beginning in June and ending in October brings storms, flooding, and landslides. The shelters that house refugees in these camps are often made of bamboo and tarp, and these rarely hold up against strong winds and heavy rainfall.<sup>22</sup> In July of 2021, monsoon rains killed six refugees in Cox's Bazar and affected some 21,000 more, with 3,800 shelters destroyed and 13,000 refugees being forced to relocate.<sup>23</sup> Furthermore, the refugee camps are at risk of constant fires: in 2021 fires killed 15 people and displaced 45,000 more, and in early 2022 fires left tens of thousands of refugees without shelter.<sup>24</sup>

Meanwhile, Bangladesh is among the top 30 tuberculosis-burden countries and accounts for 3.6 per cent of total tuberculosis cases in the world.<sup>25</sup> In 2017, between April and September, Bangladesh had an outbreak of the mosquito-borne disease chikungunya. It was Bangladesh's worst outbreak of chikungunya to date with cases reported in 23 districts, two million people at risk of infection and over 13,000 clinically confirmed cases being documented in Dhaka alone.<sup>26</sup> Similarly, in 2019 Bangladesh experienced its worst Dengue outbreak since records began, with 100,201 confirmed cases of dengue admitted into hospital nationwide, a tenfold increase from the number of hospitalizations in the previous largest outbreak.<sup>27</sup> A lack of access to healthcare remains a prevalent issue in Bangladesh, with most health workers concentrated in urban secondary and tertiary hospitals while 70 per cent of the population lives in rural areas. Furthermore, Bangladesh faced its largest wave of the COVID-19 pandemic in 2021 which has seen daily case totals ranging between 10-15,000.<sup>28</sup> Similarly to natural disasters, disease further compounds the dangers faced by Rohingya refugees; crowded camps with poor sanitation and without clean water greatly increases the likelihood of diseases like dengue, malaria, and hepatitis, drastically reducing the quality of life and health for nearly a million refugees.<sup>29</sup>

### Political Instability

**Indicator 1.4** and **Indicator 1.5** refer to political instability caused by "abrupt or irregular regime change or transfer of power" and "disputes over power or growing nationalist, armed or radical opposition movements", respectively. Since independence, Bangladesh has had a tumultuous political history, rife with abrupt and irregular transfers of power. This has included a multiparty democracy, a one-party socialist system, and a military dictatorship over the course of the late 20<sup>th</sup> century.

Boycotting of parliament by the opposition took place during the Awami League's (AL) 1996-2001 term and throughout the 2001-2006 term of the Bangladesh Nationalist Party (BNP). During the BNP's term, law, order and human

## RISK FACTOR 1: SITUATIONS OF ARMED CONFLICT OR OTHER FORMS OF INSTABILITY

rights deteriorated, and in 2006 the country was on the brink of social and political collapse and there was widespread political unrest in relation to the handover of power to a caretaker government. In January of 2007 a state of emergency was declared, and a military backed caretaker government was placed in power which lasted for 2 years. AL won the 2008 national elections by a landslide, bringing an end to the caretaker government. In 2011 AL overturned the 15-year-old requirement that elections are overseen by a caretaker government which resulted in the BNP and other opposition parties to boycott the 2014 election.<sup>30</sup> AL also won the 2018 general election by a large majority; however, the election has been marred by allegations of vote rigging including voters being turned away, stuffing of ballot boxes, and shutting of polling booths.<sup>31</sup> Nevertheless, despite calls by the opposition for the election to be annulled and international monitors claiming that delays in issuing visas were hampering their efforts to independently observe the vote, AL has claimed that the elections were free and independent. Therefore, a long history of both attempted and successful coups, as well as a recent history of oppositions boycotting parliament and elections warrants increased monitoring for risks of atrocities.

### Political Tension

**Indicator 1.6** refers to political tension “caused by autocratic regimes or severe political repression”. In recent years Bangladesh has begun to regress towards authoritarian rule and has experienced violent political repression. As stated in **Indicator 1.4**, in 2011 AL abolished the caretaker government system, resulting in the BNP boycotting the 2014 election, thereby leaving more than half of the parliamentary seats uncontested. During the 2018 election, the government security forces brutally cracked down on both the opposition and criticism of the AL, which resulted in a violent response from opposition members.<sup>32</sup> Security forces engaged in violence, torture, enforced disappearances, and extrajudicial killings against the political opposition, journalists, members of nongovernmental groups, and students.<sup>33</sup> Allegations of electoral fraud were compounded by the findings of Transparency International, which confirmed major irregularities, including ballot stuffing in 47 out of 50 sample constituencies.

### Economic Instability

Bangladesh is currently classified as a lower-middle income country by the World Bank and is considered historically to be a financial success story.<sup>34</sup> Poverty halved in Bangladesh from 58.8 per cent in 1991 to 24.3 per cent in 2016, and Bangladesh has one of the lowest debt to GDP ratios in the region, at 38.91 billion as of 24 August 2022.<sup>35</sup> Despite these successes, Bangladesh faces a number of economic challenges.

**Indicator 1.7** refers to economic instability caused by scarcity of resources as well as disputes over resources. The tensions and violence in the CHT region mentioned in **Indicator 1.2** constitute disputes over land, and ultimately have led to a resource disparity between Bengali settlers and indigenous peoples.<sup>36</sup> The indigenous peoples of the CHT, the Pahari peoples, are unable to continue traditional economic activities such as hunting and fishing due to land grabs and dispossession.<sup>37</sup> Furthermore, whilst the government does not desegregate data based on ethnicity, what data is available suggests that poverty levels are significantly higher in indigenous groups than in the Bengali population in the CHT.<sup>38</sup>

Furthermore, Bangladesh is now facing a potentially significant economic downturn in 2022, as outlined in **Indicator 1.8**, which highlights national economic crises. Like many other countries around the world, Bangladesh faced a reduction in growth during the Covid-19 pandemic and is currently facing significant inflation leading to rises in energy and food prices as a result of the pandemic and the Russian invasion of Ukraine.<sup>39</sup> This crisis has caused mass protests regarding the cost of living and exacerbated several underlying economic conditions in Bangladesh, especially those related to poverty and inequality (**Indicator 1.9**).

These issues, alongside the resource disputes in the CHT, have contributed to growing income inequality and high levels of poverty throughout Bangladesh. As of 2021, the World Inequality Database shows the top 1% of earners in Bangladesh make up about 16% of the population, and the top 10% around 42% respectively.<sup>40</sup> Property rights are unevenly enforced, and working conditions are poor, especially in the garment industry, leading to widespread socioeconomic inequality.<sup>41</sup>

Economic indicators serve as catalysts for potential atrocities, especially if certain demographics control most of the wealth or minorities are excluded. There is a strong link between income inequality, poverty, and crime, which can contribute to economic instability. Although Bangladesh remains an economic success story, contemporary global pressures combined with wealth disparity between groups remains a risk of social unrest.

## RISK FACTOR 1: SITUATIONS OF ARMED CONFLICT OR OTHER FORMS OF INSTABILITY

### Social Instability

**Indicator 1.10** refers to social instability caused by resistance to or mass protests against State authorities or policies. As mentioned in **Indicators 1.4, 1.5 and 1.6**, there has been a history of protest against alleged government corruption in Bangladesh. In 1994 the BNP won a by-election in a traditional AL stronghold, leading to accusations of vote rigging, which resulted in the AL boycotting parliament and organising protests. In the lead up to the 1996 elections, the AL demanded that the BNP hand over to a caretaker government. The BNP ignored the demand and held the elections which were boycotted by the major opposition parties, this led to violent street protests and eventually BNP was forced to annul the elections and hand over to a caretaker government. More recent peaceful protests by students have been violently repressed and journalists and photographers covering these events have been attacked.

Other notable protests include those in the wake of a visit by Indian Prime Minister Narendra Modi. Modi, a Hindu-nationalist, visited Bangladesh in March of 2021, resulting in widespread protests accusing him of stoking anti-Muslim communal violence, leaving dozens dead as police responded with force.<sup>42</sup> In addition, from March 2019 until early 2020, there were widespread strikes and protests over working conditions specifically in the garment industry that resulted in mass firings, arrests, and violence towards protestors.<sup>43</sup> Finally, starting in July 2022, there have been protests backed by the opposition BNP against the rising cost of living, resulting in the deaths of protestors and brutal crackdowns by police.<sup>44</sup> These protests have been the result of widespread civil unrest and have consistently resulted in violent action from the government and police forces over the years.

**Indicator 1.11** refers to social instability caused by exclusion or tensions based on identity issues, their perception, or extremist forms. As previously mentioned, the continuing tensions between Bengali settlers and the indigenous peoples of the CHT remain a risk, especially as these tensions exist along economic, social, and religious fault lines.

The violent protests in the wake of Prime Minister Modi's visit were motivated by religious tensions and the perception of Hindu violence against the Muslim majority, however these protests also targeted Hindu places of worship.<sup>45</sup> In addition, the July 2016 terrorist attack on the Holey Artisan café in Dhaka highlighted historical Islamic extremism within the country. Attempts by the Bangladeshi government to remain secular have often created tensions with its population, which is 90% Muslim.<sup>46</sup> This has resulted in various extremist groups recruiting throughout Bangladesh and subsequent attacks against non-Muslim groups, including Hindus, atheists, and the LGBTIQ+ community, which serve as a catalyst for social instability. The Bangladeshi government has since engaged in a controversial and violent anti-terrorism campaign even as religious tensions continue to remain an issue.<sup>47</sup>

## RISK FACTOR 2: RECORD OF SERIOUS VIOLATIONS OF INTERNATIONAL HUMAN RIGHTS AND HUMANITARIAN LAW

**Risk Factor 2** concerns past or current serious violations of international human rights and humanitarian law that may not have been prevented, punished, or adequately addressed and, as a result, can create a risk of further violations.

### Past and Present Violations of International Human Rights

**Indicator 2.1** refers to “past or present serious restrictions to or violations of international human rights and humanitarian law, particularly if assuming an early pattern of conduct and if targeting protected groups, populations or individuals”. There are a wide range of human rights issues currently that have occurred or are occurring in Bangladesh that warrant specific attention.

### Genocide and Atrocities During the 1971 War of Independence

**Indicator 2.2** refers to past acts of atrocity crimes including genocide and war crimes. While Bangladesh achieved its goal of autonomy and self-determination during the 1971 Liberation War, it came at the expense of one of the largest programs of targeted and mass killings ever seen at the hands of the Pakistani military and its sympathizers. Estimates on the extent of civilian deaths vary from 200,000 to three million – the number which has become embedded in the country's collective consciousness and is taught in schools.<sup>48</sup> An estimated 200,000-400,000 women and children were systematically raped during this period,<sup>49</sup> and a further ten million fled to India (mostly Hindus),

## RISK FACTOR 2: RECORD OF SERIOUS VIOLATIONS OF INTERNATIONAL HUMAN RIGHTS AND HUMANITARIAN LAW

and an even greater number became internally displaced.<sup>50</sup> The willingness toward genocidal violence was a defining feature of this conflict with Pakistan's President General Yahya Khan commenting, "kill three million of them and the rest will eat out of our hands," demonstrating the extent he was willing to go to maintain control over East Pakistan.<sup>51</sup>

### Violence against Women and Girls

Various forms of sexual and gender-based violence is a serious and widespread problem in Bangladesh. Domestic violence in all its manifestations is the most pervasive form of violence against women in the country where it is estimated that 70 per cent of women and girls have faced some form of intimate partner abuse, about half of whom say their partners have physically abused them.<sup>52</sup> Violence is not only limited to intimate partners/spouses but also includes abuses often reportedly carried out by in-laws. According to Bangladesh human rights group Ain O Salish Kendra (ASK), 641 women and girls were reportedly raped and at least 134 women were murdered by their husband or his family within the first eight months of 2022.<sup>53</sup> According to another prominent Bangladesh human rights group, Odhikar, in the 19 years between 2001 and 2019, over 3,300 women and girls were murdered over dowry disputes.<sup>54</sup> However, Human Rights Watch claims that these numbers are based on media reports and the true level of violence is likely much higher.<sup>55</sup> Although the Bangladesh government developed a comprehensive National Action Plan to Prevent Violence Against Women and Children, enacted the Women and Children Repression Prevention Act (2000) and passed the Domestic Violence (Prevention and Protection) Act (2010), domestic violence remains prevalent in the country. This is due in no small part to the belief that domestic violence is a private matter, and along with widespread mistrust of the police and fear of retaliation, sees a general lack of reporting of such violence to the authorities (i.e. **Indicator 2.8**).

Acid attacks are one particularly extreme form of violence linked with gender inequality and are often perpetrated in a pattern of widespread gender-based violence targeting women and girls in Bangladesh. According to the Acid Survivors Foundation over the last 20 years, there have been over 3,800 reported cases of acid violence in Bangladesh, with the vast majority of attacks perpetrated by men targeting women or girls whom they know.<sup>56</sup> Furthermore, the deep psychological impacts of suffering an acid attack are often exacerbated by the often prolonged and extensive justice process which often results in impunity and during which victims often face re-traumatisation, recurring medical fees, economic hardship, stigma, lack of support, and sometimes threats to drop their case (i.e. **Indicators 2.3 and 2.4**).

Moreover, during the COVID-19 pandemic, women and girls have been experiencing increased levels of violence in Bangladesh. There was a 70 per cent increase in reported incidents of violence against women and girls in March and April of 2020 compared to the same time in the previous year.<sup>57</sup> Government policies during the pandemic have made it increasingly difficult for survivors to access urgent support and legal redress by temporarily shutting down court services for victims of gender-based violence and closing already limited shelters. Increased incidents of violence were further exacerbated by a state-wide lock down, which resulted in women being unable to escape violence at home.

Perpetrators of gender-based violence are rarely held to account in Bangladesh, and violence against women and girls is socially normalised so that survivors often feel that it will not be taken seriously or that abuse is not worth reporting. A study in 2015 by the Bangladesh Bureau of Statistics (BBS) found that over 50 per cent of women and girls had suffered some form of abuse. However, over 70 per cent of these survivors never told anyone and less than three per cent took legal action.<sup>58</sup>

These obstacles combined with endemic corruption, gender bias in the legal system, and a lack of implementation of the laws make the pursuit of a legal remedy difficult as only one per cent of cases successfully obtain convictions.<sup>59</sup> Combining police disbelief in female victims as well as common impunity for perpetrators has led to widespread mistrust of the police. Female victims do not trust that the police will handle their cases properly, will offer them protection, or will uphold the rule of law, therefore, **Indicator 2.8** is present.

To address these problems, the Bangladesh police headquarters launched the Bangladesh Policewomen Network (BPWN) 2021–2023 Strategic Plan in September of 2021.<sup>60</sup> The goals of this plan involve increasing the numbers, contributions, and representation of women in the Bangladeshi police force, as well as promoting a gender responsive police force to improve the security and safety of women in the country.<sup>61</sup> The UN resident

## RISK FACTOR 2: RECORD OF SERIOUS VIOLATIONS OF INTERNATIONAL HUMAN RIGHTS AND HUMANITARIAN LAW

coordinator in Bangladesh Mia Seppo pointed out that “gender parity across ranks is critical to ensure that the specific needs of women and girls are reflected in decisions at all levels. BPWN leads the way in the Bangladesh police toward gender equality, reaching zero tolerance on sexual harassment, and raising awareness of gender-based violence”.<sup>62</sup>

### Enforced Disappearances and Extrajudicial Killings

According to human rights advocates, the first wave of extrajudicial killings in Bangladesh occurred in 2004, after the formation of the elite police unit, the Rapid Action Battalion (RAB). However, reports of enforced disappearances and extrajudicial killings in Bangladesh spiked sharply after Prime Minister Sheikh Hasina announced a “war on drugs” in May 2018.<sup>63</sup> Within 10 days of launching the operation, 52 people were killed by security forces, and by the end of 2018 that number had risen to 466, more than three times the number recorded in 2017.<sup>64</sup> Victims of these killings included suspected “drug dealers”, as well as political opponents and critics of the government. In a report investigating the allegations of extrajudicial killings, Amnesty International found that all the victims of extrajudicial killings appear to have been forcibly disappeared by the police and the RAB prior to their deaths.<sup>65</sup> These disappearances could last anywhere from one day to over a month before their dead bodies were discovered. When relatives sought information of their whereabouts, authorities either denied having the victim in their custody, or refused to say where they were. Police routinely claim that victims of apparent extrajudicial killings were caught up in a fire fight, started by the suspect, and ended up dying in crossfire when law enforcement were forced to resort to lethal force.<sup>66</sup> “Crossfire” incidents have now become a common euphemism to describe what authorities claim are shootouts, but in reality are extrajudicial killings.

Despite approximately 2,700 people being killed in the “crossfire” since 2004, the RAB, the Directorate General of Forces Intelligence (DGFI) and the police, particularly its Detective Branch, have continued to commit extrajudicial killings with near-complete impunity.<sup>67</sup> The government of Bangladesh has also consistently left communications from the National Human Rights Commission of Bangladesh unanswered. Between 2012 and 2016 the commission sent 112 letters to the Ministry of Home Affairs seeking explanation for 112 alleged extrajudicial killings but received no reply.<sup>68</sup> Coupling the Commission’s constitutional restriction on independently investigating extrajudicial killings with the government’s unwillingness to conduct prompt, thorough and impartial investigations into suspected extrajudicial killings leads to entrenched impunity for security forces as is referred to in **Indicator 2.3**. Prime Minister Sheikh Hasina has rejected allegations of extrajudicial killings and has argued that incidents of “crossfire” are in self-defence and retaliation. The Home Affairs Minister publicly defended the killings by stating that “law enforcement agencies never fire shots at anybody, some of them succumb to their injuries when law enforcement retaliates in self-defence”.<sup>69</sup> These comments, and the government’s commitment to continue the ongoing drive against drugs, not only show that impunity for security forces is deeply entrenched, but that the government continues to support the actions of the RAB and continues to deny the existence of extrajudicial killings and disappearances, highlighting concerns in line with **Indicator 2.5**. Furthermore, after a retired military officer, Major Sinha Rashed Khan, was killed in an extrajudicial killing in July 2020, authorities were forced to act and “crossfires” dropped dramatically. This highlights that authorities can bring these killings to an end if they so choose, thereby signifying the presence of **Indicator 2.6**.

Lastly, **Indicator 2.7** refers to the “[p]oliticization or absence of reconciliation or transitional justice processes following conflict”. The current status of the Chittagong Hill Tracts Accord as highlighted in **Indicator 1.2** is relevant here. The absence of reconciliatory processes following the conflict in 1997 has continued to destabilize the region, with much of the most important clauses in the treaty left unimplemented and ignored.

Also, recent developments in August of 2022 of inaction to stop atrocity crimes may be relevant to **Indicator 2.4**. Following a visit from Chinese Foreign Minister Wang Yi, Bangladesh has considered cooperating with China to repatriate Rohingya refugees back to Myanmar.<sup>70</sup> This has alarmed many refugees, who fear continued persecution upon returning due to the ongoing violence, and if Bangladesh were to send Rohingya across the border, it could constitute wilful ignorance of the dangers they would face.

## RISK FACTOR 3: WEAKNESS OF STATE STRUCTURES

**Risk Factor 3 concerns circumstances that negatively affect the capacity of a State to prevent or halt atrocity crimes.**

### Judiciary

Officially, Bangladesh's judiciary is independent and has been separated from the executive since 2007. However, the executive still maintains control over judicial appointments and the judiciary is closely aligned with the executive branch.<sup>71</sup> Bangladesh does not have an independent public prosecution service like many other countries in the world (**Indicator 3.3**). Public prosecutors are generally appointed based on political consideration and affiliation; therefore, the ruling party appoints lawyers who are loyal to them to the prosecution service, and there is little accountability to ensure that they carry out the duties required of them.<sup>72</sup> This is indicative of **Indicator 3.2**, especially considering that prosecutors are often recruited based on their political affiliations, often lack experience and skill and are often not trained in criminal law and fail to coordinate effectively with investigating officers to collect evidence or ensure that witnesses appear in court when required. Every survivor interviewed in a Human Rights Watch report on violence against women in Bangladesh reported that they were forced to pay their assigned prosecutor in order to pursue the case, highlighting inadequacy regarding helping victims seek recourse (**Indicator 3.6**).<sup>73</sup> In relation to cases of violence against women, survivors and activists allege that public prosecutors often seek bribes from both parties and if the accused has a greater ability to pay, the prosecutor will ask for a reduced sentence or may even lose the case by not presenting all the evidence before them (**Indicator 3.1**).

### Government and Military Corruption

**Indicator 3.5** is concerned with high levels of corruption and poor governance within the country. Both Transparency International's Corruption Perception Index and the World Bank's WGI provide a quantified insight into the public sector's culture of corruption and inadequate accountability mechanisms. The TICP Index ranks Bangladesh 147 out of 180 countries with a score of 26 out of 100 (0 denotes the highest level of corruption and 100 denotes the lowest); a score which has remained constant since 2012.<sup>74</sup> Corruption is pervasive at both the micro and macro levels in Bangladesh. Corruption is rampant throughout the country and found in all levels of government, amongst public officials, in the delivery of public services and within the judiciary. Grand and political corruption is so prevalent that although anti-corruption legislation exists, enforcement is poor and often biased to favour those with political connections (**Indicator 3.5**).<sup>75</sup> According to Transparency International, in 2020 24 per cent of public services users paid a bribe in the previous 12 months and according to a National Household survey (2017) carried out by Transparency International Bangladesh (TIB), 66.5 per cent of households experienced corruption while receiving services from different public and private sectors.<sup>76</sup>

Political commitment to effective corruption control remains weak and enforcement is itself often marred with corruption, therefore, allowing it to be condoned and protected. Moreover, there is immense pressure from the military on other branches of government, indicating a lack of accountability and separation in control over military forces (**Indicator 3.4**). In 2017, after retiring and leaving the country, the Chief Justice of the Supreme Court stated that he had been coerced into retirement due to threats from the Bangladeshi military.<sup>77</sup>

### Police Force

The police force in Bangladesh has significant corruption issues, followed by the civil service, political parties, and the judiciary in Bangladesh. Law enforcement agencies are found to be the public bodies with whom citizens are the most likely to experience corruption; 72 per cent of households were said to be the victims of corruption in the National Household survey (2017) by TIB.<sup>78</sup> Police harassment in exchange for bribes is common and police reportedly refuse to file police reports unless they are paid a bribe, which has led to a deep mistrust of police and deters many from approaching government forces for assistance or to report criminal incidents (see also **Indicator 2.8** in Violence Against Women and Girls). Furthermore, security forces reportedly use threats, beatings, kneecappings, electric shocks, as well as rape and other sexual abuses – all with impunity.<sup>79</sup> As detailed in **Indicator 2.1** (Enforced Disappearances and Extrajudicial Killings) the armed forces have also been known to carry out human rights abuses with impunity, including extrajudicial killings, torture, arbitrary or unlawful detention and forced disappearances. This also fulfills the criteria for **Indicator 3.7**.

Bangladesh has an Anti-Corruption Commission (ACC), which notably filed cases against former prime minister Khaleda Zia regarding graft at the Zia Charitable Trust and Zia Orphanage Trust and in 2008, and against current prime minister Sheikh Hasina for awarding a gas exploration deal through corruption and abuse of

## RISK FACTOR 3: WEAKNESS OF STATE STRUCTURES

power. However, these cases were eventually dropped against Hasina and Zia was released early from prison in 2020 following a guilty finding of corruption in relation to the Orphanage Trust. The ACC is largely ineffective due to government control over it, and in 2013, the Commission was crippled by an amendment of the Anti-Corruption Commission Act introduced by AL mandates that the ACC must secure government permission prior to filing any case against public officials, including judges, magistrates or public servants for alleged corruption.<sup>80</sup>

In addition to systemic corruption, good governance in Bangladesh is undermined by decreasing voice and accountability. Table 1 below shows the World Bank's Worldwide Governance Indicators in percentile rank for Bangladesh (indicated from 0 to 100, with 0 being the lowest and 100 being the highest). Whilst improvement can be noted recently, good governance remains largely inadequate.<sup>81</sup>

Table 1. World Bank WGI: Bangladesh			
	2000	2015	2021
Voice and Accountability	44.8	30.5	28.0
Political Stability and Absence of Violence/Terrorism	24.9	10.0	16.0
Government Effectiveness	31.7	23.6	28.8
Regulatory Quality	16.3	17.3	20.7
Rule of Law	20.9	25.0	28.8
Control of Corruption	6.9	22.1	18.3

World Bank 2022, *Worldwide Governance Indicators*. Accessed 29 September 2022. Available at <https://databank.worldbank.org/source/worldwide-governance-indicators>

### Rohingya Population

**Indicator 3.10** refers to “[i]nsufficient resources to implement overall measures aimed at protecting populations”. In Bangladesh this is a relevant indicator because the principle of R2P covers not just nationals or citizens of a country but also populations within its territory, such as stateless people, refugees, migrant workers, and undocumented people. Specifically, the Rohingya refugees in Cox’s Bazar, which number over one million, are still vulnerable to atrocities and other forms of abuse even after fleeing Rakhine state.

Refugees are dependent on humanitarian assistance, which poses challenges in an increasingly resource-strained environment. The government of Bangladesh works alongside UN agencies such as the UNDP and over 100 NGOs to coordinate the humanitarian response plan in the Cox’s Bazar District.<sup>82</sup> The 2021 Joint Response Plan on the Rohingya Humanitarian Crisis, published by the UN Office for the Coordination of Humanitarian Affairs in collaboration with the government of Bangladesh identified four strategic objectives. These are: to strengthen the protection of Rohingya refugee women, men, girls and boys; deliver life-saving assistance to populations in need; foster the well-being of host communities in Ukhiya and Teknaf Upazilas; and work towards sustainable repatriation of Rohingya refugees to Myanmar.<sup>83</sup> In May 2020, Bangladesh brought the first Rohingya refugees to the island of Bhasan Char and in December a relocation programme saw thousands of refugees relocated to the island.<sup>84</sup> Following the March 2021 visit of an 18 strong UN team to the island, the government of Bangladesh is now pressuring the UN to start delivering humanitarian assistance to those on Bhasan Char. The government of Bangladesh informed Human Rights Watch that it had “ensured adequate supply of food along with proper sanitation and medical facilities for Rohingyas on Bhasan Char”.<sup>85</sup> However, refugees refuted these claims and stated that health facilities on the island are inadequate, there is no emergency medical care service, and the nearest hospital is on the mainland, 5 hours away.<sup>86</sup> Further to this, schooling on the island is inadequate with only 1,500 out of 8,495 children on the island being provided an education by four NGOs.<sup>87</sup> As a party to international human rights treaties, Bangladesh has an obligation to ensure that its populations, including refugees, have access to freedom of movement, education, expression and adequate health care, and in this regard, it has been found wanting. (See also **Indicator 6.5**).

## RISK FACTOR 4: MOTIVES OR INCENTIVES

**Risk Factor 4 concerns the reasons, aims or drivers that justify the use of violence against protected groups, populations or individuals, including by actors outside of State borders.**

### Awami League

**Indicator 4.1** highlights motives “aimed at the attainment or consolidation of power”. As stated in **Indicators 1.4, 1.6, 3.3 and 3.5**, the ruling AL has consolidated its power through violent repression of both the opposition and the public. Political opponents have disappeared and leaders of parties outside the ruling coalition have been jailed, including Khaleda Zia, leader of the BNP, who was sentenced to seven years imprisonment on corruption charges that are claimed to be politically motivated. The new Digital Security Act has limited freedom of expression and has been used to arrest critics of the government and the prime minister (see also **Indicator 6.2**). The AL’s willingness to maintain power through violence and manipulation of the country’s laws and institutions bodes ill for further chances of atrocity crimes to occur. As such, increased monitoring of this issue is warranted.

### Economics of the CHT

The CHT region covers around 10 per cent of Bangladesh’s total land area. The region is both resource-rich and arable, and unlike much of the country is not as vulnerable to the regular flooding and monsoons that interfere with production. The region has a long history of exploitation, going as far back as the British-Indian administration from 1860-1947, which claimed about one quarter of the region’s territory as government-owned forest lands, from which it could extract timber, bamboo, and other natural resources.<sup>88</sup> Government reports have recognised the area as having ‘huge potential for development’ claiming that its natural resources make it vital in a geopolitical sense, suggesting that it should be ‘viewed from a total national perspective’ (**Indicator 4.2**).<sup>89</sup> They also recognise its potential to assuage the population strain being felt across the country, where in 1999 the CHT was estimated to host 147 people per square mile, compared to 1567 people per square mile across the rest of the country.<sup>90</sup>

The economic potential of the region has been the source of much conflict as government desires to increase the region’s productivity have threatened to undermine the culture and livelihood of its indigenous peoples. The Bangladeshi State seeks to replace the traditional economy in the region that is based on principles of sustainability and localised trade with a shift toward modern agro-industrial technology that includes, but is not limited to: afforestation, rubber plantations, timber and bamboo farming, natural resource extraction, fruit farming, and increasing its attractiveness to Western foreign direct investment.<sup>91</sup> These modern farming techniques are largely incompatible with the traditional ‘Jum’ farming practices of the CHT’s indigenous peoples, working further to undermine their cultural integrity (**Indicator 4.2**).

Reporting by Amnesty International has already illuminated how these motivations to ‘modernise’ the tribal communities are rooted in racist assumptions about an inferiority and backwardness of these peoples. Interviews with government and army officials across 2011-2012 heard them speak of the need to ‘develop and modernise’ the tribals; that without formal legal title, they did not ‘own the land, that ‘jum’ cultivation was wasteful and that the settlement of Bengalis in the region would contribute to the cultural development of its indigenous peoples (**Indicators 4.4 and 4.7**).<sup>92</sup> These reports further highlight how the government of Bangladesh is failing to fully protect indigenous peoples’ rights to traditional land, their livelihoods and way of life, their effective participation, and their free and informed consent on matters relating to their communities and land.<sup>93</sup>

### Historic Dispossession and Transmigration into the CHT

Between 1979-1984, the government instituted a transmigration program as a counter-insurgency measure.<sup>94</sup> The program brought an estimated 400,000 Bengali settlers into the region, an area already scarce of land following the construction of the Kaptai Dam which inundated 40 per cent of the arable land in the region and displaced 100,000 indigenous peoples.<sup>95</sup> The transmigration program altered the demographic composition of the CHT increasing the percentage of Bengalis in the region from 26 per cent (1974) to 41 per cent (1981) (**Indicator 4.4**).<sup>96</sup> The large transmigration resulted in forceful relocation of the indigenous population to “model villages” and the illegal occupation of their land by Bengali settlers. This situation escalated into conflict between the indigenous people and the settlers, supported by the Bengali army.<sup>97</sup> In an attempt to resolve these political and ethnic problems through military means, successive governments have allowed the militarisation of the CHT. In the aftermath of the insurgency and the subsequent militarisation, widespread and systematic human rights violations took place against the indigenous inhabitants of the region.<sup>98</sup> The violations were primarily carried out by the Bangladeshi security forces and included unlawful killings, detention without trial, torture, rape, destruction of houses/property and forcible

## RISK FACTOR 4: MOTIVES OR INCENTIVES

occupation of indigenous ancestral land.<sup>99</sup> During this time, approximately 100,000 indigenous peoples were internally displaced and 70,000 fled to India.<sup>100</sup>

The transmigration program is the most illuminating example of Bangladesh's track record of seeking to erode the cultural identity of its indigenous peoples. While the transmigration peaked during the CHT insurgency that escalated across the late 1970s to the early 1980s, State-led policies to encourage Bengali settlement into the CHT began as early as 1971. When founded, Bangladesh's leader, Sheikh Mujibur Rahman sought to persuade the State's minorities to become part of the cultural and political centre, to ensure that the ethnic groups of the CHT would assume Bengali identity by encouraging Muslim Bengalis to settle in the region (**Indicator 4.4**).<sup>101</sup>

### Islamic Orthodoxy and its Relationship to Terrorism in Bangladesh

Terrorism, particularly jihadist terrorism, has been an emerging issue in Bangladesh over recent decades. Between 2000-2015, the State experienced 944 terrorist attacks, 114 of which were perpetrated by confirmed Islamist militant groups.<sup>102</sup> While there is no direct relationship between the growth of Islamic orthodoxy and growth in terrorism in Bangladesh, research successfully shows that its spread has worked to undermine social tolerance of atheist and other 'un-Islamic' beliefs, while creating a climate of impunity for Islamist violence (**Indicators 4.5 and 4.7**).<sup>103</sup> The roots of this can be traced back to the military governments of Generals Ziaur Rahman (1975-1981) and Muhammad Ershad (1981-1990). Both sought to increase their electoral legitimacy by renovating mosques and madrassahs, with Rahman removing the State's secular principles from the constitution in 1977 and Ershad then declaring Islam as the state religion in 1988.<sup>104</sup> These governments set the context for jihadist terrorism and have worked since to exacerbate tensions between Bangladesh's secular and Islamist politics.

### Social Trauma and the Politicisation of the War Crime Tribunals

The history of Bangladeshi independence is marred by the memory of the atrocities committed during the War of Independence. With figures ranging as high as three million dead,<sup>105</sup> and over 200,000 cases of rape, the immediate conclusion of the war came with strong calls for those responsible to be prosecuted through tribunals.<sup>106</sup> Over the following decades regular transitions of power and political instability meant that calls to reinstate these tribunals became overshadowed.<sup>107</sup> By the late 2000s however, intensifying demands from civil society groups, victims and their families, and cultural organisations saw calls for tribunals begin to dominate domestic political discourse again, forming a core campaign commitment behind the AL's 2008 election victory.<sup>108</sup> The feeling was that without closure the country could not properly move past this point in its history, especially considering criticisms that many among the Jamaat-e-Islami's (JI) leadership had previously been Razakar leaders (**Indicator 4.9**).<sup>109</sup> Since 2010, these tribunals have delivered 34 cases against 83 war criminals, 52 of whom have been sentenced to death.<sup>110</sup> Unlike previous war crimes tribunals such as Nuremberg and Tokyo, which were all led by multi-state judges, Bangladesh's tribunal was run solely by Bangladeshi judges and prosecutors, rejecting support from the Hague and other international courts.<sup>111</sup> This has been highly contentious, with the AL further accused of using them to weaken their political rivals, and critics often regarding it as a victor's justice, and questioning whether they will provide the Bangladeshi people the necessary closure and symbolic healing (**Indicators 4.1, 4.8 and 4.9**).<sup>112</sup>

## RISK FACTOR 5: CAPACITY TO COMMIT ATROCITY CRIMES

**Risk Factor 5 concerns conditions within a State that indicate the ability of relevant actors to commit atrocity crimes.**

### Non-Indigenous Actors in the CHT

This report has previously highlighted how development projects in the CHT region have often failed to support its indigenous peoples and often have worked to worsen their living situations. Development projects in the region have invested heavily in upgrading infrastructure, yet many indigenous peoples express reservations about the true motivations underlying this development. Much of this infrastructure investment occurred during the same period as the insurgency when the transmigration program sought to alter the region's identity.<sup>113</sup> Developments included the construction of many new schools, colleges, roads, hospitals, and cottage industries in the region. However, indigenous groups were suspicious of many of the programs such as the educational ones, which they saw as state-sponsored efforts to acculturate the indigenous peoples to Bengali culture, and the construction of roads which had the undesired corollary of allowing easy access for the military to conduct counterinsurgency

## RISK FACTOR 5: CAPACITY TO COMMIT ATROCITY CRIMES

operations, as well as private sector resource exploitation (**Indicators 5.1 and 5.2**).<sup>114</sup> These suspicions emanated from the complete lack of consultation with local communities nor representation of indigenous voices in the decision-making processes surrounding regional development.<sup>115</sup>

The recent emergence of illegal brick kilns in the area, further highlight how regional development continues to disadvantage indigenous peoples. Reports from 2013 suggested that of the 50 brick kilns in operation in the Bandarban district, only five had received the No Obligation Certificate (NOC) from the Directorate of Environment (DoE), meaning that the other 45 were all running illegally, with one constructed within 25 feet of a primary school in the Sadar Upazila.<sup>116</sup> The 2020 *Indigenous World Report* highlighted the environmental impacts that just one such illegal kiln can have. In spite of requests not to, construction of this kiln started in 2019, beginning immediately with the unabated cutting of reserve forest which threatened to displace around 60 indigenous families.<sup>117</sup> Its biodiversity impacts included polluting the area's natural water bodies creating a severe water crisis among local people, along with major tree-cutting operations to supply the significant amount of firewood necessary for its operation.<sup>118</sup> Furthermore, stone extractions upstream of the kiln are exacerbating the water crisis among local people by creating shortages of drinking water among the area's Marmo, Khumi, Mro, and Tanchangya communities.<sup>119</sup> This practice is continuing in spite of a 2019 High Court verdict that ordered a cessation of the stone extractions from the Sangu and Matamuhuri Rivers and Reserves in Bandarban district, with only limited action from the relative authorities against the companies responsible (see **Indicators 5.6 and 5.7**).<sup>120</sup>

### Second Wave of Jihadist Terror Attacks: Transnational Terror

After the first wave of terrorism during the early 2000s, successful counterterrorism measures saw a lull in Islamic terror until the 2010s. This second wave reflected the increasingly polarised discourse in Bangladesh regarding its secular and Muslim identities. The AL government's decision to establish a war crimes tribunal intended to prosecute the war criminals of 1971 is often attributed as the catalyst for this second wave. In particular, the 2013 decision to sentence JI leader Quader Mollah to life in prison instead of death inspired the Shahbag protests of over 100,000 people.<sup>121</sup> Recently-founded Islamist front Hefazat-e-Islam orchestrated counterprotests taking to the streets with their thirteen measures, which included inserting the phrase "absolute trust and faith in Almighty Allah" into the constitution.<sup>122</sup> The group and its affiliates began orchestrating targeted killings that same year, first with secularist blogger Ahmed Rajib Haider, and by 2016 was accountable for two dozen such killings.<sup>123</sup>

Most notable about this second wave of attacks has been the influence of transnational terror networks such as the Islamic State (IS) and al-Qaeda. In the context of ever-heightening political polarisation, the presence of such groups creates conditions ripe for new forms of militancy, insecurity, and strains on religious tolerance.<sup>124</sup> For example, IS claimed responsibility for the shootings of an Italian missionary and Japanese aid workers, and the 2016 besiegement of the Holey Artisan Bakery in Dhaka which saw the deaths of eighteen foreigners and four Bangladeshis.<sup>125</sup> IS and al-Qaeda combined claimed responsibility for over two-dozen attacks through 2015-2016, and five suicide bombings in March 2017.<sup>126</sup> Such transnational terrorist networks seek to exploit the tensions between secularists and Islamists, with al-Qaeda leader Ayman al-Zawahiri in 2014 calling for an intifada and for jihad against the secular AL government and other 'anti-Islamic' forces.<sup>127</sup> Increasingly, transnational terrorist networks are focusing their attention to Muslim-majority countries in Asia. In 2016, head of IS operations in Bangladesh, Shaykh Abu Ibrahim al-Hanif, outlined Bangladesh's attractiveness as a potential launching point for operations in the region (**Indicators 5.5 and 5.8**).<sup>128</sup>

### Arms Smuggling

International arms smuggling remains a prominent challenge within Bangladesh. Not only is the country a major transit route for small arms smuggling, but it is also often the destination. With their increasing use within the country, small arms represent a major challenge to the maintenance of law and order in Bangladesh. Bangladesh is home to an estimated 200,000 illegal firearms, with an estimated 600-700 coming through the ports in Chittagong and Cox's Bazar every day (**Indicator 5.2**).<sup>129</sup> Criminal underworld figures are even known to be in possession of a range of military-grade assault rifles and submachine guns.<sup>130</sup> The frequent use of such weapons in Bangladesh itself suggests that the country is not just a transit route, but also the destination for the illegal firearms trade.<sup>131</sup> This is particularly challenging for the police, who have reported being outgunned by criminals who feel confident enough to attack policemen at will.<sup>132</sup>

External factors including States and insurgent groups have also played a major role in developing and sustaining this trade. Foreign interference has created a challenging climate for restricting the movement of small

## RISK FACTOR 5: CAPACITY TO COMMIT ATROCITY CRIMES

arms within and through Bangladesh. For example, India has supplied the CHT rebels in the past, while Pakistan, Afghanistan, and the Gulf states are known to provide arms to religious terrorist groups and the Rohingya (**Indicators 5.5 and 5.8**).<sup>133</sup> This is also true for foreign terrorist groups including the Taliban of Afghanistan and Pakistan, the Liberation Tigers of Tamil Elam, and the All Tripura Tiger Force.<sup>134</sup> Raids in the early 2000s revealed such groups to supply time bombs, detonators, petrol bombs, and bomb manufacturing equipment to their terrorist sympathisers in Bangladesh.<sup>135</sup> Efforts from the country's security apparatuses have struggled to manage the challenge of arms smuggling through the country. Such efforts have included Operation Clean Heart in 2002, Operation Spider Web in 2003, a 'combing operation' in 2007 that targeted specific hotspots, the adoption of UN Resolution 62/47 "The Illicit Trade in Small Arms and Light Weapons in All Its Aspects" in 2008, and raids between 2009-2010 that confiscated 2,800 weapons.<sup>136</sup> These efforts have been met with limited success. Evidently, Bangladesh remains a hotbed for international arms trafficking, which then works to undermine the state's own security efforts.

## RISK FACTOR 6: ABSENCE OF MITIGATING FACTORS

**Risk Factor 6 concerns the absence of elements that, if present, could contribute to preventing or to lessening the impact of serious acts of violence against protected groups, populations or individuals.**

### **Lack of Support for Survivors of Gender-Based Violence**

Considering the high rates of abuse against women and girls in Bangladesh, the State's resources for supporting victims is noticeably lacking. As previously highlighted, a lack of trust in police makes it difficult for many female victims, however this is also compounded by the fact that shelter services are so limited in Bangladesh that most survivors have nowhere to go to escape abuse. There is an estimated 21 government-run shelters and 15 NGO-run shelters for survivors of gender-based violence that service a population of over 80 million women and over 64 million children.<sup>137</sup> The number of shelters and their strict requirements are inadequate in a country in which most women experience some form of violence during their lifetime and the government's failure to establish more shelters prevents women and girls from escaping predictable violence, therefore **Indicator 6.1** is present.

### **The Digital Security Act 2018**

In 2018 the government passed the Digital Security Act (DSA) which is designed to monitor all electronic communications. The law was supposed to address abusive provisions of the previous Information and Communication Technology Act, however, the DSA retains similar provisions and contains new sections which criminalise free expression and have been used to penalise criticism of the government.<sup>138</sup> Bangladesh's Editors' Council, an association of newspaper editors, said that the law effectively prohibits investigative journalism, but the government has refused to meet calls to bring the law in line with Bangladesh's international commitments to protect freedom of expression. In 2019 authorities increased internet censorship and blocked almost 20,000 websites in what was described as an "anti-pornography" sweep; however, it included a number of popular blogging sites.<sup>139</sup> Furthermore, in March of 2019 the National Telecommunication Monitoring Centre blocked access to Al Jazeera's English new website after the news agency published a report citing allegations against Prime Minister Sheikh Hasina's security advisor.<sup>140</sup> Since its adoption, authorities have increasingly used the DSA to harass and indefinitely detain activists, journalists, and critics of the government and its political leadership (**Indicator 6.2**).

The international community, including the UN High Commissioner for Human Rights, the European Union, and journalists in Bangladesh have repeatedly criticised the DSA for stifling free speech and violating international law. Nevertheless, Bangladesh authorities also used the COVID-19 pandemic as an excuse for censoring free speech and the media and threatening academic freedom by arresting artists, students, doctors, political opposition members and activists for speaking out about the government's handling of the pandemic.<sup>141</sup> The government also silenced healthcare workers and arrested those who spoke out about a lack of personal protective equipment for treating COVID-19. In May 2020, the government banned all government employees from posting, liking, sharing, or commenting on any content which could "tarnish the image of the state". During the pandemic the government also censored media by blocking news sites and removing the media from the list of emergency services that remained exempt from lockdown restrictions. Furthermore, following an amendment to the National Online Media Policy, all media outlets are required to obtain government approval to run their online media portals.<sup>142</sup> Throughout 2021 and 2022, this trend has continued with the repression of critics and arrests of dissident journalists.<sup>143</sup>

## RISK FACTOR 6: ABSENCE OF MITIGATING FACTORS

### Self-Determination and Indigeneity in the CHT

The most prominent issues facing the indigenous peoples of the CHT pertain to ancestral land rights and native title, as discussed in **Indicator 1.2**. Since signing the 1997 CHT Accord, the State, development agencies, and Bengali interest groups have continued to appropriate indigenous lands, while no substantive efforts at restitution of the already-occupied lands of the region's indigenous peoples (as per the Accord) has been made.<sup>144</sup> Founded in 1999 in accordance with the 1997 Accord, the Land Commission is the organisation directly responsible for addressing native title and land rights issues in the CHT, yet by 2013 it had not made a single determination on any land dispute.<sup>145</sup> While the Land Commission was successfully established, the government has failed to grant it the political will, nor has it made commitments to provide it with the necessary personnel, financial resources, and legal-institutional support, effectively denying it the capability to operate effectively (**Indicators 6.1, 6.2**).<sup>146</sup> Researcher of South-Asian development Shapan Adnan, describes how failure to appropriately address these issues strains the region's already fragile peace, commenting, "what is striking about the situation in the CHT during the past decade [1997-2007] is that the very factors that had led to the armed conflict earlier have continued to persist despite the Peace Accord, endangering this fragile truce. This suggests that adequate bases for durable peace in the region have not yet been built. Consequently, if due steps are not taken to constrain the factors continuing to aggravate ethnic tensions, the risks and costs of a resurgence of armed conflict in the region cannot be ruled out."<sup>147</sup>

While Bangladesh operates under the notion that it is a nationally homogenous, unitary State,<sup>148</sup> the indigenous populations in the Northern Plainlands and CHT (wherein an estimated 14 distinct ethnic groups reside) complicate this national identity.<sup>149</sup> A further obstacle for the country's indigenous peoples to achieve proper recognition of their indigeneity is Bangladesh is one of only eleven countries not to have signed the 2007 UN Declaration on the Rights of indigenous Peoples (**Indicators 6.5 and 6.7**).<sup>150</sup> Instead, the government navigates around international law regarding indigenous peoples by refusing to recognise the people of the CHT as indigenous and assuming that traditional lands are owned by the State (**Indicators 6.5 and 6.7**).<sup>151</sup>

More recent actions by the government to undermine its indigenous groups include a 2019 directive issued by the NGO Affairs Bureau (the body that regulates Bangladeshi NGOs) that gave all organisations with the words 'Adivasi' (indigenous) in their titles one month to change that portion of their name (**Indicators 6.2 and 7.13**).<sup>152</sup> The justification underpinning this directive was that in accordance with Article 23A of the Constitution, the term 'Adivasi' is perceived as a threat to national security.<sup>153</sup>

### Atrocity Crimes in Myanmar

The Rohingya ethnic group has been subject to consistent discrimination in neighbouring Myanmar. Denied citizenship based on the country's 1982 Citizenship Law, the Rohingya are effectively stateless, and the 2016 military crackdown and subsequent atrocity crimes committed by the military junta led hundreds of thousands to flee the country, with the 2021 military coup further intensifying the crisis.<sup>154</sup> **Indicator 6.10** highlights a "[l]ack of support by neighbouring States to protect populations at risk", and this is certainly the case with regard to the Rakhine state in Myanmar, with Rohingya subject to "severe repression and violence, confined to camps and villages without freedom of movement, and cut off from access to adequate food, medical care, education, and livelihoods". This is compounded by Myanmar's military committing atrocity crimes including genocide and crimes against humanity.<sup>155</sup> There are virtually no indications that repatriation would be safe despite claims by Myanmar officials (attempts to do so have failed because refugees simply do not want to return) and the crisis is continuing to spill over into Bangladesh (see also **Indicator 8.2**).

## RISK FACTOR 7: ENABLING CIRCUMSTANCES OR PREPARATORY ACTION

**Risk Factor 7 concerns events or measures, whether gradual or sudden, which provide an environment conducive to the commission of atrocity crimes, or which suggest a trajectory towards their perpetration.**

### The Rohingya in Cox's Bazar and Bhasan Char

In 2019 the government of Bangladesh began building barbed wire fences around the camps of Rohingya refugees and shut off internet access for nearly a year which violated the rights to freedom of expression and access to information (**Indicators 7.1 and 7.6**). In 2020, the government continued to deny Rohingya children access to formal education by failing to implement a pilot program that was expected to reach 10,000 children, despite previous promises to do so.<sup>156</sup> As stated in **Indicator 3.10** Rohingya refugees have been moved to the remote island of Bhasan Char. Initially two boatloads of refugees, rescued by Bangladesh after other governments turned them away, were moved to Bhasan Char on the pretence of temporary quarantine to prevent the spread of COVID-19. However, the government has refused desperate pleas from these refugees to reunite with their families in Cox's Bazar and is keeping the refugees on Bhasan Char without the possibility of returning them to mainland Bangladesh (**Indicator 7.1**).<sup>157</sup>

Furthermore, starting in late 2021 the Bangladeshi government has been intensifying the restrictions placed on Rohingya refugees regarding their livelihoods, movement, and education (**Indicator 7.1**).<sup>158</sup> These have included restricting opportunities for refugees to work and draconian movement restrictions, as well as harassment and threats at checkpoints. These are in addition to the restrictions against schools and markets that were implemented as a result of COVID-19, and have since been further increased, with authorities banning Rohingya-led community schools in December 2021, affecting 60,000 students.<sup>159</sup> Officials have arbitrarily destroyed shops and market stalls, and refugees have stated that they have been pressured to relocate to Bhasan Char island or return to Myanmar (**Indicator 7.8**). Refugees have stated to Human Rights Watch that rations they receive aren't enough to feed their families, and the destruction of their stalls and markets has drastically impacted their ability to survive, with many becoming beggars as a result.<sup>160</sup> In May 2022, several Rohingya refugees were beaten by Bangladeshi police at a checkpoint in the Katupalong camp in Cox's Bazar after being stopped and questioned about their permission to move freely through the camp.<sup>161</sup> There are around 22,000 refugees on Bhasan Char and nearly a million in Cox's Bazar, and they are increasingly facing severe movement restrictions, abuse and intolerance from authorities, food and medicine shortages, as well as forced transfer from camp to camp or to Bhasan Char (**Indicators 7.8 and 7.10**).<sup>162</sup>

### COVID-19 Restrictions

In 2020 the Bangladeshi government implemented emergency restrictions in order to combat the spread of the COVID-19 virus. These restrictions were like those implemented around the world, and included the closing of schools, factories and roads as well as a 66-day lockdown and several 7–14-day lockdowns throughout 2020–2021.<sup>163</sup> These measures greatly impacted freedom of movement and access to education (**Indicator 7.1**). Schools remained closed for over a year until September of 2021, and this had a substantial impact on students. Over 1.6 million students were affected, with little access to remote learning opportunities, with girls in particular being impacted.<sup>164</sup>

### Bihari Minority

The 'Bihari' are non-Bengali, Urdu-speaking citizens of Bangladesh that constitute approximately 300,000 people as of 2020.<sup>165</sup> Biharis originally arrived in Bangladesh from India, sharing a religion in the form of Islam with the Bengali but not a language. During the Bangladesh Liberation War in 1971, many Bihari supported the failed effort by the Pakistan army and suffered numerous atrocities in the process (see **Risk factor 9**). After the war, the Bihari have continued to live in Bangladesh, although they suffer social and political marginalisation due to perceptions from the Bengali community that they are traitors and against the ruling AL party.<sup>166</sup>

A report by the International Republican Institute in 2020 highlighted multiple problems facing the Bihari community relevant to this Risk Factor. Due to social discrimination, the Bihari are currently relegated to camps around Bangladesh that resemble slums, with poor living conditions and little access to healthcare and clean water (**Indicator 7.10**).<sup>167</sup> Because of social alienation, Bihari are rarely given access to housing, education or find employment, and this is particularly the case with government employers, with public and private institutions placing large barriers to entry that go unaddressed by the authorities.<sup>168</sup> Despite the Bangladeshi Supreme Court recognizing

## RISK FACTOR 7: ENABLING CIRCUMSTANCES OR PREPARATORY ACTION

the citizenship of Bihari people, state ministries often refuse to grant passports or acknowledge identification, and Bihari often say they are blamed for crimes and ignored by the police. Furthermore, Bihari are excluded by the political process despite being able to vote and are often ignored by politicians or blamed for societal issues. Despite viewing themselves as Bangladeshi and wanting to take part in society, this widespread discrimination has meant that the Bihari are effectively trapped in these slums that are ultimately unsafe. Many camps have little to no public toilets, and families are often forced to live in a single room with up to 6 people (**Indicator 7.10**).<sup>169</sup>

### Consolidation of Government Power

The increasing centralization of power in the government under the ruling AL has massively shifted the balance of power to the executive and the military (**Indicator 7.2**). The 2011 abolishment of the caretaker government system, increasing government corruption and a lack of an independent judiciary is alarming and fosters an environment conducive to further atrocity crimes (see also **Indicators 1.6, 3.4 and 3.5**).

### Destruction and Seizure of Land Important to Indigenous Groups

As stated in **Indicator 4.4**, the treatment of the indigenous groups in the CHT, particularly the transmigration program and subsequent seizure of land for commercial gains, is significant. This is not only because it represents discrimination and exploitation of land belonging to a vulnerable population, but also because of the cultural value of that land to indigenous practices (**Indicator 7.11**).

## RISK FACTOR 8: TRIGGERING FACTORS

**Risk Factor 8 concerns events or circumstances that, even if seemingly unrelated to atrocity crimes, may seriously exacerbate existing conditions or may spark their onset.**

### Political Tensions and Regime Change

As highlighted in **Indicators 1.4 and 1.5**, Bangladesh's history involves consistent political turmoil with regard to abrupt changes in power. The military dictatorships and authoritarianism of the 1970s and 1980s, as well as the AL's recent activities (allegations of corruption and election rigging) show a tumultuous relationship with regime change and the transfer of power (**Indicator 8.4**).

### Hindu and Muslim Tensions

There has been increasing tensions between the Muslim and Hindu populations of Bangladesh, often with acts of religious intolerance against the Hindu minority, including those that occurred following the visit of Indian Prime Minister Narendra Modi (see also **Indicators 1.10 and 1.11**). On October 15, 2021, in the town of Begumganj, rumours on social media that the Quran had been desecrated by a Hindu man during Durga Puja (the holiest Bengali Hindu festival of the year) incited the town's Muslim population to seek violent retribution.<sup>170</sup> Two Hindu worshippers were killed in the ensuing attacks, which then inspired a further wave of attacks around the country which included 17 Hindu temples, the ransacking of homes, and several further deaths over the next few days.<sup>171</sup> Such violence was not the first time social media content catalysed attacks against Hindus in Bangladesh, as attacks in Nasirnagar in 2016 affected fifteen Hindu temples and over 100 Hindu families (**Indicator 8.7**).<sup>172</sup> Overall, violence against the country's Hindu minority is on the rise. Reports suggest that since 2013 there have been 4000 attacks against Hindus including vandalism and arson of over 550 houses and 440 shops and businesses; 1670 cases of vandalism of temples and sites of worship, 11 deaths, 862 injuries, and several instances of sexual assault.<sup>173</sup> Muslim extremism in Bangladesh against its Hindu minority is often seen to be emboldened as a reaction to Hindu nationalism and the growing marginalisation of Muslims in India (**Indicator 8.7**).<sup>174</sup> This has resulted in protests across the country, leading to the deaths of several Hindu worshippers as well as the desecration of 17 Hindu temples.<sup>175</sup> Furthermore, in July 2022 in Digholia village, under Lohagara upazila of Narail, an alleged offensive Facebook post prompted a mob to vandalize and destroy a temple as well as property of the local Hindu community, leading some Hindu families to flee the area for fear of further violence.<sup>176</sup> These examples are part of a consistent pattern of religious intolerance towards the country's Hindu minority, which has followed a surge of radical Islamism in recent years (see also **Indicators 5.5 and 5.8**) that has only heightened tensions (**Indicator 8.6**).

## RISK FACTOR 8: TRIGGERING FACTORS

### Economic and Environmental Crisis

The COVID-19 pandemic and its associated lockdowns (see also **Indicator 7.1**), as well as the subsequent supply chain issues, have resulted in economic turmoil and a rising cost of living (see also **Indicators 1.7, 1.8 and 1.9**). Bangladesh, like most countries, is facing huge inflationary pressures, leading to protests and increasing economic inequality (**Indicator 8.9**). In addition, Bangladesh's status as one of the most disaster-prone countries in the world is going to continue to be a risk to its economy and vulnerable populations (see also **Indicator 1.3**), particularly the Rohingya refugees whose camps are continuously threatened during the monsoon season (**Indicator 8.9**).

### Private Interest Groups and Natural Resources in the CHT

Private groups and corporate interests play a significant role within Bangladeshi politics, yet one that often works against the interests of the Bangladeshi people, causing tensions. The long-proposed Phulbari coal mine presents a strong case for how these private investment groups lobby and seek to extract wealth from the country. The US\$1.1 billion proposal would extract 572 million tonnes of coal from northwest Bangladesh.<sup>177</sup> However, concerns have been raised about the UK based company Global Coal Management (GCM) that is in charge of the project and its lack of track record in implementing complex mineral extraction projects.<sup>178</sup> According to UN reports, such impacts would include the immediate displacement of 50,000-130,000 people, a further displacement of 220,000 as irrigation channels and wells dry up.<sup>179</sup> There are also concerns for the economic productivity of the mine, namely that it would destroy 12,000 hectares of fertile agricultural land.<sup>180</sup> This is of particular concern considering that there are 23 different tribal groups amongst the 50,000-130,000 people who would be displaced by the mine, some of whom trace their ancestry in the region back over 5000 years.<sup>181</sup> These communities share concerns that they would become broken apart and dispersed, unable to maintain the cultural traditions, religious practices, and languages they have sustained for thousands of years (**Indicator 8.10**).<sup>182</sup>

Moreover, local communities remain deeply opposed to the project. In 2006, protests against the mine drew 70,000 people and resulted in the deaths of three protestors and over 300 injuries at the hands of Bangladeshi security forces (**Indicator 8.10**).<sup>183</sup> This protest sentiment has persisted, seeking to ban the method of open coal mining proposed for Phulbari and efforts to call for a moratorium on foreign companies, open-cast mining, and coal exports.<sup>184</sup> This has been supported by the UN, with the Office of the High Commissioner for Human Rights commenting "... the Government of Bangladesh must ensure that any policy concerning open-pit coal mining includes robust safeguards to protect human rights. In the interim, the Phulbari coal mine should not be allowed to proceed because of the massive disruptions it is expected to cause."<sup>185</sup> Despite these concerns, the project is continuing at the time of writing and the mine continues to receive support from the UK.

### 2017 ARSA Attacks and the 2021 Myanmar Coup

In 2017 ARSA, an Islamic insurgent group based in Rakhine state in Myanmar, carried out attacks against police outposts, which became the catalyst for the Myanmar military to engage in a violent campaign against the Rohingya population and other ethnic minorities in Myanmar's border areas.<sup>186</sup> These skirmishes have continued in some form or another, leading to almost a million refugees to flee across the border to Bangladesh (**Indicator 8.2**). However, the 2021 military coup has marked a clear point of escalation in the crisis.

The armed conflict has significantly impacted Bangladesh through the nearly one million Rohingya refugees the Bangladeshi government has been forced to take responsibility for (**Indicator 8.2**). However, this crisis has spilled over into Bangladesh in other ways that represent a security risk. This includes attempts by terrorist organizations to radicalize refugees within the camps in Cox's Bazar (see also **Indicators 5.2, 5.5 and 5.8**). Furthermore, ARSA has infiltrated refugee camps in Bangladesh, engaging in the narcotics trade and exerting influence over the camps and its populations, resulting in several incidents. For example, in June 2022 Bangladeshi police accused ARSA of being responsible for the death of a Rohingya activist in 2021.<sup>187</sup> Other armed groups and drug cartels are operating within the camps as well, and subsequent violence has resulted in multiple deaths as these groups commit extortion and smuggle drugs and weapons as they attempt to gain control.<sup>188</sup> Finally, in September of 2022 tensions arose between Bangladesh and Myanmar after mortar shells were fired from Myanmar into the Tumbru Bazar border area, killing an 18-year old Rohingya refugee. Myanmar has blamed the Arakan Army for the attacks; however, Bangladeshi's Home Minister Asaduzzaman Khan Kamal has stated that Bangladesh intends to inform the United Nations if the shelling doesn't stop, saying "We have repeatedly warned Myanmar through the Ministry of Foreign Affairs, but they did not heed the warnings."<sup>189</sup>

## RISK FACTOR 8: TRIGGERING FACTORS

### The Politicisation of Terrorism

The fraught political situation between the AL and BNP has inhibited the State's ability to effectively deal with terror threats. The period 1991-2006 saw the AL and BNP regularly alternate power, each with tenuous holds that relied on coalition-building, which for the BNP meant forming a coalition with the JI, whose political goals include the creation of an 'Islamic State' under Sharia Law (**Indicator 8.4**).<sup>190</sup> Research has shown that during the BNP's 2001-2006 reign its coalition ally the JI sponsored terrorism.<sup>191</sup> During this same time period, the BNP infamously denied the existence of the recently-founded JMT (the State's most prominent domestic terrorist unit), granting the group tacit but high-level political protection as the JMT focussed on eradicating left-wing extremism.<sup>192</sup> Many from within the JI's ranks have gone on to form or join terrorist groups, often citing the JI as being too 'moderate.'<sup>193</sup>

The AL's seemingly contradictory policies have also worked to politicise terrorism. On one hand, the AL has sought to portray itself as the main bulwark against terrorism, yet on the other it has been hesitant to protect secular defenders of human rights, which has granted some impunity for Islamist violence stemming from a broader reluctance to be associated with 'un-Islamic' or 'anti-Islamic' politics.<sup>194</sup> Furthermore, the AL has a history of instrumentalising government bodies for political purposes which has previously incited terrorism. In particular, the major tumult against the 2013 war crimes tribunal that incited the second wave of jihadist terror in the country was conflated by criticisms that it violated due process, lacked transparency, involved the intimidation of defence lawyers and witnesses, and sought to discredit the BNP by targeting the JI's senior leadership (**Indicators 8.5 and 8.12**).<sup>195</sup> Therefore, the politicisation of terrorism and counterterrorism by the State's competing political parties has inhibited its ability to address terrorist concerns.

### Illegal Arms and Political Violence

This report has previously touched on the role of Bangladesh as both a transit route and destination for illegal small arms and these arms find their way into the country's criminal and terrorist underworld. However, as a recognised tool of the major political parties, these arms also play an essential role in the country's mainstream politics. In Bangladesh violence and politics are enmeshed; political murder and electoral violence are mainstays of the country's domestic politics. Youth political wings are often used by the parties for coercive activities. They often incite their radical supporters with impunity to launch killings and violent strikes against the opposition party and its supporters (**Indicators 8.8 and 8.12**).<sup>196</sup> This culture of violence destabilizes the public's sense of security and of free and fair elections.

## SPECIFIC RISK FACTORS

### GENOCIDE RISK FACTOR 9:

#### INTERGROUP TENSION SOR PATTERNS OF DISCRIMINATION AGAINST PROTECTED GROUPS

**Risk Factor 9 concerns past or present conduct that reveals serious prejudice against protected groups and that creates stress in the relationship among groups or with the State, generating an environment conducive to atrocity crimes.**

### CHT and Treatment of Indigenous Peoples

Despite some of the provisions of the CHT Accord being implemented, a large portion remain unimplemented (see also **Indicator 1.2**) and tension in the region has continued to mount leading to violent clashes between Bengali settlers and indigenous peoples, and at times amongst indigenous political factions with differing opinions about the Accord.<sup>197</sup> Since the signing of the Accord Bengali settlers have continued to flow into the CHT and with pressure on land remaining high there has been ongoing violence between Bengali settlers and indigenous peoples over access to land rights (**Indicator 9.4**). During these incidents indigenous peoples and Bengali settlers have been killed, and the homes of both groups have been burnt and destroyed. The army maintains a heavy presence in the CHT, which is in direct contradiction with the Accord (see **Indicator 1.2**) and is viewed by the indigenous peoples as providing support for Bengali settlers and their continued occupation of traditional indigenous lands.<sup>198</sup>

Multiple incidents occurred between 2008 and 2011 in which Bengali settlers allegedly set fire to homes in neighbouring indigenous villages, which resulted in indigenous villagers losing their homes, taking refuge in the forest and in a few instances, setting retaliatory fires in Bengali homes. In these incidents, indigenous political leaders and villagers claim that the army, which were camped close to the villages and in some incidents were warned of the approaching Bengali settlers, did nothing to stop the attacks.<sup>199</sup> Human rights violations in the region are ongoing, with violence and sexual violence allegedly being routinely carried out by settlers and the military. In 2014 117 reported incidents of physical and sexual abuse occurred against indigenous women and in early 2015 at least three rapes were reported to have occurred within the sight of military checkpoints.<sup>200</sup> In 2017 tension surrounding the death of a Bengali man resulted in the vandalization, looting, and burning of a PCJSS office, 300 homes of indigenous villagers and the death of an elderly indigenous women.<sup>201</sup>

Between December 2017 and 2018 seventeen indigenous political leaders and supporters were killed due to feuding between indigenous political factions. This brought an end to three years of relative calm between the two primary indigenous political parties, PCJSS and the United Peoples Democratic Front (UPDF), who oppose the Accord.<sup>202</sup> Intra-party feuding has previously led to the death of hundreds of leaders and activists and the creation of splinter factions, the PCJSS-MN Larma and the UNDP (democratic). Local political activists claim that violence returned after the rise of the UNDP (democratic) reignited the feud between the factions and caused them to point fingers at one another amid incidents of killings and abductions. In late 2020 the PCJSS released its human rights report on the situation in the CHT in which it alleged that in October of 2020 the army wounded a child, arbitrarily detained 16 people, beat and threatened five people, occupied and established an army camp on the land of an indigenous villager, carried out military operations and house searches in nine villages, physically tortured two indigenous students and attempted to occupy the land of another indigenous villager.<sup>203</sup> The region remains volatile with incidences of violence between Bengali settlers and indigenous peoples, the military and indigenous peoples and amongst indigenous political factions. Therefore, as a source of continued conflict, relations in the region are an underlying risk factor for further atrocity crimes (**Indicator 9.4**).

Lack of self-determination for the indigenous peoples of the CHT along with lack of recognition of their indigeneity from successive governments has worked to place increasing strain on these already vulnerable communities. When the region gained independence from British colonial rule in 1947, the CHT peoples expressed preference in joining a secular India than a predominantly Muslim Pakistan, citing concerns about being an ethnic minority.<sup>204</sup> The region was originally going to be allocated to India but was instead allocated to Pakistan in exchange for a Sikh-dominated region of would-be Pakistan.<sup>205</sup> Then, again upon the separation of East and West Pakistan, the newly founded State of Bangladesh immediately required its indigenous peoples to renounce claims to their own identity and instead embrace an all-encompassing homogenous Bengali identity (**Indicator 9.2**).<sup>206</sup> Throughout this process, successive State authorities have failed to recognise let alone acknowledge the ethnic, cultural, linguistic, and religious distinctions that separate Bangladesh's Bengali-Muslim majority and indigenous minorities (**Indicator 9.2**).<sup>207</sup> Evidently, the indigenous peoples of the CHT been consistently denied access to self-determination and have furthermore failed to receive recognition of their indigeneity (**Indicator 9.1**).

Not only does the government itself not recognise the concept of indigenous peoples within its borders, but the media also uses the terms 'Khudra-Nrigosthi' (small ethnic minority) or 'Upojati' (sub-nation) when referring to the CHT - terms which were added to the national constitution without consultation or with the consent of the CHT peoples (**Indicator 9.2**).<sup>208</sup>

### Massacres and Sexual Violence During the Liberation War

Hitherto this analysis has focused on deaths in the 1971 Liberation War at the hands of the Pakistani military and its supporters from East Pakistan. However, this violence was not a one-sided affair. During the conflict itself, massacres against the Bihari minority were estimated at 6000-15,000 dead across Chittagong, Khulna, Jessore, and Santahar,<sup>209</sup> and 500-5000 killed across ten settlements in Mymensingh.<sup>210</sup> This violence frequently involved the murders and abductions of women and children.<sup>211</sup> Even in its aftermath, attacks and rapes by Bengalis on the Bihari continued.<sup>212</sup> As Gerlach writes, "both sides found their demands highly legitimate and near-sacred... Either side found collective violence highly justified and tended to dehumanise the 'enemy.' The strong emotions involved were expressed in cruel ways of killing, mutilations, the murder of children and few criticisms of such action."<sup>213</sup>

## GENOCIDE RISK FACTOR 9:

### INTERGROUP TENSION OR PATTERNS OF DISCRIMINATION AGAINST PROTECTED GROUPS

The systemic use of such genocidal violence became a defining feature of the conflict, with rape harnessed as a tool of social violence. As stated, an estimated 200,000-400,000 rapes were committed, resulting in over 25,000 pregnancies, the social trauma of which persists today.<sup>214</sup> For the Pakistani military, rape was utilised in efforts to destroy the women, who were seen as the gatekeepers to Bengali culture and life (**Indicators 9.3 and 9.4**).<sup>215</sup> According to Sharlach, "...in such communities, women in their roles as mothers of the nation and as transmitters of culture symbolize the honour of the ethnic group. When a woman's honour is tarnished through rape, the ethnic group is also dishonoured."<sup>216</sup> Moreover, these rapes were intended to impart the racialized characteristics and perceived superiority of the Pakistani martial race and to 'cleanse' the population of what they saw as ethnic and racial impurities among the Bengali (**Indicator 4.9**).<sup>217</sup> Sexual violence against Bengali women and children was thus about power, control, and dominance, with one Pakistani soldier commenting, "...we are going, but we are leaving our seeds behind".<sup>218</sup>

## GENOCIDE RISK FACTOR 10:

### SIGNS OF INTENT TO DESTROY IN WHOLE OR IN PART A PROTECTED GROUP

**Risk Factor 10 considers facts or circumstances that suggest an intent, by action or omission, to destroy all or part of a protected group based on its national, ethnical, racial or religious identity, or the perception of this identity.**

#### On 'Genocide' in the CHT

As highlighted in **Risk Factors 4 and 9**, the treatment of the indigenous peoples of the CHT by the government of Bangladesh throughout its history is highly alarming. The use of the term 'genocide' when discussing the CHT remains highly contentious, and the attractiveness of the region's geography has been a major factor underpinning the geopolitical challenges faced by its peoples. In a 1979 public meeting, two senior army officials are alleged to have proclaimed, "we want the land and not the people of the CHT" (**Indicator 10.1**).<sup>219</sup> As Mark Levene elucidates, "...although there has been no single 'moment' of genocide and though successive governments' behaviour with regard to the CHT has been complicated by intermittent, usually clandestine (and more recently official) negotiations for a settlement with the JSS or Shanti Bahini, the overall situation has been one of more than 20 years [of] sustained crisis in which the state has employed [a] gamut of genocidal strategies...".<sup>220</sup> These strategies have included the militarisation of the region, disappearances, killings, repeated rapes, vandalization and desecration of religious sites, destruction of villages and property, and up to 13 major massacres extending over a period between 1980 and 1993 (**Indicators 10.2 and 10.3**).

## CRIMES AGAINST HUMANITY RISK FACTOR 11:

### SIGNS OF WIDESPREAD OR SYSTEMATIC ATTACK AGAINST ANY CIVILIAN POPULATION

**Risk Factor 11 concerns signs of violent conduct including, but not limited to, attacks involving the use of force, against any civilian population and that suggest massive, large-scale and frequent violence (widespread), or violence with patterns of periodicity, similitude and organisation (systematic).**

#### Indigenous Groups in the CHT

The treatment of the indigenous populations in the Chittagong Hill Tracts as outlined in this Risk Assessment constitutes a consistent pattern of violence (**Indicator 11.1**) throughout Bangladeshi history (see **Indicators 1.2, 8.10 and 10.1**, as well as **Risk Factors 4, 5, 6 and 9**).

#### Muslim and Hindu tensions

Similarly, the religious conflict that has arisen between the Muslim majority and the Hindu minority is of concern, as this represents not just a pattern of violence (**Indicator 11.1**), but an increasing pattern of violence against a religious minority (see **Indicators 1.10, 1.11, 4.5, 4.7, 5.5, 5.8, 8.6 and 8.7**).

## CRIMES AGAINST HUMANITY RISK FACTOR 12 : SIGNS OF A PLAN OR POLICY TO ATTACK ANY CIVILIAN POPULATION

**Risk Factor 12 lists facts or evidence suggestive of a State or organisational policy, even if not explicitly stipulated or formally adopted, to commit serious acts of violence directed against any civilian population.**

### Restrictions Facing Rohingya Refugees

As highlighted in **Indicators 3.10** and **7.1**, the Rohingya refugees in Cox's Bazar and Bhasan Char are subject to increasingly severe restrictions that limit their rights to movement and work. These restrictions are unique to the Rohingya as part of the civilian population within Bangladesh, and as a result warrants concern (**Indicator 12.2**).

### Transmigration Program of the 1970s and 1980s

As discussed in **Risk factor 4**, the transmigration program into the CHT had a considerable impact on the region, its people and culture, as well as its demographics. When discussing the Bangladeshi government's counterinsurgency efforts in the CHT region during the late 1980s, Shapan Adnan writes "The whole exercise was planned and executed with the precision and secrecy of a covert military operation. [The aim was] to accelerate the settlement of a sizeable Bengali population in the Chittagong Hill Tracts that could be counted upon to be loyal to the Bangladesh state."<sup>221</sup> Many of these settlers were placed in 'cluster villages' surrounding the army camps to become 'human shields' against insurgent attacks, but were also an important source of army recruits and paramilitary operations against the Shanti Bahini insurgents (**Indicator 5.3**).<sup>222</sup> The transmigration program has drastically redefined the demographic contours of the region. During the initial partition in 1947, the indigenous peoples constituted 98% of the total population in CHT, yet by 2003 the indigenous-Bengali ratio was measured at 53:47 (**Indicator 12.3**).<sup>223</sup> This program, while destructive to the CHT's traditional inhabitants, has worked as a tool for the government to not just undermine and erode the indigenous cultures, but also to address poverty among its Bengali populations. The Bengali settlers come mostly from landless families in the plains, while others had been left homeless due to river erosions and were motivated to migrate into the CHT with promises of land, food rations, cash allowances, and protection by the State's security forces.<sup>224</sup> This program has had severe impacts on the sociocultural and political contours of the region and is likely to have long-lasting and enduring impacts on the region.

### Government Corruption

**Indicators 2.5** and **2.6** as well as **Risk factor 3** discuss the dangerous levels of corruption within the Bangladeshi government, related to extrajudicial killings and the politicisation of state institutions. This involves the police force, judiciary and politicians being responsible for political killings throughout last few decades (**Indicator 12.10**).

## CONCLUSION

The preceding analysis has evaluated the state of Bangladesh through the application of the Framework of Analysis for Atrocity Crimes, and it has found indicators pertaining to all eight Common Risk Factors as well as four of the six Specific Risk Factors. This indicates a high risk of atrocity crimes in general, as well as the presence of several specific issues of concern. The Rohingya refugee population around Cox's Bazar and the island of Bhasan Char remain in an extremely vulnerable situation. Vulnerable to natural disasters, disease and draconian restrictions from authorities, the Rohingya require extensive and continued support from the Bangladeshi government and the international community to uphold their human rights. The indigenous peoples of the Chittagong Hill Tracts (CHT) have been subject to extensive discriminatory practices conducive to atrocity crimes since the formation of Bangladesh in 1971 and as a result, it is highly likely atrocity crimes will be committed against them in the future. Furthermore, ongoing religious tensions between the Muslim majority and Hindu minority warrants careful observation, especially as it constitutes a phenomenon that is becoming more prevalent. Finally, domestic violence, sexual assault and rape continue to be an ongoing problem within the country, despite measures to address the problem. Exacerbating these issues is increasing government corruption that results in political and social tensions, as well as hindering legitimacy and the ability of the government to respond effectively to ongoing crises.

The Risk Factors present in Bangladesh are related to numerous ongoing situations, some of which are interrelated and some of which are not, and this places Bangladesh at high risk of atrocity crimes. Continued vigilance and attention from the Bangladeshi government and the international community is warranted to ensure such risks do not arise or are further heightened.

## RECOMMENDATIONS

RECOMMENDATIONS FOR CHT AND INDIGENOUS GROUPS	
1	A renewed legislative commitment to parts of the Chittagong Hill Tracts Accord, in particular those aimed at establishing and empowering civil administration, including the indigenous-majority councils and traditional administration of the chiefs, resolving land disputes and returning their illegally occupied lands to the indigenous peoples. This includes the acknowledgment of indigenous identity and right to land in the CHT as well as indigenous cultural and economic practices.
2	Enforcement of High Court verdicts and legislation in the CHT to build trust and legitimacy with indigenous communities.
3	Further access for indigenous people in the CHT to voice concerns regarding their wellbeing and self-determination, including giving the Land Commission the resources and necessary political power to effectively carry out its purpose.
4	Admission to the UN Declaration on the Rights of indigenous Peoples.
5	In keeping with the spirit of the UN Office of the High Commissioner's comments on the Phulbari coal mine, ensuring that any continuation of that project is done with the consultation of local communities.
RECOMMENDATIONS TRANSPARENCY AND ACCOUNTABILITY	
1	Greater transparency in political institutions and elections, to better legitimize political processes. Greater transparency in the criminal justice system to better enforce domestic violence laws as well as to avoid accusations of extrajudicial killings.
2	Further gathering of data on economic disparities between social groups (ethnicity, sex etc.) and regions, in particular with regard to the CHT.
3	Greater expansion of freedom of speech laws, especially to protect the right to peacefully protest.
4	Implementation of separation of powers, to ensure a strong independent judiciary and an accountable military.
5	Legislation and institutionalization of laws against bribery of public officials, including the removal of the amendment to the Anti-Corruption Commission (ACC) that the ACC must secure government permission prior to filing any case against public officials.
6	Removal of elements of the Digital Security Act 2018, particularly those which create a chilling effect on freedom of speech and freedom of the press.
RECOMMENDATIONS VIOLENCE AGAINST WOMEN AND CHILDREN	
1	Reinstitution of Bangladesh's Child Marriage Restraint Act (CMRA) and further institutionalization that prohibits the marriage of a girl under the age of 18.
2	Further institutionalization of domestic violence laws, especially enforcement of such laws and helping survivors, including information campaigns to encourage women to come forward. Continued policies and plans in the vein of the BPWN 2021–2023 Strategic Plan, including greater facilities and resources for acid attack survivors in rural areas.
RECOMMENDATIONS ROHINGYA REFUGEES	
1	To not, under any circumstances, repatriate Rohingya refugees back to Myanmar while the crisis is active and ongoing.
2	Lifting of restrictions on refugees that erode fundamental rights, including restrictions on movement and education, as well as restrictions on work.
3	Facilitate donors' efforts to improve refugees' access to livelihoods, health care, and education.
RECOMMENDATIONS FOR CIVIL SOCIETY	
1	To continue to foster tolerance towards non-Muslim minorities and disavow extremist views.
2	Enforcement of laws legitimizing Bihari at the local level, as well as initiatives designed either to build affordable housing for Bihari communities or improve conditions in their camps.
3	Increased control and regulation of firearms, and instituting investigations into the flow of illicit arms to and from the country.
4	Acknowledgment of atrocity crimes during the War of Liberation.
RECOMMENDATIONS FOR INTERNATIONAL COMMUNITY	
1	Continued support for the government of Bangladesh to manage the refugee crisis in Cox's Bazar, including not just funding but medicine, infrastructure, food and labour.
2	Funding and commitment to the 2022 Joint Response Plan for the Rohingya humanitarian crisis. Donors include the UK, US, EU and Australia, all of which should increase funding to meet the needs of the Rohingya in Bangladesh
3	Condemnation of the conditions of the Rohingya on Bhasan Char and the increasing restrictions placed upon the refugees.
4	Ensuring future war crimes tribunals are legitimate and impartial through their association of international institutions like the ICC, and that they are conducted with international support.
5	Support for the government of Bangladesh in its counterterrorism and de-radicalization efforts as well as in its attempts to curb arms smuggling.

## END NOTES

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