



Human Rights in Development Cooperation with Bangladesh (Update July 2009)

Introduction

In March 2008, the German Ministry for Economic Cooperation and Development (BMZ) issued the second [Development Policy Action Plan for Human Rights](#). The BMZ's human rights action plan expresses the political will to focus development cooperation more systematically on the realization of political, civil, economic, social, and cultural rights.

Since June 2005, the GTZ sector project "[Realising human rights in development cooperation](#)" supports the BMZ in achieving this objective.

This e-info tool provides information on the international human rights system as it relates to Bangladesh. It consists of four parts:

1. [The core international human rights treaties and the status of ratification by Bangladesh](#)
2. [Bangladesh's reporting on the implementation of the human rights treaties](#)
3. [Interpretation and Operationalisation of Human Rights](#)
4. [Reports of UN Special Rapporteurs and the UN Human Rights Council](#)



1. The core international human rights treaties and the status of ratification by Bangladesh

United Nation's human rights treaties provide the basis for international human rights protection. The [UN Human Rights Treaties](#) are international, legally binding documents, which have been ratified by most UN member states. In addition to the international treaties, there are several regional human rights treaties for [Africa](#), [the Americas](#) and [Europe](#). To date, there is no regional human rights mechanism in Asia, but a [recent initiative](#) appears promising.

The UN human rights treaties are legally binding international documents. Today all UN member states have ratified at least one out of the nine fundamental human rights treaties, and 80% of the UN member states have ratified four or more treaties. The following table shows the treaties ratified by Bangladesh.

The core UN human rights treaties (in chronological order) and Bangladesh's ratification history

International Convention on the Elimination of All Forms of Racial Discrimination ([ICERD](#))
[Ratified 11 Jun. 1979](#)

International Covenant on Civil and Political Rights ([ICCPR](#))
[Ratified 06 Dec. 2000](#)

International Covenant on Economic, Social and Cultural Rights ([ICESCR](#))
[Ratified 05 Oct. 1998](#)

Convention on the Elimination of All Forms of Discrimination against Women ([CEDAW](#))
[Ratified 06 Nov. 1984](#)

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ([CAT](#))
[Ratified 05 Oct. 1998](#)

Convention on the Rights of the Child ([CRC](#))
[Ratified 03 Aug. 1990](#)

International Convention on the Protection of the Rights of all Migrant Workers and Members of Their Families ([CMW](#))
[Signed 07 Oct. 1998](#)

Convention on the Rights of Persons with Disabilities ([CRPD](#))
[Signed 09 May 2007](#)

International Convention for the Protection of All Persons from Enforced Disappearance ([CED](#))
[Not Ratified](#)

Last Update July 2009

In February 2007, Bangladesh [ratified](#) the [UN Convention against Corruption](#). While this convention is not a human rights treaty as the ones listed above, measures against corruption are obviously an important prerequisite for the realisation of human rights.

While Bangladesh has ratified most international human rights treaties, the government tends to avoid the necessary reforms in the domestic legal framework – as many member states of the [Organisation of the Islamic Conference](#) (OIC). This is obvious in the reservations to some treaties made by Bangladesh and in her position vis-à-vis monitoring and complaints mechanisms.

For example, upon ratification of CEDAW in 1984, Bangladesh made a [reservation](#) with respect to the equality of women in marriage and divorce. Following the pressure exerted by women's rights organisations, Bangladesh withdrew part of this reservation in 1997. But as of this writing, the necessary reforms in family law have not been undertaken.

Another example, Bangladesh does usually not accept monitoring and complaints mechanisms: The [Optional Protocol to the Convention on Women's Rights](#) was ratified without, however, recognising the competence of the Committee for the investigation of individual complaints. The [Optional Protocol I to the International Covenant on Civil and Political Rights](#) establishing a mechanism for individual complaints was not ratified. And lastly, Bangladesh did also not ratify the [Optional Protocol](#)



[to the Convention against Torture](#). This treaty provides for international monitoring and a national monitoring body to prevent torture and other cruel treatment or punishment. The use of far-reaching reservations and the avoidance of monitoring and complaint mechanisms show that Bangladesh - while recognizing human rights in principle - attempts to minimize the domestic implications of her international human rights commitments.

Human Rights Obligations

When ratifying human rights treaties, State Parties are obliged to translate the respective human rights into domestic legislation. Bangladesh has done so with respect to some rights, but recognized others in its [constitution](#) only as “fundamental principles of state policy” not as judiciable rights.

Another obligation relates to the fulfilment of human rights— by way of adequate policies and strategies with appropriate resources.

All governmental bodies are bound to *respect* areas protected by human rights and to also

Human Rights Obligations of State Parties

Respect: The State Parties shall refrain from directly or indirectly interfering with the enjoyment of human rights

Protect: The State Parties shall prevent third parties (e.g. private individuals or companies) from interfering, directly or indirectly, with the enjoyment of human rights

Fulfil: The State Parties shall adopt legislative, administrative, financial, judicial, supporting and other necessary measures to achieve the full realisation of human rights

protect individuals from violations by third parties, e.g. private individuals or companies. The *obligation to respect* for instance implies that state agents do not torture or otherwise abuse detainees or prisoners. The *obligation to protect* requires, for example, that religious minorities, like the Ahmadiyyas, Hindus and

Christians, as well as the indigenous population in the Chittagong Hill Tracts, are protected from third parties with respect to their property and their personal safety. The lack of protection has been subject of [complaint](#) filed at the Supreme Court in 2006 and a [BBC documentary](#).

The third human rights obligation requires the fulfilment of human rights. This *obligation to fulfil* requires Bangladesh to enable traditionally disadvantaged groups to realise their rights, so that for instance poor people have equitable access to drinking water or HIV/Aids patients have access to medical treatment.

In contrast to the obligations to respect and protect, the obligation to fulfill economic and social rights is subject to what is called *progressive realization*. This means that a government needs to demonstrate that it has used the maximum of its available resources to fulfill human rights with appropriate means.

Relevance for Development Cooperation

The ratification of human rights treaties provides Bangladesh with a legally binding framework to formulate its national development policies and strategies. But development cooperation is likewise bound by human rights obligations: As a member of the United Nations, German development cooperation is required to promote human rights through international cooperation ([UN-Charter art. 55-56](#)). In other words, German development cooperation under no circumstances is permitted to violate or facilitate the violation of human rights through action or a failure to take action. Moreover, Germany has ratified the Covenant on Economic, Social and Cultural Rights. This treaty stipulates that states should also resort to international cooperation to realise economic, social and cultural rights (art. 2 para. 1). Thus, donor countries have an obligation to support partner countries to fulfil



human rights – as Jean Ziegler, the UN Special Rapporteur on the Right to Food, argued in his 2005 [report](#) to the Human Rights Commission (document number: E/CN.4/2005/47).

[German-Bangladeshi development cooperation](#) focusses on energy and health care provision, with HIV/AIDS as a cross-cutting issue. Support for economic growth has been integrated into a good governance programme as a new priority area since 2006. Poverty reduction is the overarching aim of German development cooperation with Bangladesh; accordingly the focus is on socially and economically marginalised groups.

A human rights-based approach to development cooperation can strengthen this pro-poor focus. A DfID and Irish Aid supported project, [Older Citizens' Monitoring](#), for example, aims to improve older people's access to state benefits. Planning for the project used the human rights-based approach: the right-holders assessed gaps in income and health care and founded about sixty groups to analyse and evaluate governmental policies aimed at closing these gaps. The groups first developed relevant indicators and a system for data collection, and then discussed their findings with local, district and national stakeholders. Overall the intervention contributed to an increase in the number of older people with access to old-age benefits and helped to streamline local banks' distribution of the benefits.

Resources

- a) [Bangladesh's Ratification History](#)
- b) [International Human Rights Treaties](#)
- c) Human Rights and Corruption: [Research Project](#) by the International Council on Human Rights Policy; [Policy Paper](#), Oslo Governance Centre, UNDP

2. Bangladesh's reporting on the implementation of the human rights treaties

By ratifying human rights treaties, states are obliged to regularly submit reports on procedures, progress and shortcomings in the implementation of the treaties. All human rights treaties require state parties to submit an initial report; after that, the reporting cycle is between two to five years. Reports are to be submitted to special UN committees of independent experts, the so-called *treaty bodies*. Among others, they are responsible for the monitoring of treaty implementation and do so by deciding on individual complaints and by commenting on the state parties' reports in the so-called *Concluding Observations* or *Concluding Comments*.

State party reports are usually written by the respective ministries and therefore tend to give an overly positive or legalistic assessment of the human rights situation in the respective country. In order to gain a comprehensive picture, the treaty bodies take into account the alternative reports submitted by local and international non-governmental organisations (NGOs) as well as other available sources.

Bangladesh's State Reports and Concluding Observations

International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)
[Last state report 30 May 2000](#)
[Concluding Observations \(2001\)](#)
Last report due: 11 Jul. 2006

Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)
[Last state report 03 Jan. 2003](#)
[Concluding Comments \(2004\)](#)
Last report due : 06 Dec. 2005

Convention on the Rights of Child (CRC)
[Last state report 14 Mar. 2003](#)
[Concluding Observations \(2003\)](#)
Last report due : 01 Sept. 2007



Bangladesh's State Reports and Concluding Observations ctd.

International Covenant on Civil and Political Rights (ICCPR)

[No report submitted](#)

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)

[No report submitted](#)

International Covenant on Economic, Social and Cultural Rights (ICESCR)

[No report submitted](#)

As the table illustrates, Bangladesh is among the countries which report late or fail to report at all under some conventions. Some Bangladeshi and international NGOs have submitted alternative reports on Bangladesh's last state report on the Convention on the Rights of the Child. They emphasised the continued prevalence of the sale of children, sexual exploitation and discriminatory treatment of children with disabilities and criticised the insufficient measures taken by the government.

Upon submission of state party reports, the treaty bodies initiate a discussion with a delegation of the respective government. In the Concluding Observations or Concluding Comments treaty bodies assess progress and shortcomings and give detailed recommendations to the State Party on how to better implement the human rights treaty.

For example, in its [Concluding Comments of 2004](#), the treaty body on the women's rights convention states that Bangladesh has come close to achieving universal primary education and to eliminating the gender gap in primary education. While the introduction of the right to free and compulsory education for girls has helped to increase primary and lower secondary enrolment rates among girls, the percent-

age of girls in higher education remains low. As a remedy, the Committee suggested a more effective implementation of the law prohibiting child labour and child marriage, and efforts to change the perception of women's role and status within society. The Concluding Comments also suggest that the State Party actively advocates the rights of women and girls and fights against discriminatory traditions to initiate progress on the de iure and de facto equality of the sexes. Apart from the necessary reforms to family and civil law, Bangladesh should take measures to effectively protect women from all forms of violence.

Another example: [In its Concluding Observations of 2003](#), the Committee on the Rights of the Child recommended to investigate the causes for the increasing number of street children, and appropriate strategies to address the issue. In 2006, the Ministry of Social Welfare commissioned an [investigative, legal study](#) with a number of pertinent recommendations on how to bring Bangladeshi law in conformity with the Children's Rights Convention.

When examining Bangladesh' state report on implementation of the Optional Protocol to the Children's Rights Convention, the [Committee](#) found several laudable initiatives, among them a *National Action plan against Sexual Abuse, Exploitation and Trafficking* and a governmental *Programme for the Empowerment and Protection of Children and Women*. The Committee pointed out that the National Action Plan failed to use the Optional Protocol on Children in Armed Conflict as an explicit framework. It also called for immediate measures to prevent children below the age of 16 from enrolling in the military or police forces. A 2007 [alternative report](#) by a Bangladeshi NGO likewise points out a number of weaknesses with regard to the implementation of international instruments. Among them are the lack of acknowledgment of abuse of male children, and the failure to effectively combat trafficking in persons.



Relevance for development cooperation

State party reports and NGOs alternative reports are a source of information for German-Bangladeshi development cooperation about human rights conditions – as perceived by the government and the NGOs. They complement the annual reports of Amnesty International and other human rights organisations.

Development cooperation can utilize the Concluding Observations of treaty bodies to inform policy and programmes. Follow-up on Concluding Observations may be part of political dialogue, and be used for the elaboration of country concepts and strategy papers. This would facilitate to focus programmes on their contribution to the [realization of the MDGs and the corresponding human rights](#).

In addition, German development cooperation should urge Bangladesh to acknowledge the role of internal and external monitoring, by ratifying the respective Optional Protocols, and to withdraw its reservations to human rights treaties. More specifically, German development cooperation should support Bangladesh to comply with her reporting and compliance duties under the international human rights treaties. National human rights capacities may be supported by the Good Governance programme and support to the health sector could address health as a rights issue. In this fashion, the wide range of Bangladeshi governmental partners will engage with their human rights obligations more intensively. Basing development strategies on human rights will also open a window to a contribution to the capacities of Bangladeshi civil society to monitor government policies.

Resources

- a) [Bangladesh's State Reports](#)
- b) [Concluding Observations](#)
- c) [Alternative Reports to the Periodic Reports on the Convention of the Right of the Child](#) (select 'Bangladesh' as a search criteria)

- d) Other country reports by NGOs: [Human Rights Watch](#), [Amnesty International](#), [Odhikar](#), [Asian Human Rights Commission](#)

3. Interpretation and operationalisation of human rights

Human rights treaties are legal documents, rendered in a rather abstract and general language. Over the years, the UN treaty bodies have interpreted the core elements of the respective human rights and the measures necessary and appropriate to implement them. These interpretations are called *General Comments* or *General Recommendations*. There are General Comments for all human rights treaties. The General Comments on [the right to adequate food](#), [the right to the highest attainable standard of health](#) and [the right to education](#) use concrete examples to illustrate the content of the obligations to respect, protect, and fulfil human rights. General Comments also clarify the essential human rights principles: Participation and empowerment; non-discrimination and equality of opportunities, transparency and accountability. How these principles can be applied by development cooperation, is illustrated by certain guidelines of UN special organisations, e.g. the [Voluntary Guidelines on the Right to Adequate Food](#) by the FAO and the [Guidelines on Poverty Reduction](#) by the High Commissioner of Human Rights. The latter are directly related to the MDGs.

Relevance for development cooperation

The General Comments concretise human rights standards and at the same time refer to the declarations and action plans of the world-conferences concerning developmental issues, e.g. the world-conference on education (Jomtien 1990, Dakar 2000), sustainability (Rio de Janeiro 1992) or on population and development (Cairo 1994). Thus, the General Comments and the guidelines by the UN special organisations are of great value for devel-



opment cooperation. They may be used to devise sectoral concepts, priority strategy papers and to elaborate programmes.

For instance, the BMZ relies on the General Comments as a guideline for the human rights focus of its new sector concept on health and [water](#). [German-Kenyan Cooperation in the water sector](#) found the [General Comment on Water](#) very helpful to strengthen the programme's focus on supplying safe drinking water to the poor in urban informal settlements.

Such use of the General Comments in development policies and strategies has been explicitly endorsed, inter alia by the treaty body of the women's rights convention. In its Concluding Comments in 2004, the treaty body urged Bangladesh to address the pervasive problem of violence against women on the basis of its [General Recommendation 19](#). It details the human rights obligations of states and the appropriate measures to be taken to combat violence against women and girls.

Resources

The treaty bodies' General Comments and Recommendations are accessible [here](#).

4. UN Special Rapporteurs and the UN Human Rights Council

UN Special Rapporteurs

Until 2005 UN Special Rapporteurs were appointed by the [UN Commission on Human Rights](#). After 2006 these and other duties were transferred to the newly founded [Human Rights Council](#). There are currently a number of country mandates and 28 thematic mandates. The latter cover all human rights treaties, e.g. [freedom of religion](#), [adequate housing](#), [violence against women](#) and many more.

The Special Rapporteurs have a number of tasks: Apart from taking part in the development of new human rights standards, they also communicate allegations of human rights violations to governments and request information

(so-called [urgent appeals](#)). They undertake fact finding missions – provided the states in question give their consent. During these missions they meet with representatives of the government and civil society. In the resulting country reports the Special Rapporteurs analyse the implementation of the respective human right(s) and give recommendations on how to improve it.

Special Rapporteurs have also developed indicators for a more quantitative assessment of the fulfilment of human rights. The [Special Rapporteur on Adequate Housing](#) has developed indicators on the right, while the Special Rapporteur on the Right to Health concentrated on indicators for the survival of children ([A/59/422](#)) and for reproductive rights ([E/CN.4/2006/48](#)). All human rights-based indicators require disaggregated data (e.g. according to sex, region, social status, majority- and minority population).

In his [report](#) on his mission to Bangladesh in 2002, the Special Rapporteur on the Right to Food, Jean Ziegler, welcomed government efforts to increase agricultural production and improve distribution networks in order to avoid famines resulting from the frequent natural disasters. At the same time, however, he found tremendous insufficiencies with respect to the right to food: More than 90% of the rural population possess less land than they require for survival. Ziegler called the government to protect the rights of landowners by putting an end to the impunity of third parties carrying out forced evictions.

Another right to food-related challenge is the exceptionally high proportion of undernourished of women and girls, since they are expected to eat whatever male members of the family leave over. Another problem is the arsenic contamination of ground water. The Special Rapporteurs recommends rain water harvesting as an intermediary measure to avert the health danger associated with increased intake of arsenic. Furthermore, since inadequate nutrition increases the health risks of arsenic poisoning,



Ziegler calls for effective campaigns for more gender equality.

In the early 2000s, three other Special Rapporteurs reported on their missions to Bangladesh, the [Special Rapporteur on the Violence against Women](#), the [Special Rapporteur on freedom of religion and belief](#). A follow-up visit of the latter has been agreed upon. But visit requests by other Special Rapporteurs (on [freedom of opinion and expression](#), [adequate housing, extrajudicial, summary or arbitrary executions, on independence of judges and lawyers](#)) have not been granted. The [Independent Expert on minority issues](#) has likewise not been given permission to visit.

UN Human Rights Council

Bangladesh was elected as a member of the newly founded [United Nations Human Rights Council](#) (HRC) in 2006. The members of the HRC are all subject to a universal periodic review of their human rights policies and performances. Bangladesh will be [reviewed](#) in 2009. As all other members of the HRC, Bangladesh committed herself to the promotion of human rights. This [pledge](#) includes a commitment to “further integrate the promotion and protection of human rights into her national development policy with special attention to the rights of women, children, minorities and persons with disabilities” and thus is a good political basis to focus German-Bangladeshi cooperation towards human rights. However, the measures Bangladesh envisions in the pledge remain rather vague.

They fail to specify concrete measures for the fight against corruption, the treatment of indigenous peoples or the reporting duties to the human rights treaty bodies. The suggested establishment of an independent national human rights body and the separation of judicial and executive powers are commendable but have been debated for the past ten years, without a timeframe or plan of action.

Relevance for Development Cooperation

German development cooperation should support Bangladesh to fulfill her pledge as a member of the Human Rights Council, by e.g. supporting the establishment of a National Human Rights Institution and the effective implementation of the 2004 [Anti-Corruption-Act](#). Through political dialogue, Bangladesh should be encouraged to grant permission for country visits by Special Rapporteurs and to comply with her reporting duties to the treaty bodies.

Resources

- a) Special Rapporteurs: [thematic mandates](#)
- b) Special Rapporteurs: [country mandates](#)

Publisher

Deutsche Gesellschaft für
Technische Zusammenarbeit
(GTZ) GmbH

Dag-Hammarskjöld-Weg 1-5
65760 Eschborn
T +49 (0) 6196 -79-0
E info@gtz.de
I www.gtz.de

Sectoral project

„Realizing Human Rights in Development
Cooperation“
Div. 42, Governance and Democracy

Contact

Juliane Osterhaus
T +49 (0) 6196 79-1523
juliane.osterhaus@gtz.de
www.gtz.de/human-rights

Eschborn, July 2009

