

Refugee Review Tribunal

AUSTRALIA

RRT RESEARCH RESPONSE

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This response was prepared by the Country Research Section of the Refugee Review Tribunal (RRT) after researching publicly accessible information currently available to the RRT within time constraints. This response is not, and does not purport to be, conclusive as to the merit of any particular claim to refugee status or asylum.

Questions

- 1. What is the situation for people in a mixed marriage where a Hindu is married to a Muslim?**
- 2. What is the government's attitude to such mixed marriages?**
- 3. Are there reports of such people suffering harm, and if so, from whom?**
- 4. What is the government's response to such harm?**
- 5. Anything else you feel might be relevant.**

RESPONSE

1. What is the situation for people in a mixed marriage where a Hindu is married to a Muslim?

RRT *Research Response BGD14769*, dated 17 August 2001, examines the situation of people in mixed marriages in Bangladesh (RRT Country Research 2001, *Research Response BGD14769*, 17 August – Attachment 1).

Incidence of Mixed Marriages in Bangladesh

With regard to the rate of mixed marriages, a 1999 DFAT report states that “there are no official statistics available on the incidence of mixed marriages in Bangladesh. Marriages are registered at the district level and not recorded centrally” (Country Information Service 1999, *Country information Report CIR No. 171/99: Bangladesh Mixed Religion Marriages*, (sourced from DFAT advice of 19 May 1999), 27 May – Attachment 2).

An earlier DFAT cable, dated 1994, also dealing with the subject of mixed marriages states that “mixed marriages are not very common. They are more common in cities than in the country side” (Country Information Service 1994, *DORS Information Request – Cable DA 26279*, sourced from DFAT cable DA26279, 21 April – Attachment 3).

Legal Status of Mixed Marriages

By way of background, a 2004 paper published by the Center for Reproductive Rights, observes that “personal laws of the country’s religious communities govern most aspects of private life, including matters relating to marriage”. Although, “some marriage-related laws apply to all Bangladeshis, irrespective of religious affiliation”. The report states as follows:

The principal domestic sources of law in Bangladesh are the constitution and legislation. The constitution is the “supreme law” of the land and claims to represent the “solemn expression of the will of the people”... The religious personal laws of Bangladesh’s various religious communities govern matters within the private sphere, including marriage, divorce, custody, inheritance, and maintenance. With respect to the Muslim community in Bangladesh, certain provisions of *Sharia* (Islamic injunctions as laid down in the *Quran* and *Sunnah*) have been codified into legislation, such as the 1961 Muslim Family Laws Ordinance. There is also a significant non-Muslim population to whom *Sharia* is not applicable, and whose own religious laws govern matters related to private and family life (Center for Reproductive Rights Ed. 2004 ‘Bangladesh’ in *Women of the World: Laws and Policies Affecting Their Reproductive Lives – South Asia 2004* – http://www.crlp.org/pdf/pdf_wowsa_bangladesh.pdf – Accessed 12 October 2005 – Attachment 4).

The information in the sources consulted indicates that mixed Hindu-Muslim marriages are legal in Bangladesh although they are considered “irregular” under Islamic law. A legal advice column in *The Daily Star*, dated 4 January 2004, discusses the status of various mixed marriages in Bangladesh. The article notes that under Islamic law “a Muslim female cannot contract a valid marriage except with a Muslim... A Muslim male of course, can contract a valid marriage with a Muslim, Jew or Christian woman and not with an idolatress, i.e., Hindu or fire-worshipper. His marriage with an idolatress or fire-worshipper is not void but irregular.” The author notes that there can be some complicating factors in such marriages including the rights of inheritance:

Under the Muslim law more or less agreed upon position is that a Muslim female cannot contract a valid marriage except with a Muslim. There is a serious controversy upon the question whether her marriage with a Christian, Jew, idolator or fire-worshipper would be irregular or void. The majority view is that it is void. A Muslim male of course, can contract a valid marriage with a Muslim, Jew or Christian woman and not with an idolatress, i.e., Hindu or fire-worshipper. His marriage with an idolatress or fire-worshipper is not void but irregular. The main effects of irregular marriage are, a) the issues of the marriage are legitimate b) the wife is entitled to dower and c) it does not create mutual rights of inheritance between husband and wife. In our country, a marriage between a Muslim male and Christian female must be solemnised in accordance with the provisions of the Christian Marriage Act, 1872. But since a Muslim woman cannot contract a valid marriage with a Christian, such marriage therefore, cannot be solemnised under that Act. In Shia law a marriage between a Muslim male and a non-Muslim female is unlawful and void; and so also is a marriage between a Muslim female and a non-Muslim male (Husain, M. Moazzam 2004, 'Law and Our Rights: Your Advocate', *The Daily Star* Internet edition, 4 January. (<http://www.thedailystar.net/law/2004/01/01/queries.htm> – Accessed 12 October 2005 – Attachment 5).

In 1999, a senior lecturer from Macquarie University provided information to the RRT on the validity of mixed marriages in Bangladesh. He stated that “under personal law of the male partner (ie Muslim Law), such a marriage may be treated as an IRREGULAR MARRIAGE, but not a VOID MARRIAGE. This is precisely because the defect in the marriage under Muslim law (ie non-Muslimhood of the female partner, though she is not a follower of the revealed religion) is rectifiable by conversion” (Senior Lecturer in Law, Macquarie University 1999, Validity of mixed marriages in Bangladesh, 23 April – Attachment 6).

A recent legal advice in *The Daily Star*, dated 20 February 2005, also notes that another option available to a Hindu-Muslim couple, is to marry under the *Special Marriage Act, 1872*. However, this involves both parties renouncing their respective religions:

...Third and the last is, you can renounce your respective faith and declare that none of the parties to the marriage profess any religion and thus come within the scheme of The Special Marriage Act, 1872.

The Special Marriage Act, 1872, was enacted to provide a form of marriage for persons who do not profess the Christian, Jewish, Hindu, Muslim, Parsi, Buddhist, Sikh or Jaina religions and for persons who profess Hindu, Buddhist, Sikh or Jaina religions and to legalize certain marriages of doubtful validity. According to that law marriage may be solemnized between persons neither of whom profess the Christian, Jewish, Hindu, Muslim, Parsi, Buddhist, Sikh or the Jaina religion or between persons each of whom professes one or other of the Hindu, Buddhist, Sikh or Jaina religions under certain conditions. Marriage under the Act is solemnized by the “Registrar of Marriages under Act III of 1872.” For the third option in particular you should consult a lawyer. (Husain, M. Moazzam 2005, 'Law and Our Rights: Your Advocate', *The Daily Star* Internet edition, 20 February. (<http://www.thedailystar.net/law/2005/02/03/queries.htm> – Accessed 10 October 2005 – Attachment 7).

The Center for Reproductive Rights (2004) also states that “a marriage between a Muslim man and a Hindu woman, and between a Muslim woman and a non-Muslim man must take place in a civil court with the spouses declaring that they do not practice any religion”. The report provides information on the conditions that need to be met for a valid marriage to take place under *The Special Marriage Act, 1872*. The details are as follows:

The personal laws of the country's religious communities govern most aspects of private life, including matters relating to marriage. There has been no reform of marriage and divorce laws governing religious minorities in Bangladesh. In addition to religious personal laws, some marriage-related laws apply to all Bangladeshis, irrespective of religious affiliation. The 1872 Special Marriage Act allows people of different faiths, except Muslims, or those who do not ascribe to a particular faith, to legally register their marriage. The requirements for a valid marriage under the act include the following:

- at the time of marriage, neither party can have a living husband or wife;
- the man must be at least 18 years of age and the woman at least 14 years of age;
- parties under the age of 21 must obtain the consent of their father or guardian;
- the parties must not be within prohibited degrees of relationship; and
- the marriage must be registered (Center for Reproductive Rights Ed. 2004 'Bangladesh' in *Women of the World: Laws and Policies Affecting Their Reproductive Lives – South Asia 2004* – http://www.crlp.org/pdf/pdf_wowsa_bangladesh.pdf – Accessed 12 October 2005 – Attachment 4).

2. What is the government's attitude to such mixed marriages?

The information in the sources consulted indicates that the government does not have an adverse attitude to mixed marriages in Bangladesh. The US State Department's *International Religious Freedom Report 2005 – Bangladesh*, states that “family laws concerning marriage, divorce, and adoption differ slightly depending on the religion of the person involved. There are no legal restrictions on marriage between members of different faiths” (US Department of State 2005, *International Religious Freedom Report for 2005 – Bangladesh*, 8 November – Attachment 8).

DFAT advice provided to the RRT in 1999 also states that “marriages between people from different religions are specifically recognised in Bangladeshi law under the Special Marriage Act No 3 of 1872 and such marriages are readily accepted in Bangladesh” (Country Information Service 1999, *Country information Report CIR No. 171/99: Bangladesh Mixed Religion Marriages*, (sourced from DFAT advice of 19 May 1999), 27 May – Attachment 2).

An earlier DFAT report, dated 21 April 1994, provides similar information. It states that “mixed marriages are legal. The government has no official position on mixed marriages, and does not seek to discourage or prevent them.” In response to another question the report also states that “Jamaat-i islami activities often try to prevent mixed marriages where they non-Muslim partner is not converted to Islam. But they rarely succeed (the Jamaat is an opposition party supported by, at most, 6 or 7 percent of the population) (Country Information Service 1994, *DORS Information Request – Cable DA 26279*, sourced from DFAT cable DA26279, 21 April – Attachment 3).

3. Are there reports of such people suffering harm, and if so, from whom?

A 2005 article published by *The Washington Times* reports on a death threat made against a woman who was married to a Hindu man. It is unclear from the article whether the woman was a Muslim. The article also discusses the apparent rise of Islamic fundamentalism in Bangladesh and the consequent targeting of Hindus:

One recent afternoon, Farjana Siddika, 34, opened her office mail and found she was marked for death.

“We are going to kill all the atheists, and you are on the list,” the typed letter read. “You cannot live with a Hindu on the holy soil of Sylhet. You must make amends or face the consequences.”

“At first I thought it was a hoax,” said the literature professor, whose marriage to a Hindu is a rarity in this country of 140 million Muslims, and whose liberal views are equally rare at the technical college where she teaches.

“But when my family heard about it, they went into a panic.”

No wonder. Sylhet, a northern Bangladeshi city known better for tea gardens than religious extremism, was terrorized by dozens of death threats last year and seven grenade blasts that killed five persons and injured more than 100.

“This bomb culture is completely new to Sylhet,” said Mayor Badaruddin Kamran, who was the target of a blast in August that killed a close friend...

The attacks mirror a pattern of unchecked violence across Bangladesh, raising concern that religious radicals nurtured by Islamic charities linked to al Qaeda and protected by the government are undermining long-held traditions of tolerance.

“If there is a country in the world today in danger of completely breaking down, it’s Bangladesh,” said Gowher Rizvi, a Bangladeshi who heads the Ash Institute for Democratic Governance and Innovation at Harvard University...

Salauddin Quader Chowdhury, Prime Minister Khaleda Zia’s parliamentary affairs adviser, discounted talk of rising Islamist extremism. “I don’t think I’d take it too seriously,” said Mr. Chowdhury, who is a member of the Jamaat-e-Islami, Bangladesh’s leading Islamist party. “These cases may be politically motivated to harm the image of the government.”

Others say Mrs. Zia’s Bangladesh National Party is allowing militants to tip the balance against Mrs. Wajed’s rival Awami League. “By unleashing fundamentalist forces in the country, they will be able to contain the Awami League,” Mr. Rizvi said...

Some analysts fear the conditions that allow a mob to tear down a mosque could draw foreign militants to Bangladesh. Local and foreign press describe the lawless southeast as a potential haven for Islamic militants (Morrison, Dan 2005, ‘Bomb culture threatens Bangladesh’, The Washington Times, 15 January –

<http://www.washingtontimes.com/functions/print.php?StoryID=20050114-095935-1040r> – Attachment 9).

No other information specifically referring to harm inflicted on people in mixed Hindu-Muslim marriages was found in the sources consulted. The information located, and cited below, focuses on the general attitudes to such marriages in the Bangladeshi community.

A 2002 DFAT report discusses the likely treatment of Muslim men who are married to Hindu women and states that “there is no problem for people in mixed Hindu/Muslim marriages” (Country Information Service 2002, *Country Information Report No. 160/02 – Bangladesh: Muslim Fundamentalists*, sourced from DFAT advice of 12 June 2002, 17 June – Attachment 10).

In an earlier report on mixed marriages, dated 19 May 1999, DFAT again provides a similar assessment, stating that they were “not aware of anyone suffering discrimination or disadvantage as a result of a mixed religion marriage.” However, they also noted that mixed marriages can present problems in certain circumstances “but this resistance begins in the family”. DFAT adds that “such resistance is much more likely to be encountered at the village level than in cities and towns, where mixed marriages are more frequent”. The full text of the response is provided below:

While marriages between people from different religious groups is not an issue we focus on when monitoring the media, in the two years and four months of my posting I do not recall any media reports on this issue. The senior political/economic LES officer, who has worked at the mission for five years and before that was a senior newspaper journalist, cannot recall any reports on problems arising from mixed religious marriages in over 10 years. Press reports of problems in marriage usually focus on violence against women from within the family and violence against women (particularly acid throwing) by disgruntled suitors.

The best known mixed marriage in Bangladesh is between two leading dramatic artists. He is a Hindu and a leading playwright, actor, television newscaster and commentator on cultural affairs. She is from a prominent Muslim family and is a leading actor. They married in the early 1970s and neither has changed religion.

We are not aware of public comment on this issue from religious leaders. We contacted the director general of the Islamic foundation, Maulana Abdul Awal, who said that Muslims may marry non-Muslims, but unless the non-Muslim converts to Islam the marriage will not be recognised under Shariah law. He did not indicate there was any antagonism to Muslims marrying non-Muslims. We have been informed by Hindus that modern Hinduism enables non-Hindus to convert. If the Hindu family accepts the non-Hindu party to a marriage as a Hindu, so will the community.

Marriages between people from different religions are specifically recognised in Bangladeshi law under the special marriage act no 3 of 1872 and such marriages are readily accepted in Bangladesh. One of the locally engaged staff of this mission is in a mixed marriage (Hindu/Muslim) and we are aware of others. Mixed marriages can present problems, but the mix is not restricted to religion. Sunni/Shia, rich/poor, educated/uneducated marriages can encounter resistance, but this resistance begins in the family. If the family accepts a marriage, so will the community. Such resistance is much more likely to be encountered at the village level than in cities and towns, where mixed marriages are more frequent.

The 10 DFAT locally engaged clerical staff at this mission include a Hindu, a Christian and a Buddhist. The issue of mixed marriages was discussed with them informally. None of them were aware of any problems resulting from mixed religion marriages in Bangladesh.

While Bangladesh has its religious extremists, the majority of Bangladeshi Muslims practice a tolerant form of Islam. At the last general election in June 1996 the leading Islamic party won one per cent of the seats in parliament. There is some resistance to proselytising Christianity that seeks to convert Muslims, but this is unrelated to marriage. We are not aware of anyone suffering discrimination or disadvantage as a result of a mixed religion marriage.

In addition to the sources mentioned above, we spoke with a female barrister who specialises in civil law in one of the country's leading chambers (Country Information Service 1999, *Country information Report CIR No. 171/99: Bangladesh Mixed Religion Marriages*, (sourced from DFAT advice of 19 May 1999), 27 May – Attachment 2).

A 2003 research study from the Livelihoods Connect website which examines “institutional influences on the livelihoods of the extreme poor” observes that inter-religious marriages can create conflict among neighbours with the result that “the poor families can lose some social-support network”:

Love affairs between young boys and girls of neighbouring houses sometimes give rise to conflict as the guardians consider such advances a transgression. Boys and girls from the poorer families in most cases have to take the blame. The comparatively better-off guardians usually get other neighbours on their side. Thus the poorer family is subjected to social harassment and humiliation.

Inter-religion and inter-ethnic love affairs or marriages also create conflict among neighbours and this is despite the fact of equal economic status of the families concerned. Cases have evidence of this in Rangamati and Niamatpur...

A cross-section of people of our study area claims that inter-religion love and marriage are looked down upon within a community. Both Hindu and Muslim guardians do not want to accept such relations. When such a marriage cannot be averted, the poor families lose some social-support network.

The local elite is also another important actor in poor people's lives. The study finds that 19 cases get various help from the local elite. The elite provides the poor with shelter or homestead land, religious charity, cash and commodity support, help to get access to different formal institutional facilities (Khan, S.M. Zubair Ali 2003, 'Living on the Boundary' in *The Livelihoods of the Extreme Poor (LEP) Study*, Livelihoods Connect website, March, pp. 48-49 – http://www.livelihoods.org/lessons/docs/LEP_institution.doc – Attachment 11).

Also of interest is an article from Alochona, an Internet discussion forum for Bangladeshis. In February 2003, a 'guest writer' discussed the issue of inter-racial and inter-religious marriages in Bangladesh, and notes that they "are more common these days than they were a few decades back". The author adds that "that is not to say that people have become desensitized about the issue, rather it is a huge issue when such occurrences take place in a person's life, especially at the familial level":

In today's world, inter-religious marriages are not totally uncommon. Even in Bangladesh we encounter such examples through our own acquaintances or otherwise. That is not to say that people have become desensitized about the issue, rather it is a huge issue when such occurrences take place in a person's life, especially at the familial level. Despite varying obstacles, people are brave enough to take the plunge. Marriage itself is tough on its own, and on top of that, having to deal with "inter-religious" issues add a whole other dimension. Especially when the concerned parties have strong religious affiliations at a personal level.

Let's face it, it is not customary for the Bangladeshi culture to endorse arranged "inter-religious" marriages. It is the highly independent choice by an individual or rather two people. Love, although ideally does not conform to any boundaries, pragmatically is often faced with little trials and tribulations once that piece of paper is signed. Welcome to the real world guys! Regardless of all the promises and fairy-tale-like picture perfect scenarios, a lot of hearts are tried and crushed once reality sets in. This, however, does not insinuate that it is all dire and dreadful. It merely suggests that one should be aware of all the issues that such a marriage may encounter once the knot is tied, and how the issues can be best dealt with by two intelligent and loving adults. Making the first decision is tough enough, but keeping it going under the same roof once started, needs that extra nudge ('Mixed Marriages' 2003, Alochona Magazine website, February – <http://magazine.alochona.org/magazine/2003/february/special/special2.asp> – Accessed 28 October 2005 – Attachment 12).

A 1998 report from the IRDBC examines mixed Muslim-Buddhist marriages in Bangladesh. In the context of such marriages the IRDBC states that "it is unlikely that couples of the upper-middle class and the intellectual community of the middle-class would face problems of harassment by the general population":

Harassment of couples of mixed Muslim and Buddhist background would depend on their respective social classes and geographical locations. For example, it is unlikely that couples of the upper-middle class and the intellectual community of the middle-class would face problems of harassment by the general population. However, for the rest of society, such

couples face tremendous pressure and at times psychological abuse from family members and the general population who perceive such marriages as “not normal.” According to the manager, stigmatization, violence and even death could be possible outcomes of such marriages (Immigration and Refugee Board of Canada 1998, *BGD30182.E – Bangladesh: Update to BGD20835.E of 19 June 1995 on whether Muslim men married to Buddhist women face harassment and whether police protection from such harassment is available (1996 to present)*, 9 October – Attachment 13).

The available sources did not reveal any recent information regarding family attitudes to mixed Hindu-Muslim marriages in Bangladesh. The following reports are now rather dated, but they may be useful in providing some background information on the issue.

Two DFAT reports from 1994 and 1992 respectively observe that mixed marriages couple can suffer problems from their families. The relevant text of the cables is provided below:

- People in mixed marriages sometimes, but not always, encounter various forms of non-violent harassment (sic) from their families and peers. As a rule, this harassment (sic) tends to be more common among uneducated and illiterate people, regardless of where they live. The government has no policy of involving itself in, or condoning, such harassment (sic). (Country Information Service 1994, *DORS Information Request – Cable DA 26279*, sourced from DFAT cable DA26279, 21 April – Attachment 3).
- An earlier DFAT report also notes that “where mixed marriages are conducted without parental approval, the couples are generally forced to leave their village because of the threat of physical danger to one or both of the partners.”(Country Information Service 1992, *Information Request – Cable DA 25043*, sourced from DFAT cable DA25043, 13 October – Attachment 14).

In 1994 the RRT also sought comments from Mr Abdul Gama, the former president of the Bangladesh Association of Australia, on the situation of mixed marriages in Bangladesh, particularly Muslim/Hindu marriages and community and family attitudes. Mr Gama states “where a Muslim has married out, the family usually ostracises the individual and the couple is forced to leave the district to live separately in one of the main cities”:

The family’s attitudes vary depending on the geographic location in Bangladesh. For example, in general, the attitudes in tribal areas in the north are very conservative and the family’s consent is usually required for couples to marry... Where a Muslim has married out, the family usually ostracises the individual and the couple is forced to leave the district to live separately in one of the main cities. There, they must hide the fact that they are a mixed marriage, though the person’s name will usually give this away. Hindus, Muslims and Christians all have different names which clearly identify their religion. In the cities, amongst the educated elite, acceptance of mixed marriages is growing, but even then it is not widespread and people who are in a mixed marriage find themselves with huge problems in society. Amongst the vast majority of uneducated urban people, the attitudes toward mixed marriages are the same as in the countryside.

Mr Gama commented that if a Muslim boy marries a Hindu girl, the Muslim male could experience problems in his own family, for example he could be expelled from the home or be stripped of his inheritance rights. The situation would be the same, if not worse for a Muslim female married to a Hindu male, without conversion. If the Hindu converts to the Muslim religion, then he or she would find him or herself expelled from their own community... Attitudes would depend most definitely on the degree of fundamentalism of the family in question (Gama, Abdul 1994, Comments on the situation of mixed marriages in

Bangladesh, particularly Muslim/Hindu marriages and community and family attitudes', 23 August – Attachment 15).

4. What is the government's response to such harm?

A search of the available sources did not reveal any specific incidents of harm to couples in mixed Hindu-Muslim marriages. Consequently, there was no evidence to indicate what the government's response to such incidents might be. However, information is provided below in regard to the authorities' response to crimes in general which the Member may find useful.

RRT *Research Response BGD14769*, dated 17 August 2001, examines the issue of whether government authorities would be able to prevent harassment to mixed marriage couples (RRT Country Research 2001, *Research Response BGD14769*, 17 August – Attachment 1).

A 2002 DFAT report also addresses the issue of whether the government would be able to protect a Muslim man who is married to a Hindu woman. The report states that the "Government is able to protect people against criminal activities by fundamentalists. Bangladesh is a non communal society and the government has taken action against criminal activity by fundamentalist groups in the past and we think would be willing to do so in the future." In response to a question "Is there any part of Bangladesh where the applicant would reasonably be able to relocate with his Hindu wife and not be persecuted for his "mixed" marriage and his anti-fundamentalist views?" DFAT responded that they would be safe in "any of the large cities and towns" (Country Information Service 2002, *Country Information Report No. 160/02 – Bangladesh: Muslim Fundamentalists*, (sourced from DFAT advice of 12 June 2002), 17 June. CISNET Bangladesh Attachment 16).

With regard to the Bangladeshi authorities' effectiveness, the US Department of State in its 2005 report on International Religious Freedom Report on Bangladesh states that police are normally ineffective in upholding law and order and are often slow to assist members of religious minorities who have been victims of crimes":

Citizens generally are free to practice the religion of their choice; however, police are normally ineffective in upholding law and order and are often slow to assist members of religious minorities who have been victims of crimes. Although the Government states that acts of violence against members of religious minority groups are politically or economically motivated and cannot be solely attributed to religion, religiously motivated violence was a continuing problem (US Department of State 2005, *International Religious Freedom Report for 2005 – Bangladesh*, 8 November – Attachment 8).

In 1998 the IRDBC prepared a report on State Protection in Bangladesh. The report observes that "that average citizens have long since lost faith in the ability of the police to safeguard their rights and protect them from common crime":

Sources indicate that average citizens have long since lost faith in the ability of the police to safeguard their rights and protect them from common crime...or, according to reports quoting Home Minister Rafiqul Islam, conduct an impartial investigation...Most crimes, especially minor ones, go unreported because victims want to avoid further trouble, including interrogation by the police...According to the *Bangladesh Observer*, "most people avoid contact with the police. The ordinary person is far too disillusioned with the effectiveness of the police...to waste their time running from pillar to post"...As well, ordinary citizens increasingly are arming themselves or taking the law into their own hands; Bangladeshi media sources have reported a rash of mob beatings, lynchings and other vigilante actions in the past year...[see original for sources quoted]

Several sources point out that corruption is widespread and permeates all aspects of public life in Bangladesh...and that it is the rich, powerful and politically connected who most benefit from the current system...[see original for sources quoted] (Immigration and Refugee Board of Canada 1998, *Bangladesh: State Protection*, Section 4: 'Police/Security forces' September – Attachment 17).

There is also evidence to suggest that, in particular, women who report abuse to the authorities might be put in “safe custody” and then face the risk of becoming victims of custodial rape. This was a factor in discouraging women from reporting such crimes. A 2000 report by the Regional Centre for Strategic studies states that “the fear of rape in police custody appears to have become a new concern for women. This indicates that women are not even safe in the hand of members of law enforcing agencies”. The report provides a number of accounts of women and children suffering abuse and even death in police custody. One example is provided below:

The fear of rape while in police custody appears to have become a new concern for women. This indicates that women are not even safe in the hands of the members of law enforcing agencies...

Custodial Rape: The Case of Seema

Seema Chowdhury, an 18-year-old garment factory worker died in safe custody under mysterious circumstances on February 7, 1997. She was reportedly raped by four policemen on 9 October 1996 but the accused were acquitted by a trial court on 14 July 1997 “for lack of evidence”. Two inquiries into her death instituted by the government and by the parliament have been disappointing.

Seema was reportedly walking with her boyfriend, Abdul Hafiz, in the afternoon of 8 October 1996 towards the village of Majidapura near the city of Chittagong. Police personnel passing by arrested both under section 54 of the Code of Criminal Procedure, which allows the police to arrest nine categories of criminal suspects without an order from a magistrate, and without a warrant of arrest. Police took both of them to the nearby Moghdi police camp and they were kept there until the afternoon of 9 October and were not produced before a court even though Bangladesh's Constitution requires any detainees to be seen by the court within 24 hours of their arrest. The couple was then transferred to Rauzan thana (police station) where they were held in separate rooms. Abdul Hafiz was sent to a cell and Seema was ‘detained’ in the office of the Officer-in-Charge (OC) of the police station. The OC claims that he had left at midnight, leaving his key with the duty officer Uttam Kumar Majumdar and that three other policemen entered the room after he left. Seema later recalled how the policemen on the night of 9 October forced her to drink a glass of what she thought was “muddy water”. She became dizzy, and in that condition, the four policemen raped her. She was taken to the Chittagong Medical College Hospital for check up where a medical board disclosed that she had been raped.

Due to repeated appeals by human rights organisations, she was kept in the safe custody at the Chittagong Jail. Seema remained in detention without access to a lawyer or visits by her friends and her mother. She was later diagnosed as having gastric ulcer and lung infection. Under these circumstances, she became severely ill and on 7 February, she was taken to the Chittagong Medical Hospital in a rickshaw van where the doctors declared she was dead. The doctors identified typhoid to be the reason of her death after conducting an autopsy. However, though according to rituals of Islam religion, a Muslim's body must be interred, the authorities immediately burned Seema's body without handing it over to her family.

Custodial Rape:

The abuse of women while in safe custody by members of the law enforcing agencies,

especially police has become a situation like “out of the frying pan and into the fire”. In 1997, members of the law enforcement agencies had committed 14 such crimes (‘Gender based Violence in Bangladesh: Trends and Typology’ 2000, Regional Centre for Strategic Studies, RCSS Policy Studies 16, Ch 5, October – http://www.rcss.org/policy_studies/ps_16_5.html – Accessed 11 October 2005 – Attachment 18).

With regard to religious minorities, a 2003 report by Refugees International also notes that “discrimination continues, particularly against Hindus” and that “there is a perception that police are often slow to assist members of religious minorities who have been victims of crime”:

Bangladesh has recently taken some steps to protect religious minorities, but discrimination continues, particularly against Hindus. Communal violence and discrimination have displaced up to 20,000 Hindus in recent years, with the most serious violations occurring in 2001...

The country’s constitution provides for freedom of religion. Religious minorities in Bangladesh, however, face restrictions in areas such as access to jobs in the government or military, especially at higher levels. There is also a perception that police are often slow to assist members of religious minorities who have been victims of crime (‘Bangladesh: Discrimination and Displacement of Religious Minorities’ 2003, Refugee International, 8 August – (<http://www.refugeesinternational.org/content/article/detail/891/> – Accessed 26 October 2005 – Attachment 19).

5. Anything else you feel might be relevant.

A 2005 article, published by the *Journal of Asian and African Studies*, reports that “since 1991, salish (village arbitration) and fatwa (religious edict) have become common features of Bangladesh society, especially in rural areas”. The article presents a number of examples and notes that “in almost all cases the perpetrators claimed to have been dispensing justice in accordance with the sharia and with a view to preserving the faith of Islam”:

Since 1991, salish (village arbitration) and fatwa (religious edict) have become common features of Bangladesh society, especially in rural areas. Women and non-governmental development organizations (NGOs) have been subjected to fatwas delivered through a traditional social institution called salish. This article examines this phenomenon and its relationship to the rise of Islam as political ideology and increasing strengths of Islamist parties in Bangladesh. This article challenges existing interpretations that persecution of women through salish and fatwa is a reaction of the rural community against the modernization process; that fatwas represent an important tool in the backlash of traditional elites against the impoverished rural women; and that the actions of the rural mullahs do not have any political links.

The article shows, with several case studies, that use of salish and fatwa as tools of subjection of women and development organizations reflect an effort to utilize traditional local institutions to further particular interpretations of behavior and of the rights of individuals under Islam, and that this interpretation is intrinsically linked to the Islamists’ agenda (Riaz, Ali 2005, “Traditional institutions as tools of political Islam in Bangladesh”, *Journal of Asian and African Studies*, Volume 40, Issue 3, 1 June – Attachment 20)

List of Sources Consulted

Internet Sources:

Google search engine

UNHCR *REFWORLD* UNHCR Refugee Information Online

Databases:

Public	<i>FACTIVA</i>	Reuters Business Briefing
DIMIA	<i>BACIS</i>	Country Information
	<i>REFINFO</i>	IRBDC Research Responses (Canada)
RRT	<i>ISYS</i>	RRT Country Research database, including Amnesty International, Human Rights Watch, US Department of State <i>Country Reports on Human Rights Practices</i> .
RRT Library	<i>FIRST</i>	RRT Library Catalogue

List of Attachments

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