

PARLIAMENT WATCH – BANGLADESH

JANUARY – JULY 2011



A Report on the Proceedings of the Ninth Parliament of Bangladesh

(Eighth Session)
January - March 2011

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A short brief on the Eighth Session of the Ninth Parliament:

The Eighth session of the Ninth Parliament which commenced on 25th January 2011 and continued for 33 days concluded on 24th March 2011. On 15th March 2011 after a long gap, Bangladesh Nationalist Party (BNP), the main opposition party, joined in the discussion on the President's address. A total 227 Members of Parliament (MPs), 199 members from the Ruling party and 28 from the opposition, joined in this discussion. The discussion continued for 41 hours 26 minutes of which 35 hours 45 minutes were taken up by the Ruling party members and 5 hours 41 minutes were taken up by the opposition members. Along with the Prime Minister, 47 female members of Parliament participated in the discussion.

On 21 July 2010, a Special Committee of 15 members was formed to amend the Constitution. Three members from the opposition parties were included to this 15 member committee. A couple of meetings with experts on the Constitution were held and their recommendations were compiled and incorporated in the Committee report. Including members from the Opposition and seeking expert opinions is a good sign for promoting democracy but whether these recommendations are properly evaluated or not needs to be monitored. Only if it is practiced properly will democracy be established in its true sense.

It should be noted that during this session six bills were passed but no private members bills were placed. The following are the bills that were passed in the Eighth Session -

Sl. #	Name of the bill	Accession date
1	Code of Criminal Procedure (Amendment) Act, 2011	09.03.2011
2	National Sports Council (Amendment) Act, 2011	09.03.2011
3	Bangabandhu Welfare Foundation Act, 2011	09.03.2011
4	Plant Quarantine Act 2011	05.04.2011
5	The Christian Religious Welfare Trust (Amendment) Act, 2011	21.03.2011
6	Administrative Tribunals (Amendment) Act, 2011	05.04.2011

Analysis of Government and Private Members Bill:

On February 28, 2011, a bill titled the ***Anti Corruption Commission (Amendment) Bill, 2011*** was tabled in Parliament with a provision that the prior permission of the government is a pre-requisite in filing cases against government officials and public representatives. This bill, if approved by the Parliament, has the potential to increase political and administrative corruption, and therefore raises a serious issue of concern.

There was a provision for issuing a warrant order against any writer, journalist, editor or publisher as per the Code of Criminal Procedure, 1898 (Act No. V of 1898) Schedule II. To avoid the unnecessary hassle of issuing a warrant order against any writer, journalist, editor or publisher and to prevent the misuse of the law, the Parliament passed the ***Code of Criminal Procedure (Amendment) Act, 2011***. Through passing this law the court is empowered to issue summons instead of a Warrant Order. The journalists have been demanding this for a long time. It is expected that the enacted Act will contribute to opine freely and ultimately reduce the hassle in the long run.

To get equal justice is a fundamental right of all human beings. The Constitution stipulates that all are equal before law¹. Despite several legal provisions to protect this right, it is observed that human rights are violated frequently. A private member's bill titled ***Violence & Death in the Safe Custody (Restrain/ Prevention) Bill, 2009*** was submitted by a Ruling Party MP Mr. Saber Hossain Chowdhury in 2009. This was sent to the Standing Committee for examination and several meetings were held to seek opinions from legal experts and human rights defenders. The bill, which incorporated the expert's opinions/recommendations, was recently placed before Parliament for approval. But unfortunately it was not passed this session.

The objective of the bill was to ensure the fundamental rights of the people especially by the law enforcement agencies. It was stated that law enforcement agencies should not forget that their role was to provide security to the people. But if people are victims of violence when in custody of the police or any other law enforcement agency, the people will certainly become perplexed

¹ Article 27-28 of the Constitution of Bangladesh

and lose faith in these law enforcement agencies. Several incidences were recorded during this period regarding the torture of persons during custody.

In terms of Articles 27 & 35 (5), the experts advised to pass the bill citing the constitutional provisions. Being a signatory to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Bangladesh should comply with the provisions of this convention. However, the bill is still pending.

In the ninth Parliament, Mr. Saber Hossain Chowdhury proposed important private members bills such as the ***Lepers (Repeal) Bill, Code of Criminal Procedure (Amendment) Bill, Slum Dwellers Eviction Bill*** etc., but all these bills are still awaiting Committee Review. In retrospect, it could be said that passing a private members bill is a rare incident in the Parliament of Bangladesh as only 6 private members bills have been passed for the past 38 years. From the commencement of the ninth Parliament and up to date, thirteen Private members bills have been sent to the committee for review. It is expected that by passing the Private members bills that the Rule of law will be guaranteed and the people will receive the justice they seek and deserve.

Issues of concern on Human Rights Violations:

Within the reporting period there have been incidents of human rights violations in different areas of Bangladesh. But these issues were not discussed by the people's representatives (MPs) in Parliament. The Ruling party gave conflicting opinions on various issues of Human Rights violations while it was witnessed that the main opposition boycotted various debates in Parliament. The Opposition party members preferred protesting in the street rather than participating in the Parliamentary debate.

It was observed that all Parliamentarians whether in the Ruling Party or in the opposition, were unanimous in availing the privileges. It was also noted that the opposition party members remained absent in Parliament most of the time but were present regularly at the Standing Committee meetings and for foreign trips.

Extra Judicial Killing:

It was reported that 33 people were extra judicially killed by law enforcement agencies between January and March 2011.² Ironically on January 26, 2011 the Home Minister, Advocate Sahara Khatun said, *“the law enforcement agencies will continue their work, regardless of whatever is being said about extra judicial killings. The criminals are supposed to be killed when law enforcers shot at them in self defense”*³

Again on 3 February 2011 the Prime Minister stated in a Press conference, *“I have always taken a stand against extra judicial killings. Such killings are continuing for a long time, which cannot be stopped over night.”*⁴ The present Ruling party members, including the Home Minister, had been denying the practice of extra judicial killings after a land side victory in the ninth Parliamentary election.⁵

Death in Custody:

38 persons died in custody within the reporting period. All incidents of death in custody were not caused only due to torture but also due to the lack of treatment and basic facilities.

Border Crisis:

Human Rights violations caused by the Indian Border Security Force (BSF) in the border areas continued in 2011. The BSF allegedly killed 907 unarmed Bangladeshis between January and March 2011.⁶ The BSF kills Bangladeshi nationals either by shooting or torturing them. On January 7, 2011, a 15 year old girl, Felani Khatun was shot and killed by the BSF while she was entering Bangladesh from India near the international 947 pillar of the Anantapur border. The BSF took Felani’s body after 5 hours and handed it over to the Border Guard Bangladesh after 30 hours.⁷ To ensure justice the Bangladesh government should demand international investigations to stop such killings.

Few other sporadic incidents of human rights violations:

On October 8, 2010 BNP leader Sanaullah Noor alias Babu was beaten and stabbed to death when attacked in a procession in Natore. But on March 6, 2011, a Divisional Bench of the High Court Division comprising of Justice Mohammad Shamsul Huda and Justice Abu Bakar

² Odhikar Report, January- March, 2011

³ The daily Jugantor, 27 January, 2011

⁴ The Daily Prothom Alo, 04 February, 2011, 1st page, reported by special correspondent

⁵ The Daily Jugantor, 27 January, 2011

⁶ Odhikar report, January- March, 2011

⁷ Fact finding report of Odhikar, 16 January, 2011

Siddique granted bail for the 11 accused, over satisfaction of the Chief Judicial Magistrate of Natore.⁸

Withdrawal of Criminal Cases considered 'politically motivated':

The Government is withdrawing cases of murder, rape, robbery, corruption, extortion and of keeping illegal arms, by considering these as politically motivated cases, thus bypassing the judiciary and the judicial process. These prosecutions have been withdrawn on that basis and kept for future consideration. Most of these cases had been filed against the Ruling party leaders and activists. On January 11, 2011 a total 1479 cases were proposed for withdrawal at the 25th meeting of the 'National Committee on reviewing the cases for withdrawal'. Of them 900 cases have no recommendations from the District Committees. According to the Government's Rules, no case can be proposed for withdrawal at the National Committee without recommendations from the District Committees. But it is alleged that these cases have been proposed with influence of Ministers, Parliamentarians and leaders of the Ruling party without recommendations from the District Committees.⁹ Such unhealthy practices are contrary to the Rule of law and undermines the legal process. If criminal cases are withdrawn randomly as having been politically motivated, it will extend the culture of impunity in Bangladesh and will cause grave injustice to the victims.

Government disperses meeting of the Arial Lake Protection Committee:

On January 26, 2011 a procession organized by the Arial Lake Protection Committee to protest against the construction of an airport at the Arial Lake area was disrupted by the police. Later, the Committee shifted to the National Press Club and tried to make a human chain in front of the club which too was disrupted by the police. It should be noted that according to Articles 38 and 39 of the Constitution the citizens have been guaranteed the right to organize meetings and peaceful processions. On January 31, 2011, a police officer was killed and more than 100 people, including policemen and journalists, were injured in clashes during a protest against the proposed International Airport. Finally, the government was compelled to cancel its plans due to justified protests by local people against the construction of a new airport at Arial Beel on agricultural land. After the incident, the Government filed cases against the Dhaka University teacher and Emeritus Dr. Shirajul Islam Chowdhury, the leaders of the Arial Lake Protection

⁸ The Daily Prothom Alo, 11 March, 2011

⁹ The Daily Prothom Alo, 11 January, 2011, Reported by Rozina Islam, page-1

Committee and twenty two thousand local people. It has also been alleged that the supporters of the Ruling Party and policemen are now harassing local people, and ransacking and looting their houses.¹⁰

Harassment of Journalists:

On March 19, 2011 a senior reporter of Channel 1 and the Editor and publisher of a local daily, Morshalin Babla was allegedly threatened by Nasim Osman, Parliament member of Jatiyo Party and his brother Shamim Osman, a former MP of the Awami League. Journalist Morshalin Babla informed that Nasim Osman & Shamim Osman threatened him for having published reports of certain misdeeds in the Daily Juger Chinta¹¹. It is reported that since January – March 2011, 20 Journalists were injured, 20 were threatened and 10 Journalists assaulted while 3 cases were filed against journalists.¹²

For promoting transparency and accountability in the Parliament the Ruling party and the Opposition should be regularly present to make the session effective by providing constructive suggestions especially on proposed bills and issues of public importance. Equal attention must be given to both Government bills and Private members bills. It should be noted that incidents of human rights violation occurred despite initiatives taken by the Ruling party. These issues should be discussed among the major political parties to ensure the fundamental rights of people. Along with this, implementation mechanisms should be developed to effectively implement the recommendations of the standing committees.

¹⁰ Odhikar Report, January- March, 2011

¹¹ Written statement by senior reporter of Channel 1 and the Editor and Publisher of “the Daily Juger Chinta”, 21 March 2011

¹² Odhikar Report, January – March, 2011