



Bangladesh: The Interim Government Must Ensure the Ordinance on Enforced Disappearances Aligns with International Standards Following Robust Public Consultations

15 May 2025

We – the undersigned human rights organisations – express our serious concerns about Bangladesh's draft Enforced Disappearance Prevention and Redress Ordinance 2025. While it is critical to enact a law to hold perpetrators accountable for enforced disappearances, the current draft contains provisions that fail to adhere to international standards. The Interim Government took laudable steps in acceding to the United Nations International Convention for the Protection of All Persons from Enforced Disappearance and establishing the Commission of Inquiry on Enforced Disappearances. However, the draft Ordinance's definition of enforced disappearances is not compatible with the Convention, among other serious flaws. We are alarmed by reports that the draft Ordinance is progressing without adequate public consultations. Accountability cannot be achieved without a robust legal framework, developed through a transparent and inclusive consultation process with sufficient time for meaningful feedback.

First, a law of this importance should be developed following extensive consultation with a wide array of stakeholders, including victims, family members, legal experts, and civil society representatives reflecting the plurality of Bangladeshi society. Despite the Commission of Inquiry on Enforced Disappearances having a mandate to investigate individual cases and make recommendations to address such crimes and prevent future occurrences, there appears to have been no significant role for the Commission in preparing the draft Ordinance – a missed opportunity given its extensive work and expertise. Consultations must not be treated as a tick-box exercise but rather as an essential process to ensure the law, when passed, genuinely reflects public input. Therefore, ahead of the passage of this draft legislation, we call on the Interim Government to ensure robust, meaningful consultation with a wide array of civil society actors, to provide adequate time for feedback, and to ensure this feedback is taken on board insofar as it adheres to international laws and best practice.

Second, the Ordinance must ensure all perpetrators of enforced disappearances, including members of security forces who are responsible through superior or command responsibility, can be held accountable. However, the draft Ordinance's language limits superior or command responsibility to circumstances where it can be proven a commander ordered, or was involved in supporting, an enforced disappearance. Not only does this shift the onus of proving orders or involvement onto victims, or their representatives, but it also violates international legal standards. Under Article 28 of the Rome Statute of the International Criminal Court, commanders are criminally responsible if they knew or should have known about crimes by subordinates but failed to take all necessary and reasonable measures to prevent or investigate the crimes. Therefore, the current draft Ordinance risks excluding key perpetrators from liability before investigations have begun.

Third, the Ordinance should ensure that the body tasked with investigating enforced disappearances is independent and that its mandate on this issue is established through legislation, rather than executive decree. This legislative foundation is essential to ensure it has the institutional authority and independence to withstand external pressures and to prevent the risk of being dissolved by the government. The draft Ordinance falls short of this in proposing that a new National Commission on the Prevention and Redress of Enforced Disappearances be established only through a gazette notification at the government's discretion.

Fourth, the investigating body should have jurisdiction to investigate all cases of enforced disappearances. However, the draft Ordinance currently reserves for the exclusive jurisdiction of the International Crimes Tribunal enforced disappearances that were widespread or systematic, i.e. that amount to crimes against humanity. Evidence indicates that the vast majority of enforced disappearances under Sheikh Hasina's government were widespread or systematic, leaving the investigating body, whether the proposed new commission or another, with little or no role in investigating the thousands of disappearances that are estimated to have occurred.

Fifth, the Ordinance should exclude the death penalty as a sentencing option. The irreversible nature of the death penalty, coupled with the persistent risk of wrongful convictions and its historically disproportionate application, particularly against marginalised groups and political opposition, renders it an inherently flawed and dangerous tool for justice. Extending the application of the death penalty in Bangladesh under this legislation would conflict not only with the [constitutional](#) guarantee of the right to life, but also with Bangladesh's obligations under international law, specifically Article 6 of the [International Covenant on Civil and Political Rights \(ICCPR\)](#), to which Bangladesh is a state party. The UN Human Rights Committee, which interprets the ICCPR, clearly expects state parties to progress towards full abolition and prohibits them from extending the death penalty to offences not subject to capital punishment at the time of ratification, as stated in [General Comment No. 36](#).

The global community is increasingly unified in its opposition to capital punishment, as evidenced by the most recent vote at the United Nations General Assembly in December 2024, where over two-thirds of UN member states voted for a moratorium on the use of the death penalty. For the first time, Bangladesh abstained from voting, having opposed the resolution in previous years. This was an encouraging step, hopefully towards support for domestic abolition, and we encourage the Interim Government to take the vital next step of declaring an official moratorium on executions and to instruct prosecutors not to seek the death penalty. As the authorities of Bangladesh advance accountability and protections in the country, they cannot seek to address human rights violations via a form of punishment that is incompatible with human rights and human dignity.

Finally, the draft Ordinance allows for trials to be conducted in absentia. While this provision may be included to avoid potential delays, it would fundamentally compromise an accused person's right to a fair trial as set out in Article 14 of the ICCPR, which is a cornerstone of any legitimate legal process.

The potential for the proposed Ordinance to be weaponised underscores broader concerns about legal transparency and the integrity of Bangladesh's justice system. This not only risks injustice but also threatens to erode public confidence in the legal system. The Interim Government of Bangladesh must remove the death penalty and any other provisions that contravene international laws and standards from the draft Enforced Disappearance Prevention and Redress Ordinance 2025.

Signed by:

Anti-Death Penalty Asia Network

Asian Forum for Human Rights and Development (FORUM-ASIA)

Capital Punishment Justice Project

Fortify Rights

Human Rights Watch

International Bar Association's Human Rights Institute (IBAHRI)

International Federation for Human Rights (FIDH)

Robert F. Kennedy Human Rights

Together Against the Death Penalty (ECPM)

World Coalition Against the Death Penalty

World Organisation Against Torture (OMCT)