

Refugee Review Tribunal

AUSTRALIA

RRT RESEARCH RESPONSE

Research Response Number: BGD17499
Country: Bangladesh
Date: 26 August 2005

Keywords: Bangladesh – Freedom Party – BNP – Political activists – Legal proceedings

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. Is the Freedom Party active in 2005?**
- 2. Are (former) activists known to be associated with or to have joined the BNP?**
- 3. Are there any reports of government harassment of Freedom Party members, such as the enforcement of arrest warrants for false charges?**

RESPONSE

1. Is the Freedom Party active in 2005?

A Bureau of Democracy, Human Rights and Labor report dating from 1998, entitled *Bangladesh: Profile Of Asylum Claims And Country Conditions*, stated, “the Freedom Party is legal, but has ceased to function as a political party as its leaders are either in jail accused of the 1975 killing of Sheikh Mujib and most of his family, or have fled the country to avoid prosecution” (Bureau of Democracy, Human Rights and Labor 1998, *Bangladesh: Profile Of Asylum Claims And Country Conditions*, February – Attachment 1).

None of the party’s candidates were elected to the parliament in 1996 and it did not contest any seats in the 2001 election (Bureau of Democracy, Human Rights and Labor 1998, *Bangladesh: Profile of Asylum Claims And Country Conditions*, February – Attachment 1; RRT Country Research 2001, *Research Response BGD14864*, 26 October, question 2 – Attachment 2). A 2001 RRT Country Research response provides information suggesting the party was defunct as at June 2001 (RRT Country Research 2001, *Research Response BGD14864*, 26 October, question 2 – Attachment 2).

However, the Immigration and Refugee Board of Canada claimed in a 2002 compilation, “although described as non-parliamentary (*Independent* 18 June 2001) and “nearly-defunct” (*United News of Bangladesh* 19 June 2001), the FP took part in the October 2001 national elections” (Bangladesh International Election Observer Network 19 Sept. 2001) (Immigration

and Refugee Board of Canada 2002, *BGD38471.E – Bangladesh: The Freedom Party: origins, objectives and treatment of members (1995-2002)*, 1 March – Attachment 3).

According to the Bangladesh Election Commission website, however, no candidate from the Freedom Party was recorded in the 2001 Parliamentary election (Bangladesh Election Commission 2003, ‘Statistical Report: Number of Candidates by Party – October 1, 2001 Election’, Bangladesh Election Commission website http://www.ecs.gov.bd/stat/Parliament%20Election%202001%20Results%20and%20Statistic/s/no_candidates_party.pdf – Accessed 24 August 2004 – Attachment 4).

The Freedom Party is still listed as a political organisation in the October 2003 UK Home Office’s *Bangladesh Report*. The entry provides further information on the party and its affiliations:

It is described as right wing and Islamic. It was reportedly formed to oppose the Awami League. The daily publication *Millat*, edited by Chowdhury Mohammad Faruq, is reported to be a mouthpiece of the Freedom Party. It also has a youth wing called the Jubo Command (UK Home Office 2003, *Bangladesh Report*, October, Annex B – Attachment 5).

In the previously cited 2002 paper, the Immigration and Refugee Board of Canada, claimed, “the FP has alleged ties with “ultra right-wing groups such as the Harkatul Jihad,” which is linked to the Inter-Services Intelligence (ISI) in Pakistan (*Pioneer* 19 June 2001) (Immigration and Refugee Board of Canada 2002, *BGD38471.E – Bangladesh: The Freedom Party: origins, objectives and treatment of members (1995-2002)*, 1 March – Attachment 3).

A website for the Freedom Party could not be located. The Bengali daily *Dainik Millat* (or *Milleit*) is listed as a “principal daily” in ‘Regional Surveys of the World: South Asia 2004’ (‘Regional Surveys of the World: South Asia 2004’ 2003, *Europa Publications*, 1st edition, p. 110 – Attachment 6) but no further recent references to it (or its editor) were located. Similarly, no recent references to the Freedom Party affiliated Jubo Command (or League) were located in the sources consulted.

2. Are (former) activists known to be associated with or to have joined the BNP?

Only two references were found to link former Freedom Party activists with the BNP and they are dated 1998 and early 2002. Moreover, it is claimed in one report that the activists would not acknowledge their association with the Party.

The previously cited 1998 Bureau of Democracy, Human Rights and Labor report, claims “those of [the Freedom Party] former activists still involved in politics are believed to have joined the BNP”. The report adds, “they rarely, if ever, admit to having been Freedom Party members” (Bureau of Democracy, Human Rights and Labor 1998, *Bangladesh: Profile Of Asylum Claims And Country Conditions*, February – Attachment 1).

A January 2002 report in the one of the largest mass circulation papers in Bangladesh, the *Daily Star*, claimed “former Freedom Party leaders and Jubo League men allegedly have links with [a top terrorist and gang leader]”, who is also in touch with “some influential leaders of the government (‘4 terrorist gangs in Tejgaon area hold people hostage’ 2002,

Daily Star, 17 January <http://www.thedailystar.net/dailystarnews/200201/17/n2011701.htm> – Accessed 25 August 2005 – Attachment 7).

3. Are there any reports of government harassment of Freedom Party members, such as the enforcement of arrest warrants for false charges?

Pre – 2001

Attached for reference are two cases decided by the United Nations Committee Against Torture. The complainants in both cases were members of the Freedom Party and claimed false charges of murder (amongst others) were laid against them in 1997 and 1998 respectively by the then ruling Awami League Party (United Nations Committee against Torture 2003, ‘Communication No. 228/2003’, *The Netherlands Institute of Human Rights (SIM) website*, 18 November <http://sim.law.uu.nl/SIM/CaseLaw/CATcase.nsf/0/dc75d20cc21e0e30c1256e29005c8d1a?OpenDocument> – Accessed 25 August 2005 – Attachment 8; United Nations Committee against Torture 2005, ‘Communication No. 220/2002’, *The Netherlands Institute of Human Rights (SIM) website*, 17 May <http://sim.law.uu.nl/SIM/CaseLaw/fulltextcat.nsf/160f6e7f0fb318e8c1256d410033e0a1/9cca9fe8841267fcc1257021003ce474?OpenDocument> – Accessed 25 August 2005 – Attachment 9).

The 1998 Bureau of Democracy, Human Rights and Labor report provides the contemporary context for these arrests and notes:

Freedom Party activists faced no special problems under the BNP government. The current Awami League government, elected in June 1996, is led by Sheik Mujib’s daughter, Hasina. The Awami League has a much more hostile attitude toward the Freedom Party, which it regards as the party of Sheikh Mujib’s killers. Individuals who have been activists for the Freedom Party are now subject to harassment by the authorities. This can include the bringing of trumped-up charges against Freedom Party members, imprisonment under the Special Powers Act (preventive detention without charge), and physical abuse by the authorities or by activists of other political parties (Bureau of Democracy, Human Rights and Labor 1998, *Bangladesh: Profile Of Asylum Claims And Country Conditions*, February – Attachment 1).

Post – 2001

It is noted that the Awami League Party were in government in early 2001 but lost power in the October 2001 elections. The BNP held power following the introduction of democratic rule from 1991 to 1996, and from 2001 until present day.

The US Department of State’s *Country Reports on Human Rights Practices in 2001 – Bangladesh*, states:

The Government and activists of major political parties frequently use violence and harassment against political opponents, practices that intensify in the period prior to elections (see Section 1.a.). (US Department of State 2002, *Country Reports on Human Rights Practices in 2001 – Bangladesh*, 4 March, section 3 –Attachment 10).

The months leading up to the 2001 election were a volatile time. In April 2001, the High Court confirmed the death sentences on 12 ex-army officers for killing Sheikh Mujib and in June a bomb at the Awami League office near Dhaka killed 22 people. Freedom Party leaders and activists were amongst those accused and charged with the bombing (Hossain, Farid 2001, 'Bangladesh detains three suspects over bomb explosion', *Associated Press Newswires*, 18 June – Attachment 11; Narayanganj-Case 2001, *Asia Pulse Pte Limited*, source: United News of Bangladesh, 19 June – Attachment 12; Ahmed, A. 2001, 'Bangladeshi rivals demand security after blast', *Reuters News*, 18 June – Attachment 13).

The US Department of State's *Country Reports on Human Rights Practices in 2001 – Bangladesh*, details incidents of opposition activists being detained or charged:

Morshed Khan, a wealthy BNP leader who in 2000 was accused under the PSA of stealing money from a sweet shop ...

On November 22, Shariar Kabir was detained by the Special Branch of police at the immigration desk of Zia International Airport. Upon his return from Calcutta, Kabir was held without charge for 2 days before the Government announced that he had been arrested on the charge on carrying out seditious acts abroad.

Numerous court cases have been filed against opposition M.P.'s and activists, on charges ranging from corruption to murder. Obaidur Rahman, a BNP M.P., and two other political figures were arrested in October 1998 for alleged complicity in the 1975 "jail killings" of four senior Awami League leaders; he was released on bail in December. The Government continued to hold eight persons accused of perpetrating these murders. The trial began on April 12.

Some opposition activists were detained or charged in questionable cases. On June 18, 11 members of the Jamaat-e-Islami were arrested under the SPA for preventive detention after meeting with a foreign NGO, the National Democratic Institute (NDI), to discuss training for election polling agents. NDI had held virtually the same meeting with each of the major political parties. At the time of the arrest, police told Jamaat members that they were under arrest for "subversive, secret meetings with foreigners." Grounds for detention were later listed as conspiring to commit sabotage and possession of subversive literature. Five of the 11 were released on June 30, and the remainder on August 6.

Whilst acknowledging opposition activists are detained and charged for political reasons, the report also notes:

It is difficult to estimate the total number of detentions for political reasons. In some instances criminal charges may apply to the actions of activists, and many criminals claim political affiliations. ... There is no independent body with the authority and ability to monitor detentions, or to prevent, detect, or publicize cases of political harassment. Most such detentions appear to be for several days or weeks. Defendants in most cases receive bail, but dismissal of wrongful charges or acquittal may take years (US Department of State 2002, *Country Reports on Human Rights Practices in 2001 – Bangladesh*, 4 March, section 2d. – Attachment 10).

A 2001 RRT Country Research response provides information on security measures taken in the lead-up to the October 2001 election (RRT Country Research 2001, *Research Response BGD14864*, 26 October, question 4 – Attachment 2).

The US Department of State's *Country Reports on Human Rights Practices in 2001 – Bangladesh*, provides further information on the states' powers to arrest and detain:

The Government continued to arrest and to detain persons arbitrarily, as well as to use national security legislation (the Special Powers Act (SPA) and Public Safety Act (PSA)) to detain citizens without formal charges or specific complaints being filed against them. The Constitution states that each person arrested shall be informed of the grounds for detention, provided access to a lawyer of his choice, brought before a magistrate within 24 hours, and freed unless the magistrate authorizes continued detention. However, the Constitution specifically allows preventive detention, with specified safeguards, outside these requirements. In practice authorities frequently violate these constitutional provisions, even in nonpreventive detention cases. In an April 1999 ruling, a two-judge High Court panel criticized the police force for rampant abuse of detention laws and powers. There is a system of bail for criminal offenses.

Under Section 54 of the Code of Criminal Procedure, individuals may be detained for suspicion of criminal activity without an order from a magistrate or a warrant. Some persons initially detained under Section 54 subsequently are charged with a crime, while others are released without any charge. According to one human rights organization, a total of 755 persons had been newly detained under the SPA between January and June. Another human rights organization, quoting prison authorities, cites the number of SPA detainees at 655 as of July 1. In the past, the Government sometimes used Section 54 to harass and intimidate members of the political opposition and their families. Police sometimes detain opposition activists prior to and during general strikes without citing any legal authority, holding them until the event is over. Newspapers report instances of police detaining persons to extract money or for personal vengeance.

Under the SPA the Government or a district magistrate may order a person detained for 30 days to prevent the commission of an act likely "to prejudice the security of the country." Other offenses subject to the SPA include smuggling, black market activity, or hoarding. The Government (or magistrate) must inform the detainee of the grounds for detention within 15 days, and the Government must approve the grounds for detention within 30 days or release the detainee. In practice detainees sometimes are held for longer periods without the Government stating the grounds for the detention or formally approving it. Detainees may appeal their detention, and the Government may grant early release. ...

In response to a deteriorating law and order situation, Parliament passed the restrictive new PSA in January 2000. The law established special tribunals to hear cases under the act, and made particular offenses non-bailable. Opposition leaders expressed fears that the law would be used to arrest political opponents of the ruling party, as the law, like the SPA, allows police to circumvent normal procedures designed to prevent arbitrary arrest, and precludes detainees from being released on bail, which often is the result of arrests based on little or no concrete evidence (see Section 2.b.) (US Department of State 2002, *Country Reports on Human Rights Practices in 2001 – Bangladesh*, 4 March, section 2d. – Attachment 10).

List of Sources Consulted

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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

1. Bureau of Democracy, Human Rights and Labor 1998, *Bangladesh: Profile Of Asylum Claims And Country Conditions*, February.
2. RRT Country Research 2001, *Research Response BGD14864*, 26 October.
3. Immigration and Refugee Board of Canada 2002, *BGD38471.E – Bangladesh: The Freedom Party: origins, objectives and treatment of members (1995-2002)*, 1 March. (REFINFO)
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