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Bangladesh: Do not extend Army Act to Bangladesh Rifle suspects

The Government of Bangladesh is seeking an endorsement from the highest court of the country that the 1952 Army Act can be extended to cover Bangladesh Rifles (BDR) personnel accused of killing dozens of army personnel and civilians during a mutiny in February 2009. Amnesty International believes that BDR personnel accused of killing and hostage taking during the mutiny should be tried in civilian courts.

Amnesty International acknowledges the gravity of the offences committed during the two days of mutiny and calls upon the government to bring the perpetrators to justice. However, this should be done in full compliance with Bangladesh's human rights obligations, specifically the right of the accused to a fair trial.

BDR personnel are currently outside the purview of the Army Act. The Government of Bangladesh requested a decision from the Supreme Court on whether the 1952 Army Act can be applied to the BDR suspects. A reference to this effect was sent to the Supreme Court on 17 August and the Supreme Court has appointed 10 senior lawyers to give their opinion during a hearing of the reference on 25 August. A decision by the Supreme Court is expected by the end of August.

Amnesty International believes that the BDR suspects should not be tried under the 1952 Army Act for the following reasons:

First, since the BDR is a civilian police force (reporting to the Home Ministry, not the Ministry of Defense) and not a military force, its personnel should not be tried in a military tribunal.

According to the United Nations Human Rights Committee, responsible for interpreting the International Covenant on Civil and Political Rights, to which Bangladesh is a party, military courts should only address offenses of a strictly military nature, only when committed by military personnel, and only when the military courts provide full guarantees of a fair trial. Second, the high number and gruesome nature of the crimes against military officers during the mutiny makes it very difficult to constitute a court martial that is, and is seen as, independent and impartial.

Third, the 1952 Army Act, which provides for courts martial, removes the possibility of judicial appeal before a civilian court. This curtails the rights of people to seek judicial redress through the High Court against the decision of a court martial, in breach of ICCPR Article 14(5). This article states: "Everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law."

Background

Up to 3,000 BDR personnel accused of unlawful killings and hostage taking during a 33-hour mutiny on 25 and 26 February 2009 at the BDR headquarters in Dhaka, are awaiting trials. Amnesty International has received reports of torture and ill-treatment of BDR detainees, including the death of at least 39 BDR personnel in custody.

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