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## “The Fear Never Leaves Me”

Custodial Deaths, Torture, and Unfair Trials  
after the 2009 Bangladesh Rifles Mutiny

*Photo: Members of Bangladesh Rifles (BDR) accused of mutiny are summoned for a hearing before a special court in Dhaka July 12, 2010.*

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after the 2009 Mutiny of the Bangladesh Rifles**

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<b>Map of Bangladesh .....</b>	<b>1</b>
<b>Map of BDR Pilkhana Headquarters, Dhaka .....</b>	<b>2</b>
<b>Summary .....</b>	<b>3</b>
The Mutiny .....	4
Abuses Against BDR Suspects .....	5
Bangladesh’s International Law Obligations .....	8
Key recommendations .....	9
<b>Methodology .....</b>	<b>10</b>
<b>I. The Bangladesh Rifles .....</b>	<b>11</b>
<b>II. The February 25-26 Mutiny .....</b>	<b>14</b>
Government and Army Investigation Reports .....	21
<b>III. Abuses Against Suspected Mutineers .....</b>	<b>26</b>
Torture and Custodial Deaths .....	26
Case of Mohammad Abdul Rahim .....	28
Case of Mozammel Hoque .....	29
Case of Habildar Mohiudin Ahmed .....	30
Case of Nurul Amin .....	31
Case of Mohammad Abdul Jalil Sheikh .....	33
Case of Nasruddin Khan .....	34
Case of Nulamin Sardar .....	35
Case of Sepoy Al Masum .....	36
Case of MA .....	38
Case of Kamrul Hasan .....	40
Case of Kaching Marma .....	41
<b>IV. Due Process and Fair Trials Concerns .....</b>	<b>42</b>
Case of Manuel de Perise .....	44

Case of Hasi Gomez .....	45
Case of Furid Marak Costa .....	46
Case of Abu Kasim Sigdal.....	47
Case of Nasmul Hudua Chowdhury .....	48
Case of Babul Sangma .....	49
Case of Abul Kasim Majumdar.....	49
<b>V. Recommendations .....</b>	<b>53</b>
To the Government of Bangladesh .....	53
To Donors and Other Influential Members of the International Community .....	55
<b>Acknowledgements .....</b>	<b>57</b>

# Map of Bangladesh



## Map of BDR Pilkhana Headquarters, Dhaka



## Summary

This report examines what happened in the aftermath of the February 2009 mutiny by members of the Bangladesh Rifles (BDR) during annual celebrations attended by senior military officials in Dhaka. Fifty-seven army soldiers, including a number of top army officers, and more than 74 people in total were killed when BDR mutineers opened fire in a crowded hall on February 25 and in clashes over the next 33 hours. Bangladesh authorities have a duty to investigate and prosecute the perpetrators of these horrific killings. They also have a duty to respect the rights of suspects and accused persons. In this, they have failed miserably.

In the immediate aftermath of the mutiny and in the weeks and months that followed, security forces detained more than 6,000 BDR members. Detainees reported systematic torture and mistreatment, both as punishment and to obtain confessions. At least 47 detainees reportedly died in custody. While some died of natural causes, in many other cases Human Rights Watch and others have obtained clear evidence of torture, or other mistreatment leading to death. Many of the abuses were allegedly carried out by members of the notorious Rapid Action Battalion (RAB).

The government's prosecution of literally thousands of BDR members, most of them rank-and-file soldiers, has been characterized by serious due process violations, including the extraction of statements under duress, lack of meaningful access of the accused to counsel, and mass trials which strain the judicial system's capacity to ensure fair trials for each and every accused. All soldiers in a given unit are tried together, regardless of how many accused are from that unit. This is of particular concern in cases that carry the death penalty as a possible punishment.

Human Rights Watch knows of no steps by the government to investigate or prosecute anyone for acts of torture or mistreatment of detainees after the BDR mutiny.

## The Mutiny

In late February 2009 the Bangladesh Rifles were preparing for their annual three-day celebration, known as “BDR week,” an occasion when high ranking officers and *jawans* (rank and file BDR members; the term means soldier in English) mingle, hold discussions, parade, put on lights and armaments shows, and celebrate with a large party. Traditionally, senior government officials attend the celebrations, and on February 24, 2009, the new prime minister, Sheikh Hasina, made her appearance.

The next day, February 25, was Darbar, one of the central events in the celebrations. It takes place in Darbar Hall, the large central building in the BDR headquarters in Pilkhana. At this event, the highest command of the BDR is present to discuss matters of concern with the *jawans*. This is often the only time that a *jawan* comes into contact with the highest levels of the BDR. All BDR members at Pilkhana barracks are expected to attend the Darbar, as are all senior BDR officers, many of whom are drawn from the ranks of the army.

In 2009 tensions were high between the BDR and the army. BDR members had longstanding grievances about lower pay and benefits, the secondment of army officers as senior BDR officials, limiting the possibility of promotions among BDR officers, and the fact that BDR members were not allowed to participate in lucrative deployments on UN peacekeeping missions. In addition, BDR members resented the way the “Dal-Bhat” project under the 2007-2009 caretaker government had been implemented. Through this project the BDR provided food at affordable prices to the public in the face of high inflation. Some BDR soldiers believed that army officers had personally pocketed the profits from the “Dal-Bhat” project, instead of putting the money back into services for the BDR as intended.

Weapons are not allowed in the Darbar ceremony. But on February 25 many BDR members managed to enter the building secretly armed. After the program started, the director general of the BDR began addressing the gathered *jawans* about their grievances. At around 9:30 a.m., a BDR member raised his gun and pointed it at the senior army officers present. There is confusion at this point about how many shots were fired and by whom, but at this cue other armed *jawans* inside Darbar Hall stood up, while other armed *jawans* entered from outside. A wave of killings began in the hall and barracks, with BDR *jawans* either holding army officers hostage, or else simply shooting the officers dead. Not all BDR *jawans* took part. Many of them tried to save the army officers, some fled, and some hid.

By the time the mutiny ended, as noted above, 74 persons were dead, including 57 army officers. Among them was Shaquil Ahmed, the director general of the BDR. Photos later emerged of the aftermath of the mutiny, showing dead bodies and extensive pools of blood, both in the hall and outside. Many bodies had been thrown into makeshift mass graves. Some bodies had been shoved down sewers. The photos from inside Darbar Hall created a vivid image of army officers being surrounded and executed in cold blood during what was supposed to be an almost sacred moment in BDR culture, a moment of trust between the high command and their subordinates.

A RAB battalion reached the gates of Pilkhana about 45 minutes after the mutiny started, but did not receive authorization to enter. The army, in consultation with the government, sent tanks and personnel to quell the situation. The air force sent in a helicopter which hovered above Pilkhana, ready to respond. However, the prime minister forbade them to enter the barracks, fearing a further bloodbath and favoring a negotiated settlement with the mutineers. In the wake of the settlement, BDR *jawans* returned to their barracks, and no action was taken against them. The prime minister's decision not to attack the barracks may have saved lives, but it was heavily criticized by many in the army, who wanted to use massive force to avenge the massacre. In the ensuing months there were regular rumors of a military coup, and the new government was destabilized.

## **Abuses against BDR Suspects**

Human Rights Watch has obtained copies of two official reports on the mutiny. One was commissioned by the government, the other by the army. Both reports say that the mutiny had been planned. The government report faulted the intelligence services for not knowing about the mutiny in advance, since the growing dissension in the BDR ranks had been known to the army and intelligence services long before the new government took power. The army report faulted the government for not allowing the security forces to use force, and rejected the notion that any fault lay with the intelligence services.

While the mutiny received only a short burst of international attention, it was an enormous event in Bangladesh, and had serious consequences for the relationship between the army and the new Awami League government. But little attention has been paid in Bangladesh or abroad to the fate of those arrested for participation in the mutiny.

Thousands of detainees still remain in custody at the time of writing. All are facing mass trials that will likely not meet international fair trial standards. Some face the death penalty if convicted.

The case of Mohamed Abdul Jalil Sheikh, for example, illustrates the treatment of some of the accused after arrest. Sheikh was injured during the mutiny and taken to Pilkhana barracks hospital that day. During the nine days of his hospitalization, he was treated well, but he then disappeared. His wife and family finally discovered after two months that he had been taken by RAB and army intelligence to the offices of RAB-1 in Dhaka.<sup>1</sup> According to his son, Mohammad Rahibul Islam, Sheikh said that during those two months he was severely tortured:

My father had trouble talking to me about it, it was still too painful for him to remember. He told me that they hung him upside down from the ceiling and he was beaten regularly, all the nails were ripped out of his fingers and toes, and he was subjected to electric shocks.

Sheikh reported being kept largely blindfolded. He said he figured out he was at RAB-1 when going to the toilet or to the barber. Sheikh told his family that 10-12 other BDR soldiers detained with him were treated similarly.

At the end of April Sheikh was charged under the criminal code as being one of the planners of the mutiny. Following the charges, he was transferred to Dhaka Central Jail, where he remains. Both of his legs are paralyzed, seemingly permanently. Due to his torture, he has no control over his bladder or bowel movements. According to his relatives, he is suffering from memory loss and severe depression.

The government was on notice from the outset about allegations of torture and custodial killings. Human rights groups, including Human Rights Watch, made their findings public as early as March 2009. Doctors at hospitals talked to the media anonymously about the injuries they were finding on people who had died in custody. Family members gave interviews to the media describing the state of the bodies of those who died. A cable

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<sup>1</sup>RAB is organized into twelve battalions, of which five operate in Dhaka. Each unit is distinguished with a number indicating its operational area. Rapid Action Battalion, "RAB Battalions", undated, <http://www.rab.gov.bd/index.php#>, (accessed April 20, 2012).

obtained through Wikileaks shows that the US ambassador had raised this concern with government officials as early as May 3, 2009. One official, Local Government Minister Syed Ashraf Islam, said that the government shared these concerns and were trying to obtain civilian rather than military control over the trials of the accused.

Most of the more than 6,000 detainees were given very little information about the reasons for their detention. Many families recounted not knowing for long periods where their husbands or fathers were, often for months at a stretch. The BDR gave them no answers, and a trek through local jails yielded no results.

Mass trials against the accused are being conducted under the BDR's own mutiny laws and the Bangladeshi Criminal Code. Trials under the mutiny laws are largely concerned with issues such as disobeying orders, unlawful possession of weapons, or failure to report to duty. These trials are conducted by a specially appointed BDR tribunal. The minimum penalty under the mutiny laws is 4 months, and the maximum penalty is 7 years.

Charges under the criminal law concern graver offenses, such as murder, treason, or possession of explosive substances. The maximum sentence is death.

Mass trials require by their very nature a judicial system which is trained and capable of ensuring a fair trial for each accused. Human Rights Watch interviews with family members of the accused and with defense lawyers show that these mass trials are replete with due process violations. The charge sheets often run into thousands of pages, making it virtually impossible for the accused to prepare individualized defenses. Some of these cases involve hundreds of accused being tried at the same time, which places a tremendous strain on the right to an expeditious and fair trial.

Very few of the families Human Rights Watch interviewed were aware of the exact charges or evidence against the accused. Most families said that they had not hired lawyers. Few knew that they had the right to counsel at the government's expense. Some of the families interviewed said that they did not believe that hiring a lawyer would serve any purpose, since they did not expect the government to provide fair trials.

The detainees' lack of access to counsel is a serious concern. From the time they were arrested in February 2009 until December 2010, the accused in the mutiny cases were not

allowed to consult with their lawyers. Since then, they have been allowed a 20-minute consultation at the beginning and end of each court day, and a 30-minute consultation during the course of the hearing.

Many of the accused in both the military and civilian cases have no legal counsel. The few lawyers involved in the cases have complained to Human Rights Watch that it is impossible to provide an effective defense to each accused with so many clients, and so little time to talk to each. According to the prosecutor's office, some defendants share their lawyers with as many as 12 others in the same case. In addition to the concerns about time for consultations, the potential for conflict of interest is significant, as evidence that could prove one person's innocence could indicate another's guilt.

The possible use of capital punishment in the criminal trial of 850 BDR members heightens concerns over the fairness of the process.

## **Bangladesh's International Law Obligations**

Bangladesh is a state party to the International Covenant on Civil and Political Rights (ICCPR), which contains tenets central to ensuring fair trials. While the government of Bangladesh must investigate the mutiny to ensure justice for victims and survivors, it must do so in compliance with its obligations under the rights of the accused to fair trials. Article 14 of the ICCPR guarantees that all accused are equal before courts and tribunals, while Article 14(3) lists the various guarantees that must be extended to the accused in order to comply with international law. These include the right of the accused to be informed in detail about the charges, to have time to prepare the defense, and to have counsel of choice. These rights are exceedingly difficult to implement in mass trials. The ICCPR's fair trials standards apply in both civilian and military courts. A key ICCPR requirement is that the court be independent and impartial, which can be very difficult with military trials.

Evidence obtained under duress is inadmissible under international human rights law. Article 15 of the UN Convention Against Torture and other Cruel, Inhuman, or Degrading Treatment or Punishment, requires Bangladesh, as a state party, to ensure that any statement made as a result of torture not to be used as evidence, except as evidence against someone accused of having committed torture. It must also ensure that it

investigates and takes appropriate action, including prosecution and redress to victims, for any torture or mistreatment meted out to the accused by its officials.

## **Key Recommendations**

Human Rights Watch calls on the government of Bangladesh to:

- Establish an independent investigative and prosecutorial task force with sufficient expertise, authority, and resources to rigorously investigate and, where appropriate, prosecute all allegations of unlawful deaths, torture, and mistreatment of suspects in the BDR mutiny, regardless of the perpetrator's rank or institutional affiliation.
- Disband RAB and create a non-military unit within the police or a new institution, which puts human rights at its core to lead the fight against crime and terrorism.
- Take genuine and meaningful steps to address the longstanding epidemic of torture and mistreatment by RAB, DGFI, and other security services.
- Ensure that international standards of fair trials and due process are accorded to each accused in the BDR trials.

## Methodology

This report is based on dozens of Human Rights Watch interviews with families of members of the BDR accused of taking part in the mutiny, members of the BDR, soldiers and officers in the army, government officials, prosecutors, lawyers, human rights workers, and journalists. Interviews for the report were conducted in June and September 2011, and updated by email and phone. We conducted 65 interviews in all, 29 with family members of the accused.

In addition to the two official reports described in the summary above, we also consulted press articles and reports, prepared by human rights groups and other investigative bodies.

Human Rights Watch worked closely with Odhikar and Ain-O-Sailesh Kendra, human rights NGOs based in Dhaka, in documenting these cases. Both groups have worked on documenting reports of torture and custodial deaths of the BDR accused since the mutiny.

Many family members of the accused were afraid to have their names published for fear of reprisal or mistreatment. In those cases we have changed the names to protect their identity, and have used random initials.

While in Dhaka, Human Rights Watch twice sought an interview with the director general of the BDR. Although he expressed a willingness to meet, in both cases he ultimately said he was too busy.

Interviews with the families and some lawyers were conducted in Bengali through the assistance of an interpreter. Interviews with others were conducted in English.

In this report, when referring to the events of 2009 we use the term BDR, as this was the name of the institution at that time. When referring to information that describes the institution both before and after the name was changed, we use the term BDR/BGB.

## I. The Bangladesh Rifles

The Bangladesh Rifles (BDR), renamed the Border Guards Bangladesh (BGB) in 2009 after the February mutiny, is a uniformed security force under the authority of the Ministry of Home Affairs. The BDR/BGB has been in existence as a border force under various names since about 1870. From the end of British colonialism in 1947 until independence in 1971, it was known as the East Pakistan Rifles. After 1971 it was renamed the Bangladesh Rifles.

The BDR/BGB's principal responsibility is to defend the country's 4,427 kilometer border with India and Burma, and serve as the first line of defense against any intrusions. The force also assists law-enforcement agencies in anti-smuggling operations, investigating cross-border crimes, maintaining law and order on request from the army or the Home Ministry, and relief and rehabilitation work.

The force has a strength of 67,000 personnel across the country, with a total of 61 battalions and approximately 12 sectors organized across four regions. The government plans to expand this force in the near future. The BDR/BGB is headquartered in central Dhaka in the Pilkhana barracks, the primary site of the mutiny.<sup>2</sup>

The BDR/BGB does not fall under the authority of the Ministry of Defense, but the commanding ranks of the forces are drawn from the army. The head of the force is called the director general and is chosen from individuals who have attained the rank of major general in the Bangladesh army. All other senior officers are similarly deputed from the army. These army officers serve a few years in the BDR/BGB before returning to the army. In general, the army officers in the BDR/BGB are considered to be among the best officers in the country. For army officers, the BDR/BGB has long been considered a prestigious posting. A former director general of the BDR explained to Human Rights Watch that being deputed from the army to other security forces signifies great faith on the part of the army towards those officers.<sup>3</sup>

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<sup>2</sup> For more information, see the official web-site of the Border Guard Bangladesh; Border Guard Bangladesh, "BGB", undated, <http://www.bgb.gov.bd> (accessed April 28, 2012).

<sup>3</sup> Human Rights Watch interview with General Rahman, former director general of the BDR, Dhaka, June 7, 2011.

Ordinary rank and file BDR soldiers are referred to casually as *jawans*, which simply means soldier in Bengali. About 100 officers in the BDR/BGB are promoted from within the force itself, although the highest rank they could have achieved before the mutiny was called deputy assistant director (DAD), considered the equivalent of a captain in the army. One of the post-mutiny reforms is to allow members of the force to attain the rank of deputy director, equivalent to the rank of a lieutenant colonel in the army.

That BDR personnel could not attain the highest ranks within their own service, had been a contentious issue for many years preceding the mutiny. Serious protests over this issue occurred in 1972 and 1990. Governments at the time promised to address the grievances, but failed to do so. Reform of the BDR was never a priority for various governments, in part because the BDR was a small force.

According to a former Director General of BDR, the BDR remained under the command of a senior military officer because various previous governments feared that it would turn into a corrupt force, like the police, if the BDR were not led by a senior military officer. In addition, the army did not want to cede its role in control of the BDR.<sup>4</sup>

Discontent continued to simmer within the BDR. The lifestyle of the army officers deputed to the BDR further fuelled discontent. Many enjoyed what was considered by BDR personnel to be a lavish lifestyle, well beyond the means of the average BDR officer or soldier.<sup>5</sup> A more recent grievance related to the “Dal-Bhat” project under the 2007-2009 caretaker government. This project was intended to administer food at affordable prices to the public in the face of high inflation. It was widely believed by *jawans* that army officers had personally pocketed the profits from the “Dal-Bhat” project instead of putting the money back into services for the BDR.<sup>6</sup> Tensions from that project were still very fresh in early 2009. Reports from the day of the mutiny show that the director general of the BDR had been publicly addressing this issue, and giving his assurances that the money had not been misappropriated when the firing started.<sup>7</sup>

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<sup>4</sup> Human Rights Watch interview with General Rahman, Dhaka, June 7, 2011. Public opinion in Bangladesh holds the police to be the most corrupt institution in the country, according to Transparency International; Transparency International, “Corruption by Country/Territory: Bangladesh”, 2012, [www.transparency.org/country#BGD\\_PublicOpinion](http://www.transparency.org/country#BGD_PublicOpinion) (accessed April 20, 2012).

<sup>5</sup> Human Rights Watch interview with Shahnaz Amin, Dhaka, June 2, 2011.

<sup>6</sup> Human Rights Watch interview with General Rahman, Dhaka, June 7, 2011; “Report of the Government Investigating Committee (RGIC)”, May 21, 2009, Sec 6.3.

<sup>7</sup> RGIC, Sec. 7.2.

BDR *jawans* also felt discriminated against because they were not allowed to participate in UN peacekeeping missions, a much cherished posting which creates the opportunity to earn higher wages in foreign currency. The reasons for this exclusion appear to have been arbitrary, as under post-mutiny reforms BGB members have been sent on peacekeeping missions. According to family members, BDR *jawans* generally felt like “second-class citizens” compared to army soldiers. Some of the complaints were intangible: many families complained of being made to feel inferior to army families, said that their children felt looked down on by the army children, and noted that seating arrangements at dinner tables always made them feel less than equal.<sup>8</sup>

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<sup>8</sup> Human Rights Watch interview with Shahnaz Amin, Dhaka, June 2, 2011; Human Rights Watch Interview with Zaheeda Parvin, Dhaka, June 3, 2011.

## II. The February 25-26 Mutiny

Exactly what happened at Pilkhana barracks on February 25-26, 2009, may never be known. To piece together as accurate an account as possible, Human Rights Watch conducted dozens of interviews with witnesses and family members of the accused, and consulted numerous published accounts, including two government reports. We received many different accounts about what happened, and in what sequence. We strive in what follows to present the most objective account we can based on all of these sources.

In the two months before the mutiny, members of the BDR had been in discussions with government officials whom they hoped would be open to resolving their longstanding grievances. Members of the BDR hoped that the new government would be more open to talks to resolve these issues than previous governments.<sup>9</sup>

Investigations by a government committee and the army after the mutiny suggest that about 25-30 BDR members were representing the BDR rank and file at the discussions. It is unclear exactly who was acting on behalf of the government, and what authority they had. The Report of the Government Investigation Commission (RGIC) names two members of parliament, Sheikh Salim and Mohammed Taposh, as persons representing the government, but they appear to have been conduits to the Home Ministry rather than authorized negotiators on behalf of the government. According to the RGIC, at the time of the mutiny there had been no progress in the discussions.<sup>10</sup>

Various sources told Human Rights Watch that a few days before the mutiny, leaflets were passed out by BDR soldiers rejecting the government's proposals and urging other BDR soldiers not to give in.<sup>11</sup> The RGIC states that the leaflet contained the following demands: the immediate withdrawal of all army officers from the BDR; an increase in pay, allowances, and rations; BDR *jawans* to be allowed on UN peacekeeping missions; a face-to-face meeting with the prime minister; and redress for Operation Dal-Bhat.<sup>12</sup> Defense counsel and

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<sup>9</sup> This was a sentiment expressed by all the family members of the accused who were interviewed by Human Rights Watch.

<sup>10</sup> RGIC, Section 6.1.

<sup>11</sup> Human Rights Watch interviews with Anisul Huq, Dhaka, June 4, 2011; Human Rights Watch interview with General Rahman, Dhaka, June 7, 2011. See also RGIC, Sec. 6.2.

<sup>12</sup> RGIC, Sec 6.2.

witnesses told Human Rights Watch that the BDR negotiating team held a private meeting the night before the mutiny, although this has not been confirmed by any participants.<sup>13</sup>

According to the government investigating committee, those who planned the mutiny intended to hold the army officers hostage until their demands were met.<sup>14</sup> In addition to their own weapons, they allegedly procured additional weapons from outside the BDR barracks.<sup>15</sup>

In late February the barracks and staff were prepared for their annual three days of celebration, known as “BDR week,” a time when high ranking officers and rank and file soldiers mingle, hold discussions, parade, put on armaments shows, and celebrate with a large party. Traditionally, the prime minister and other high ranking government officials are invited for part of the celebrations.<sup>16</sup> The new prime minister, Sheikh Hasina, attended BDR festivities on February 24, the evening before the mutiny.<sup>17</sup>

One of the central events in the celebrations is known as the Darbar. It takes place in Darbar Hall, the large central building in the Pilkhana complex. At this event, the highest command of the BDR is present and discusses matters of concern with rank and file soldiers. It is often the only time that an average soldier comes into contact with the highest levels of the BDR command. The event is intended to signify a tradition of closeness and unity between all members of the BDR. All soldiers at Pilkhana barracks are expected to attend the Darbar, as are all senior staff; some senior staff from outlying duty stations also attend.

The mutiny began during the Darbar ceremony around 9:30 a.m. on February 25. Typically no firearms are allowed into the hall during the Darbar ceremony, but on this morning many soldiers managed to enter the building heavily armed.

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<sup>13</sup> Human Rights Watch interview with Aminul Islam, Dhaka, September 23, 2011. See also RGIC, Sec. 6.1.

<sup>14</sup> Human Rights Watch interview with Jackline de Peiris, Dhaka, June 1, 2011. See also RGIC, Sec. 6.1.

<sup>15</sup> Human Rights Watch interview with General Rahman, Dhaka, June 7, 2011. See also Army Investigating Committee Report, Sec. 2.c.

<sup>16</sup> Ibid. See also RGIC, Sec. 6.4.

<sup>17</sup> RGIC, Sec. 7.2.

As noted above, the violence started when the director general was addressing the gathered soldiers about their grievances regarding the “Dal-Bhat” program.<sup>18</sup> According to most accounts, a soldier raised his gun and pointed it at the senior army officers. There is confusion at this point about how many shots were fired by whom, but some blank shots were fired. At this cue, other armed *jawans* inside Darbar Hall stood up. The doors opened and other armed *jawans* entered. In the panic and confusion, several soldiers inside Darbar Hall fled the scene.<sup>19</sup>

A wave of killings began, with BDR *jawans* either holding army officers hostage or else simply shooting the army officers dead.<sup>20</sup> By the time the mutiny ended 33 hours later, 74 persons were dead, including 57 army officers. Among them was Shaquil Ahmed, the director general of the BDR. In addition to army officers, six civilians were killed, including the wife of the director general and some visiting friends.<sup>21</sup>

The photos that emerged after the mutiny were disturbing. Dead bodies and blood were strewn about the hall and outside on the grounds. Many bodies had been thrown into makeshift mass graves. Some bodies had been shoved down sewers. The photos from inside Darbar Hall suggested that army officers had been surrounded and executed in cold blood during what was supposed to be an almost sacred moment in BDR culture, a moment of trust between high command and their staff.

The BDR rebels did not stop at killing army officers. Many went on a campaign of plunder and looting, going to the officers’ quarters and stealing whatever valuables they could find. They also set several houses and cars on fire.<sup>22</sup>

It is important to note that not all BDR *jawans* took part. Many tried to save the army officers, some fled, and some hid.<sup>23</sup>

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<sup>18</sup> Ibid.

<sup>19</sup> Ibid.

<sup>20</sup> Human Rights Watch interview with Assim Sangha, Dhaka, June 1, 2011; Human Rights Watch interview with Sriti Kosta, Dhaka, June 2, 2011; and Human Rights Watch interview with Mazada Akhter Dolly, Dhaka, September 24, 2011. See also RGIC, Sec. 7.2.

<sup>21</sup> RGIC, Sec. 1.0.

<sup>22</sup> RGIC, Sec. 9.1.

<sup>23</sup> Human Rights Watch interview with Sriti Kosta, Dhaka, June 2, 2011; Human Rights Watch interview with Assim Sangha, Dhaka, June 1, 2011; and Human Rights Watch interview with Raziya Begum, Dhaka, September 25, 2011.

It is widely rumored that many of the women in the family quarters were raped, or sexually assaulted. The government commissioned report stated that the mutineers were guilty of “outrages upon the modesty of women.”<sup>24</sup> Prosecutors say they have chosen not to look into these allegations in order to “protect the reputation” of the victims.<sup>25</sup>

News of the mutiny quickly spread, as the Pilkhana barracks have family quarters and many family members were still at home that morning. Family members called their fathers or husbands at Darbar Hall to find out what was happening. Many BDR families, and BDR retiree families, live in the adjacent neighborhoods. As family members and *jawans* fled the violence, news spread through these neighborhoods, where many sought shelter. Fairly quickly, the nation was glued to TV and radio, watching the gripping saga unfold.<sup>26</sup>

Initially, the Director General of the BDR phoned the prime minister, the heads of the army, the Directorate General of Forces Intelligence (DGFI, military intelligence) and the Rapid Action Battalion (RAB), seeking immediate intervention.<sup>27</sup> A RAB battalion reached the gates of Pilkhana about 45 minutes after the mutiny started, but did not receive authorization to enter.<sup>28</sup> The army, in consultation with the government, sent tanks and personnel to quell the situation.

However, the prime minister forbade them to enter the barracks, fearing a further bloodbath. The Pilkhana barracks are located in the center of Dhaka and border a densely populated neighborhood. There are five entrances to the barracks, and the main entrance looks out onto a wide avenue. The other gates open onto narrower lanes adjacent to civilian dwellings and shops.<sup>29</sup>

The army contingent remained stationed outside, ready to respond. Between these forces, all five gates at Pilkhana were covered. The air force sent in a helicopter which hovered above Pilkhana, similarly ready to respond, and another army contingent was sent to the nearest hospital in the nearby Dhanmondi neighborhood. The police commissioner

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<sup>24</sup> RGIC, Sec. 9.2

<sup>25</sup> Human Rights Watch interview with Anisul Huq, Dhaka, June 4, 2011.

<sup>26</sup> Human Rights Watch interview with Sriti Kosta, Dhaka, June 2, 2011; Human Rights Watch interview with Mazada Akhter Dolly, Dhaka, September 24, 2011; Human Rights Watch interview with General Rahman, Dhaka, June 7, 2011.

<sup>27</sup> RGIC, Sec. 7.2.

<sup>28</sup> Ibid.

<sup>29</sup> See Map 2.

cordoned off the area and had reserve police units waiting to back up any army action. However, because it is a densely populated neighborhood, the police cordon was not particularly effective.<sup>30</sup> Individuals interviewed by Human Rights Watch in adjacent neighbourhoods described being surprised at how easy it was to get around, and to approach the barracks during the mutiny.<sup>31</sup>

The arrival of the security forces arrayed outside the barracks heightened tension within the barracks. Armed BDR *jawans* started shouting that the army was trying to take over as the negotiating committee had warned in leaflets before the mutiny, and that BDR members should resist an army takeover. This call played into the resentment that BDR *jawans* felt towards the army. *Jawans* raided the armory, distributed weapons to other *jawans*, and took up positions inside the gates.<sup>32</sup>

Witnesses report that armed *jawans* started going door to door through the family quarters of the BDR staff looking for those who were hiding, or not participating in order to force them to participate. Human Rights Watch talked to several families who claimed that they saw their husbands or fathers taken at gunpoint from their apartments by other soldiers to join in the mutiny.<sup>33</sup>

Through the use of mobile phones, *jawans* called the BDR barracks in other areas and spread the news that the army was taking over, and that they should arm themselves. Although there were no massacres in other barracks, in several the armory was raided by BDR *jawans* who panicked and believed that an attack was imminent. In some areas, the BDR *jawans* erected barricades on the roads to stop the army from approaching. There was some firing at some barracks, but the level of violence was modest. There were no fatalities in these other areas, although some soldiers were injured by stray bullets.<sup>34</sup>

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<sup>30</sup> Ibid.

<sup>31</sup> Human Rights Watch interview with witnesses 1, 2 and 3, June 9, 2011.

<sup>32</sup> RGIC, Section 7.2.

<sup>33</sup> Human Rights Watch interview with Sriti Kosta, June 2, 2011; Human Rights Watch interview with Mohammed Rahibul Islam, June 3, 2011; Human Rights Watch interview with Nargeez Begum, June 6, 2011. That some BDR soldiers were forced to participate is also confirmed in the Report of the Government Investigative Committee.

<sup>34</sup> Human Rights Watch interview with Mohamed Jahangir Sholah, June 2, 2011; Human Rights Watch interview with Zaheeda Parvin, June 3, 2011.

Prime Minister Hasina opened up channels of communications with the BDR rebels inside the barracks, initially by dropping leaflets from a helicopter into the barracks, inviting them to negotiate. Sometime after noon, a small team including a state minister, Jahangir Kabir Nanak, and the chief whip of the Awami League, Mirza Azam, went to BDR gate number 4, carrying a white flag. They discussed setting up a meeting between a BDR delegation and the prime minister to negotiate an end to the mutiny.<sup>35</sup>

In the late afternoon, a group of about 14 BDR soldiers, including some deputy assistant directors (DAD), went to meet Hasina. It is not clear whether those sent to negotiate were part of the core group of those who planned the mutiny. Some family members of the DAD's claimed to Human Rights Watch that they had been unwilling participants, forced by the mutineers. After a few hours, Hasina agreed to a general amnesty for all BDR soldiers who had not committed killings during the mutiny, if they laid down their arms and returned to their duty stations. The BDR negotiators also agreed to release the women and children trapped inside the barracks. There was a general agreement that the BDR grievances would be looked at seriously by the government, but there appears to have been no agreement on the longer list of issues raised by the BDR.<sup>36</sup>

When the BDR negotiators returned to Pilkhana, the armed *jawans* refused to accept the agreement, arguing that it needed to be officially gazetted before they would believe it. They also demanded that Hasina agree to remove all army officers from the ranks of the BDR before they would lay down their arms. Another round of negotiations was then started, this time with Home Minister Sahara Khatun. Around 1 a.m. on the morning of February 26, Khatun and some other ministers went to Pilkhana barracks. They were allowed inside for further discussions, which stalled. Khatun did manage to get some hostages, and family members released while she was there.<sup>37</sup>

Several more rounds of negotiations followed. Some reports suggest that Hasina ordered the army and RAB to take action in the early afternoon of February 26, but called it off in hopes of a negotiated agreement. Hasina gave a speech broadcast on national radio and television at 2:30 p.m. on February 26, in which she ordered the mutineers to lay down their

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<sup>35</sup> RGIC, Sec. 7.2.

<sup>36</sup> Ibid.

<sup>37</sup> Ibid.

arms, calling on them not to force her to take harsh measures. Shortly after, the rebels agreed to surrender if they could have another meeting with Khatun. The two sides finally managed to reach a settlement at around 8 p.m. on February 26. The terms were the same as those agreed upon the day before: a general amnesty for those who had not committed any killings, and a promise to consider seriously the demands set forth by the mutineers.<sup>38</sup>

The BDR soldiers put down their weapons, which were then taken by police. Those who had fled were urged to return, and promised amnesty. Over the course of the next few days, most BDR soldiers reported back to duty at Pilkhana barracks. Although arrests did not begin for a few months, all soldiers who reported back were confined to barracks. Those who returned reported that, after a few days, work proceeded as normal, with regular routines re-established at Pilkhana and outlying barracks.<sup>39</sup>

Many in the army were furious at not being allowed by Hasina to enter the barracks. Having survived arrest by the caretaker government, and an attempt by the army to engineer her exile and disqualification from politics, she was sensitive to her party's longstanding tense relationship with the army. Possibly she believed that authorizing the use of force by the army in such a heavily populated area could lead to an even larger bloodbath. While some in the army wanted to shell the cantonment, Hasina refused to allow an assault, according to both the government and army inquiry reports described in detail below.

Soon after the mutiny, the government commissioned a 10-person inquiry team. The commission was led by former Home Ministry Secretary Anis Uz Zaman Khan, and included other government functionaries and the director general of RAB. The commission submitted its report on May 21, 2009. Although it was not made public, a summary of its contents was released to the media. The summary does not go into much detail, but states that the mutiny had been planned by BDR soldiers who felt their longstanding grievances had not been answered. Human Rights Watch has obtained a copy of the entire report. Its contents confirm the outline of events we recount above.

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<sup>38</sup> Ibid.

<sup>39</sup> Human Rights Watch interview with Hasi Gomez, Dhaka, June 1, 2011; Human Rights Watch interview with Jackline de Peiris, Dhaka, June 1, 2011; Human Rights Watch interview with Sriti Kosta, Dhaka, June 2, 2011; and Human Rights Watch interview with Mohamed Jahangir Shohak, Dhaka, June 2, 2011.

## Government and Army Investigation Reports

The Report of the Government Investigation Committee (RGIC) states that the committee was unable to determine the identity of the individuals who planned the mutiny and set it in motion.<sup>40</sup> The committee also found that many mutineers took up arms spontaneously, either because they believed the propaganda that the army was taking over, or because they were coerced or found it expedient to do so.<sup>41</sup> The report emphasizes the lack of cooperation it received from the various security forces in the country, including DGFI and RAB. It states that a proper examination of the events and the causes and consequences remains impossible because of the lack of cooperation provided by the investigative branches of the security forces. Furthermore, the committee noted that because they “did not have proper tools, technology, and technique for questioning the suspected persons to reveal the truth, almost no person presented or brought to the Committee for questioning provided any important information or proof.”<sup>42</sup>

The RGIC contains a scathing attack on the various military and civilian intelligence agencies for not uncovering the planned mutiny, especially in light of all the security work that had been done prior to Hasina’s visit to Pilkhana barracks the day before. It says this was made worse by the fact that leaflets had been distributed publicly just days before the mutiny expressing discontent towards the continued presence of army officers. The report implies that the security agencies did not do a thorough job in securing Pilkhana ahead of the prime minister’s visit, feeding into a popular belief that the mutiny had been planned by the army to unseat the new government.<sup>43</sup>

The report further suggests that the security forces mishandled the situation, pointing out that the first RAB unit reached Pilkhana within less than an hour of the beginning of the mutiny, and yet was unable to contain the damage, suggesting that the committee members did not agree with Hasina’s decision to aim for a negotiated settlement. Although the security forces were covering all the Pilkhana gates, the report points out that

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<sup>40</sup> Ibid.

<sup>41</sup> RGIC, Sec. 10.2.

<sup>42</sup> RGIC, Sec. 5.0.

<sup>43</sup> RGIC, Sec. 9.1.

many of the mutineers were able to flee the barracks. The report also criticizes the army for not having a plan to rescue the women and children trapped inside the barracks.<sup>44</sup>

The RGIC found several “ultimate” reasons other than BDR grievances as motives for the mutiny, although the evidentiary basis for these findings is not clear. The report states that the motives included creating a bad reputation for Bangladesh as a terrorist nation, threatening the sovereignty of the country, destabilizing the country’s borders, destroying the reputation and capacity of the army, and portraying Bangladesh as a failed state.<sup>45</sup> These findings seem to echo the popular narrative about the mutiny, offered without evidence, which has it that unnamed outside forces with some interest in destabilizing Bangladesh deliberately created a rift between the army and the BDR, and were ultimately responsible for the mutiny.<sup>46</sup>

The report recommends speedy court martials, honors for those “martyred” in the mutiny, and an investigation into the failure to gather intelligence about the planned mutiny. In the longer term, it calls for a restructuring of the BDR, ensuring that compensation schemes across the various security forces are equitable, and for stricter hiring practices for the paramilitary forces, particularly in light of allegations that the BDR recruits were drawn along party lines or based on nepotism.<sup>47</sup>

The report also contains a sharp attack on the role of the media during the mutiny. According to the report, journalists who were gathered at Pilkhana to cover the events broadcast information handed to them by the BDR mutineers. This one-sided account of events, the report states, served only to incite panic and confusion in the outlying barracks. The report implies that some aspects of the media community were sympathetic to the BDR or perhaps even acting as agents of some nefarious outside force intent on destroying Bangladesh.<sup>48</sup>

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<sup>44</sup> RGIC, Sec. 9.2-9.5

<sup>45</sup> RGIC, Sec. 11.3.

<sup>46</sup> Human Rights Watch interview with General Rahman, Dhaka, June 7, 2011; Human Rights Watch interview with Anisul Huq, Dhaka, June 4, 2011. Human Rights Watch also found that this theory is popularly believed, although all interlocutors did concede to an absence of evidence.

<sup>47</sup> RGIC, Sec. 13

<sup>48</sup> RGIC, Sec. 9.3.

The army insisted on establishing its own investigative committee. A 20-person army team conducted an investigation, but the army did not make the results public. Human Rights Watch has obtained a copy of this report.<sup>49</sup> It contains revealing information about the army's relationship with the BDR. The report, officially titled "An Opinion," states that BDR *jawans* were misguided and ill-informed about their grievances. Regarding Operation "Dal-Bhat," the army report states that some BDR *jawans* were "corrupt" and making money on the side. It said that the *jawans* were angry that the army command had learned of their scheme and put an end to it. The report states, both with regard to Operation "Dal-Bhat" and in general, that the "honesty and dutifulness" of the army officers gave BDR *jawans* less opportunity for corruption, and "as a result, their grievances increased to a great extent."<sup>50</sup>

The army report faults the government for not having taken a stronger line against the BDR before the mutiny. It does not admit that any of the BDR grievances were serious. The report says that BDR soldiers who profited illegally from Operation "Dal-Bhat," were not punished severely enough and were presenting demands based on falsehoods. The report states that BDR complaints about differentials in pay, promotion, education, and other benefits between the army and the BDR were simply not true, and were concocted by the mutineers in order to win over support from the *jawans*. The report also, seemingly contradictorily, faults the Home Ministry for not realizing how serious the BDR grievances were.<sup>51</sup>

The army report does not go into great detail about the events at Pikhana during the mutiny. Instead, it attempts to examine the underlying background of how the mutiny happened. It rules out any terrorist involvement, but suggests that political forces, including individuals who might have been angry with the army's role during the caretaker government, were amenable to support a revolt against the army. The report identifies several outside individuals, including a known arms smuggler, as responsible for helping plan and support the mutiny. As to the government-commissioned report's criticism of intelligence failures, the army report states that the entire intelligence unit of the BDR supported the mutineers, and concealed information from the army and other intelligence agencies.<sup>52</sup> There is no

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<sup>49</sup> Army Opinion Report.

<sup>50</sup> Army Opinion Report, Sec. 1(b) and 1(h).

<sup>51</sup> Army Opinion Report, Sec. 1.

<sup>52</sup> Army Opinion Report, Sec. 2(c) and 3(a). This does not explain why the army officers then assigned to the BDR would not have told the intelligence services about the grievances. The leaflets were a matter of public knowledge days before the mutiny.

acceptance in the report that the army could or should have acted any differently in the lead-up to the mutiny.

The army report claims that had the security forces been allowed to intervene, fewer lives would have been lost. RAB-2, it claims, was at Pilkhana gates early on, at a time when events were still transpiring in Darbar Hall, and before the BDR *jawans* had managed to secure the gates. It states that RAB-2 was ready and equipped to go in, but did not receive the go-ahead from RAB headquarters. The report also points out that the army itself was deployed to Pilkhana and stationed outside by 10:50 a.m., but the delay in approval from headquarters squandered precious time and allowed the BDR *jawans* to put up resistance at the gates. A plan prepared by the army after noon, which involved a joint attack by the army, RAB, and the air force, had to be shelved because the prime minister and others were busy with negotiations.<sup>53</sup>

Although the army report describes the home minister's actions in entering Pilkhana barracks to negotiate as "displaying extreme courage" and "praiseworthy," it went on to criticize her: "[T]he respected minister did not have enough idea about armed revolts, and she went there to suppress the mutiny without adequate preparation, therefore the respected home minister could not take effective action regarding surrender of arms."<sup>54</sup> At another point, describing an initial foray by Hasina to negotiate, the report states: "The members of this team could not take any timely and effective step as they did not have any previous experience of suppressing any revolt or any clear ideas about military affairs."<sup>55</sup> The report also complains about the fact that the law allows only a maximum of 7 years' imprisonment for mutiny.<sup>56</sup>

The United States Federal Bureau of Investigation (FBI) offered to assist in the investigation. FBI officers were in Dhaka investigating the mutiny within days. Their findings, some of which are now available through Wikileaks, reveal that some members of the new government believed in conspiracy theories involving grand designs to destabilize Bangladesh. As a result, US officials wrote, members of the government were unwilling to

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<sup>53</sup> Army Opinion Report, Sec. 3(c-d).

<sup>54</sup> Army Opinion Report, Sec. 3(b)(2-3).

<sup>55</sup> Army Opinion Report, Sec. 3(b)(1).

<sup>56</sup> Army Opinion Report, Sec. 1(j).

look into domestic causes for the mutiny, such as longstanding BDR grievances, and the failure of successive governments over many years to address them.<sup>57</sup>

In the course of our research, many people across various sectors of society told us they believed that the events of February 25-26 were not the result of a simple mutiny. Many believed that sinister foreign agents were, for unspecified purposes, trying to destabilize and demoralize Bangladesh and weaken its borders.<sup>58</sup> The army report, in referring to the allegations that a well-known arms smuggler was involved in the mutiny, points out that his phone records indicate that he had placed many phone calls abroad in the period leading up to the mutiny. The report does not draw a conclusion from this fact, but leaves the suggestion of foreign interference hanging as a possible cause of the revolt.<sup>59</sup>

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<sup>57</sup> Wikileaks, “Prime Minister Concerned about her Government’s Future, Seeks US Support,” March 9, 2009, <http://wikileaks.org/cable/2009/03/09DHAKA263.html> (accessed April 20, 2012); Wikileaks, “FBI Works to Help Correct Flaws in Bangladesh Mutiny Investigation,” March 22, 2009, <http://wikileaks.org/cable/2009/03/09DHAKA263.html> (accessed April 1, 2012).

<sup>58</sup> Human Rights Watch interview with General Rahman, Dhaka, June 7, 2011; Human Rights Watch interview with Tajul Islam, Dhaka, June 4, 2011.

<sup>59</sup> Army Opinion Report, Sec. 2(c)

### III. Abuses against Suspected Mutineers

After the mutiny, there was strong disagreement between the security forces and the government about what to do with the mutineers. The army argued that the mutineers should be prosecuted under the Army Act, which carries much heavier penalties than those allowed under the BDR Act. Others, including the chief prosecutor, argued for a two-pronged approach: to try mutiny under the BDR Act, and to try the murders and other serious crimes under the Bangladeshi Penal Code.<sup>60</sup> In the end, the prime minister agreed to the two-pronged approach.

However, before BDR members were arrested and charged, many of them were detained and interrogated by different security forces. The BDR soldiers who returned to Pilkhana after the mutiny were forced to remain outside in a field near the Pilkhana barracks where they were kept under effective detention for several days. According to witnesses, some reportedly were beaten, slapped, and verbally abused by army officers. Others said that there was not enough food or water but that there was initially no physical mistreatment.<sup>61</sup>

A combination of security forces, including the army, DGFI, RAB and NSI, sometimes working together and sometimes separately, questioned the BDR soldiers. Initially, all were allowed to return to work.

Detentions and interrogations began a few days later as part of an investigation into the main perpetrators of the mutiny. Mass arrests began shortly thereafter.

#### Torture and Custodial Deaths

Reports quickly emerged of severe torture of those detained and a high number of custodial deaths. A study conducted by Odhikar, a leading and reputable human rights NGO based in Dhaka, states that at least 47 BDR personnel died while in custody.<sup>62</sup> While some died of natural causes, many appear to have died from torture. Odhikar conducted

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<sup>60</sup> Human Rights Watch interview with Anisul Huq, Dhaka, June 4, 2011.

<sup>61</sup> Human Rights Watch interview with Hasi Gomez, Dhaka, June 1, 2011; and Human Rights Watch interview with Sriti Kosta, June 2, 2011.

<sup>62</sup> Odhikar BDR Mutiny spreadsheet, updated September 2011, copy on file with Human Rights Watch.

its own fact-finding into these cases, and interviewed family members and consulted medical documentation when available in each of these cases.

Human Rights Watch knows of no cases in which the government has ordered investigations into deaths in custody. Soon after the mutiny, the government was on notice about allegations of torture and killings in custody. Human rights groups, including Human Rights Watch, made their findings public, doctors at hospitals raised concerns to human rights groups (albeit anonymously), and family members gave interviews to the media describing wounds consistent with physical abuse on the bodies of those who died.<sup>63</sup>

A cable dated May 4, 2011, shows that the US ambassador, James Moriarty, raised concerns with government officials. According to the cable, the ambassador stressed the importance of “credible” investigations and a “transparent legal process.” His government interlocutor, Minister for Local Government Syed Ashraful Islam, responded that he “shared these concerns and... had argued in cabinet for a civilian trial for these accused.” Moriarty also raised concerns about reports of deaths in custody.<sup>64</sup>

Torture is used routinely by security forces in Bangladesh<sup>65</sup>, even though Bangladesh is a state party to the international Convention Against Torture. Human Rights Watch and others have long documented the systematic use of torture and deaths in custody in Bangladesh by its various security agencies, including by RAB, DGFI, and army intelligence. Sheikh Hasina’s government, which claims in public fora to have a “zero tolerance” policy towards torture, has allowed it to continue, either unwilling or unable to confront the security forces. In spite of *prima facie* evidence that torture was used against BDR soldiers and personnel in the early months after the mutiny, including an admission by the chief prosecutor himself to Human Rights Watch, we are aware of no government investigations into these allegations.

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<sup>63</sup> “Bangladesh: End Custodial Deaths of Massacre Suspects,” Human Rights Watch news release, April 24, 2009, <http://www.hrw.org/news/2009/04/24/bangladesh-end-custodial-deaths-massacre-suspects>; “Border Guards Dies in Custody in Bangladesh,” Amnesty International news release, March 27, 2009, <http://www.amnesty.org/en/news-and-updates/news/border-guards-die-custody-bangladesh-20090327> (accessed May 1, 2012); and Odhikar, “Human Rights Monitoring Report on Bangladesh,” 1-31 May, 2009, [http://www.odhikar.org/documents/2009/English\\_report/may09.pdf](http://www.odhikar.org/documents/2009/English_report/may09.pdf) (accessed May 1, 2012).

<sup>64</sup> Wikileaks, “Local Government Minister Reassures Ambassador on Decentralization and Acknowledges Human Rights Concerns,” May 4, 2009, <http://wikileaks.org/cable/2009/05/09DHAKA448.html> (accessed April 20, 2012).

<sup>65</sup> See, e.g., Human Rights Watch, *Crossfire: Continued Human Rights Abuses by Bangladesh’s Rapid Action Battalion*, May 10, 2011, <http://www.hrw.org/reports/2011/05/10/crossfire-0>.

A draft bill to criminalize torture and bring Bangladeshi national law into conformity with its international obligations lies dormant. Although it was drafted in early 2011, the bill has not been tabled in parliament, and no time has been set aside to discuss it.

Human Rights Watch interviewed 29 family members of arrested BDR soldiers, including the families of some of the deputy assistant directors alleged to have plotted the mutiny. Many said their loved ones recounted horrifying torture at the hands of various security agencies, including RAB, Army Intelligence, DGFI, and NSI. Defense lawyers for some of the accused told Human Rights Watch that their clients had told them about torture at the hands of different branches of the security forces.

The following are cases documented by Human Rights Watch primarily through interviews with family members during interrogation.

### *Case of Mohammad Abdul Rahim*

Rahim, a DAD in the Signals Sector at Pilkhana barracks, was on duty the morning of the mutiny, organizing the arms and ammunition show for the celebrations. His family heard the firing when the mutiny started but was unable to reach Rahim until later that afternoon. His son managed to talk to him briefly on the phone: “My father couldn’t talk for long, he just said that he wasn’t in a good situation, and that if he managed to remain alive, he would meet us somewhere outside the barracks. He said ‘just get out, get out.’” His family managed to leave the barracks the next day, when the home minister negotiated safe passage out for the army and others stranded inside the compound.

His family did not hear from Rahim for a few days, but they did briefly see him on the TV news when some BDR DADs were taken to negotiate with the prime minister. Rahim later told his family that he had been arrested directly after that, and taken for interrogation by the DGFI and Military Intelligence. He also said that at one point he had been taken to RAB-1 or RAB-2, he wasn’t sure. He did not tell his family details about his treatment, but described sleep deprivation, and being forced to give a statement under pressure and threats.

Rahim was transferred to Dhaka Central Jail in March 2009, where he remained until his death in custody on July 29, 2010. His son used to visit him regularly in prison, and described those visits:

My father was trying to hide from me what had happened to him, but I saw he had trouble walking, he was almost staggering, couldn't stand. Some of the other detainees told me he was in terrible pain, and I should bring some painkillers.

Rahim's family said he had been in good health prior to this time.<sup>66</sup>

A post-mortem report indicated that Rahim had died of a heart attack. A police investigation came to the same conclusion, but the final police report is not yet public. A human rights observer from Ain-O-Sailish Kendra, who saw Rahim's body, said Rahim looked like he weighed no more than 40 kilograms at the time of his death and that there appeared to be torture marks on his body.<sup>67</sup>

### *Case of Mozammel Hoque*

Mozammel Hoque was stationed at Pilkhana barracks at the time of the mutiny. His younger brother, Ayub Hossain Chan, made a point of speaking regularly to Mozammel from the beginning of the mutiny until February 28 when his brother's phone was taken away from him by BDR authorities. Even after his phone was confiscated, Mozammel managed to phone Ayub one or two times a day by borrowing other people's mobile phones. Ayub said that during these conversations Mozammel used to tell him he was being tortured and mistreated and asked Ayub to pray for him.

The last phone call Ayub had from Mozammel was at around 1:30 pm on March 5, 2009. Mozammel told Ayub that he had been asked to provide his full address and the address of his next of kin, which both Ayub and Mozammel found mysterious as the BDR had Mozammel's entire file, which would contain that information. Mozammel's wife, Rahima Begum, talked to him for the last time on March 6, around 7:00 in the morning.

The family had no further news of Mozammel until March 8, when Ayub received a phone call from an acquaintance asking him to contact the officer in charge of the Naogaon Police Station. Ayub immediately called the police station and was told to go to Mitford Hospital

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<sup>66</sup> Human Rights Watch interview with Mohamed Abdul Barek, Dhaka, June 6, 2011.

<sup>67</sup> Human Rights Watch interview with official from Ain-O-Sailesh Kendra, Dhaka, June 6, 2011.

in Dhaka to receive his brother's body. At around the same time, several radio and TV channels started broadcasting the news of Mozammel's death.

Ayub said that when he received his brother's body from the hospital, he could see that the soles of his brother's feet and the palms of his hands looked wrinkled and tender. His neck and chin were covered in mud. Khorshed Alam, the person who conducted the bathing ritual for Mozammel before the funeral, said that Mozammel's hands and feet looked "decomposed...bloodless and shattered."

In response to journalist's questions at the time of Mozammel's death, a senior police officer with the CID stated that they would investigate the death. Neither Odhikar nor his family have been able to find out any information about the investigation.<sup>68</sup>

### *Case of Habildar Mohiudin Ahmed*

Habildar Mohiudin Ahmed was stationed at Halishore BDR barracks in Chittagong at the time of the mutiny. His family lived in rented quarters in Dhaka near Gate 5 of the Pilkhana barracks. His wife and children say they heard the commotion when the firing broke out. They called Ahmed, who said things were fine in Halishore, but advised them to go to her maternal home in Noakhali with the children.<sup>69</sup>

Ahmed continued working at Halishore barracks until he was arrested on March 22. His wife Dolly learned of his arrest only by talking to people present during his arrest. They told her that he had been taken by RAB-7, but no one could tell her where he had been taken. She went to BDR headquarters, the police, and Dhaka Central jail, but she was unable to obtain information about him. Dolly tried to reach Ahmed on his two mobile phones, but both phones were switched off.

Dolly recounted to Human Rights Watch how she found out where Ahmed was:

A neighbor told me on May 4 at night that there was a news item on TV saying Ahmed was in the hospital, and maybe I should go. Then at midnight, about an hour later, I heard on the news that he had died of a

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<sup>68</sup> Odhikar interviews, Naogaon, 1-2 November, 2011.

<sup>69</sup> Human Rights Watch interview with Mazada Akhter Dolly, Dhaka, September 24, 2011.

heart attack. I didn't know what to believe so we rushed to the hospital, and found him dead.

According to Dolly, Ahmed had been in good health until his arrest. When she and her brothers went to Dhaka Medical College to collect his body, she said it looked terribly bruised. Her brother, who looked at the body more closely, said that the back area by the hip was completely black and blue, and there were severe lacerations on the legs and his upper back.

According to his family, a post mortem report from Dhaka Medical College stated that Ahmed had been beaten on the lower half of his body. The family filed an unlawful death case with the police. According to his family, the police investigation stated that Ahmed's body had been found near New Market on May 4, and that he had died of a heart attack.<sup>70</sup>

### *Case of Nurul Amin*

Nurul Amin was stationed at the BDR barracks in Rangapur. He was a deputy assistant director (DAD) in the 34 Rifle Battalion at the time of the mutiny. His wife and children were living in Dhaka at the time. His wife, Shahnaz Amin, said she phoned him on February 25 many times to find out how things were in Rangapur after the event in Pilkhana started. He told her all was calm, and that nothing had happened there. The next day, he said things were a bit tense because there were rumors that the army was coming to attack the BDR barracks. Because senior army officials had left the Rangapur barracks for fear after the news from Pilkhana, Amin was effectively the senior soldier there.

Amin told his wife that because of the rumors, BDR soldiers at Rangapur raided the armory and armed themselves. Some of them fired wildly trying to warn the army off. When Amin found out this was happening, he told his wife he had ordered the arms to be returned to the armory, an order which was obeyed. When his wife talked to him later that day, he said things had returned to normal at Rangapur. He continued to work there normally for another month.

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<sup>70</sup> Human Rights Watch interview with Mazada Akhter Dolly, Dhaka, September 24, 2011; and Human Rights Watch interview with Fatima Tujhura, Dhaka, September 24, 2011.

Around 10 p.m. on the night of April 2, 2009, Shahnaz says she received a call from one of her husband's colleagues saying that Amin had been detained, and taken for questioning to Kotoali Thana. According to Shahnaz, her husband was taken by RAB to their cantonment in Rangapur. He said he was not told anything. They put him in handcuffs and blindfolded him for five days. He was then taken to RAB headquarters in Dhaka, a place he recognized from his earlier visits when he was allowed to take off his blindfold when going to the toilet. Six other BDR men were detained in the same room with him at this time.

Shahnaz claims Amin was severely tortured during this time in custody at RAB headquarters. She described what he told her:

He was almost incoherent when he described to me what had happened to him: electric shock to his genitals and ears, nails were pulled off his toes. He is almost blind now from what happened, and I think he is brain damaged.

Amin told Shahnaz that all six of the men were treated similarly. He said that one of them died from the torture.

Around April 14 Amin and the other remaining detainees were taken to the New Market Thana, or police station. Amin's family learned this from one of the cleaners at the *thana*. The family rushed to the *thana*, and could barely recognize Amin because he was so badly injured. Shahnaz told Human Rights Watch:

He was lying bleeding on the floor, his face so swollen that he looked disfigured, I could hardly recognize him. He wasn't even receiving any treatment, I had to run out to buy bandages and antibiotics for him.

Shahnaz said the detainees in the other beds looked similar.

According to Shahnaz, Amin was produced before a court on April 16. He needed to be lifted by four other people because he could not support himself. The magistrate who saw him was overwhelmed when he saw his condition, and immediately ordered that Amin be taken to the hospital at Dhaka Central Jail, where he remained for more than a year.

Amin was cleared of charges against him in the BDR court. The trial in the criminal case against him, where he faces charges of betraying the nation, began in mid-2011. His lawyer has applied for bail many times, but the application has been rejected each time.<sup>71</sup>

### *Case of Mohammad Abdul Jalil Sheikh*

Sheikh was promoted to the rank of DAD in 2004, and was the hospital quartermaster at Pilkhana barracks at the time of the mutiny. He lived with his family in the Pilkhana family quarters. When the mutiny broke out, he was attending the ceremony at Durbar Hall. He was injured during the mutiny, and was taken to Pilkhana barracks hospital that day. He told his family that he had been severely beaten by other BDR soldiers who wanted him and other DADs to negotiate with the prime minister on their behalf. Sheikh was hospitalized for nine days. During that time he said he was treated well.

According to his wife, Rubiya Begum, after his recovery he “disappeared.” After two months, the family discovered that he had been taken by RAB and Army Intelligence to the offices of RAB-1 in Dhaka. His son, Mohammad Rahibul Islam, told Human Rights Watch that Sheikh was severely tortured during those two months:

My father had trouble talking to me about it, it was still too painful for him to remember. He told me that they hung him upside down from the ceiling and he was beaten regularly, all the nails were ripped out of his fingers and toes, and he was subjected to electric shocks.

Sheikh reported being kept largely blindfolded. He said he figured out he was at RAB-1 when going to the toilet or to the barber. Sheikh told his family that there were about 10-12 other BDR soldiers detained with him, and who were treated similarly.

At the end of April, Sheikh was charged under the criminal code as being one of the planners of the mutiny. Following the charges, he was transferred to Dhaka Central Jail, where he remains. Both of his legs have been paralyzed since then. Due to his torture, he

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<sup>71</sup> Human Rights Watch interview with Shahnaz Amin, June 2, 2011.

has no control over his bladder or bowel movements. According to his relatives, he is suffering from memory loss and severe depression.<sup>72</sup>

### *Case of Nasruddin Khan*

Nasruddin Khan was a DAD stationed at Pilkhana barracks at the time of the mutiny. Khan was responsible for overseeing seating arrangements for the celebrations in Durbar Hall. When the firing started, his wife, Nargis Nasi, told Human Rights Watch that she tried to find him but was unable to reach him. She said that Khan finally called her from his mobile phone around 9 p.m. on February 25. He said that things were “a mess.”

Nargis said that Khan told her that he was being taken by BDR soldiers to negotiate with the prime minister, but that he did not agree with their demands. He said that he would tell the prime minister that the BDR needed the army, and that he was sure that would make it impossible for him to return safely to BDR barracks since it was the opposite of what the BDR soldiers wanted. Khan phoned his wife a bit later. He told her that he was going to surrender to the police as it was impossible for him to go back safely to the BDR barracks. He said that he was with some RAB officers who offered to take him to RAB headquarters.

Khan’s family lost all contact with him after that night. On April 18, around noon, his wife received a phone call from a police officer, who told her to go to the Samoli Kidney Hospital immediately. She rushed there and found Khan in a terrible condition:

I couldn’t recognize him, His body and face were all swollen, he had an oxygen mask on, both kidneys had failed. My husband had no health problems before that, no kidney problems, no blood pressure, nothing. He was an athlete and very fit.

According to Nargis, the doctor recommended dialysis treatment, and over some days he improved.

One of the doctors who examined Khan told his wife that the kidney problems were caused by electric shock torture. He also told her that there were signs of torture all over his body

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<sup>72</sup> Human Rights Watch interview with Mohamed Rahibul Islam, June 3, 2011; Human Rights Watch interview with Rubiya Begum, June 3, 2011.

when he was brought in. The doctor described burning sores, and broken legs, arms, and fingers. Khan is now unable to walk without the aid of crutches.

When Khan's condition improved, he talked to his wife about the torture he had suffered at the hands of RAB. His wife told Human Rights Watch:

He had been hung upside down from the ceiling, beaten, and subjected to electric shock. He said he enjoyed it when he fainted because that was the only time he got any relief. I felt like it was talking to man I didn't know, he was dazed and confused by it all.

Khan told his wife that the torture occurred at RAB headquarters, which he could see when they would take his blindfold off at times. He did not recognize any of the torturers, but told his wife that there were several different voices each time.

Khan's wife said his admittance papers to the kidney hospital show that he was taken there by RAB. From that hospital, he was transferred to several other hospitals until he was detained in Dhaka Central jail, where he remains. Khan now faces charges under the criminal code of conspiring to overthrow the leadership of the BDR.<sup>73</sup>

### *Case of Nulamin Sardar*

Nulamin Sardar was an assistant *habildar*, a low-ranking non-commissioned officer, assigned to the operations training program at Pilkhana barracks at the time of the mutiny. On the day of the mutiny, he had gone to the hospital to visit his wife, who was being treated there. He stayed with her for breakfast, and went to the barracks for work. At 9:30 a.m., he called his son and told him to stay safe, mentioning that there were problems at work. He later went to the hospital to bring his wife home. He spent the evening at home with his wife.

Sardar continued to work in Pilkhana barracks until he was arrested on April 22. He phoned his son and told him to take care of the family, that he was being arrested and taken to the Malibagh Criminal Investigation Division (CID). He said he was being arrested by the police.

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<sup>73</sup> Human Rights Watch interview with Nargis Nasir, Dhaka, September 25, 2011.

A few days later, a police officer called the family and told them that he was going to be produced before a magistrate, and that they could go to the court to see him there.

When the family got to the court, they managed to speak with Sardar. He told them that he had been tortured. He said he had been blindfolded for days and hung upside down from the ceiling. His son told Human Rights Watch:

My father suddenly seemed very weak and very tense. He had never been that way before, he was a strong man, a soldier. It was difficult for me to see him like this, like he had been defeated by life.

Sardar was remanded for 10 days after the hearing. When the family saw him a few weeks later at the next hearing, he told them that he had been tortured worse than before. This time he said they had administered electric shocks to his genitals 5-6 times. He said he had given a statement to the police in order to avoid further torture.

Sardar has been charged under the BDR mutiny laws, and under the Explosive Substances Act. He may face the death penalty for the latter charge. He has a lawyer but the family says that the lawyer has very little access to Sardar to prepare his case. His lawyer refused to talk to Human Rights Watch on grounds of attorney-client confidentiality.<sup>74</sup>

### *Case of Sepoy Al Masum*

Sepoy Al Masum was stationed at Pilkhana barracks when the mutiny took place. He managed to leave the compound fairly quickly but returned after the general amnesty was announced. His mother, Raziya, said she was prepared to hide him if he had done something wrong, but he assured her that he had no hand in the mutiny, and so would be fine.

Al Masum continued working at Pilkhana for a few more days, until his arrest on March 7 by the CID. His arrest and that of two others was reported in the local newspapers.<sup>75</sup> He later told his mother that the CID had taken him to RAB, but did not say which unit of RAB.

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<sup>74</sup> Human Rights Watch interview with S.M. Nasruddin, Dhaka, September 25, 2011.

<sup>75</sup> Human Rights Watch interview with Raziya Begum, Dhaka, September 25, 2011.

Al Masum told Raziya that he was severely tortured by RAB. He said he was beaten on his legs and knees, hung upside down, and beaten on the soles of his feet. He told her he was interrogated at length, and that he remembered signing a blank piece of paper. He said he kept losing consciousness, and was unable to remember how long he was kept like that, what he was asked, what he confessed to. His mother told Human Rights Watch:

He sounded completely confused. He said he didn't know what they were trying to get him to confess to, the questions made no sense to him. I asked him why he signed a blank piece of paper, and he told me that he would have been killed if he didn't sign.

According to Raziya, after a few days Al Masum was handed by RAB over to another branch of the security forces which she referred to as the Task Force for Interrogation (TFI) cell. He was kept there for five days and tortured. His mother, who visited him later at the jail, said she couldn't recognize him:

He couldn't walk, his eyes were swollen shut. He is 5 foot 9 inches tall, and he looked easily a foot shorter than that. He told me they kept giving him injections and he would faint, then more injections, and then beatings.

Raziya said her son showed her his thumb, which had been hammered flat. He also told her that at the TFI cell he was subjected to electric shocks, and that he signed some further statements. His mother kept repeating to Human Rights Watch how absolutely confused her son seemed by everything that was happening to him.

On March 17 Al Masum was produced in the magistrate's court, and then sent to Dhaka Central Jail. According to Raziya, he was taken out for further questioning for two days and again subjected to beatings and electric shock. He signed another statement after this in which he said that he had taken up arms during the mutiny, and had fired his weapon. The statement also claimed that he found the director general's *laathi*, a police baton, implying that he was present in Darbar Hall at the time of the mutiny. He swore to this statement before a magistrate.

At the conclusion of his trial in 2011, Al Masum was sentenced to 7 years in prison for participation in the BDR mutiny. He faces separate charges under the Explosive Substances Act, which could carry the death penalty. His mother said he has no lawyer, and was not aware that he is entitled to his own lawyer at no expense to the family. After learning that he was entitled to counsel free of charge, she said she was afraid that if he obtained a lawyer it might anger the authorities further and cause more harm. When informed that any statements her son had signed in detention under torture could not be used against him, according to Bangladeshi and international law, she said again that although she wishes he had not signed the statements, she prefers him alive now than dead through torture.<sup>76</sup>

### *Case of MA*

MA's father was posted at Pilkhana barracks in the Engineering section. The family lived in the quarters on the compound. At around 9:00 a.m. on February 25, AM heard the sound of firing and shooting. MA went to his father's office to check on him. His father told his son to go home and stay safe. The family, together with the father, managed to leave Pilkhana barracks later that day. MA's father returned to Pilkhana after the announcement of a general amnesty.

On March 2 members of the DGFI together with MA's father came to the house where MA and the family were staying. The DGFI members identified themselves when they knocked on the door. They grabbed MA, took all the mobile phones they could find, and said he would be released later that evening after some questioning.

The DGFI let Islam go when they arrived at the gates at Pilkhana. MA was then blindfolded, put into another car, and driven to RAB headquarters. He said he was able to peek out from under the blindfold and is certain that is where he was taken. He was terrified, and had no idea what was happening. He told Human Rights Watch:

I kept saying I'm a student, I'm not a soldier, what do you want? I was desperate, I tried to pray at one point but they kicked me. That's when I became really scared, what kind of people are these who kick you when you pray? If they have no fear of God, they have no fear of anything.

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<sup>76</sup> Human Rights Watch interview with Raziya Begum, Dhaka, September 25, 2011.

MA says he was put into a cell which contained other men from the BDR, including DAD Towhid, DAD Nasir, and DAD Abdul Rahim.

The men were given some food at around 10:00 p.m. Shortly before midnight, MA was taken for interrogation by about 4-5 persons. He was blindfolded so could not identify these people. He says did not recognize any of the voices. He was questioned at length about what he had seen on the day of the mutiny, what arms he had stolen, where he was hiding them, how many people he had killed. When he denied having anything to do with the mutiny, repeating again that he was a student who had been sitting for exams at the time of the mutiny, he said they began administering electric shock. He said that at first they clipped the wires onto both of his big toe nails. MA said:

All of a sudden, I felt an intense dizziness and I lost consciousness.

After this, he was taken back to the cell.

MA was kept in that cell for four days. During these four days, he said he tried to focus on upcoming exams. He kept asking his captors to check his records again. He kept repeating that he had been sitting for exams at the time of the mutiny, and asked his interrogators to check with the Exam Board.

But instead of checking with the board, they kept taking me out for interrogations, and beating me and slapping me. I was given electric shock one more time, this time on both my big toes and on my penis.

MA described seeing the other men in the cell similarly being taken out and being tortured. He said most of them could not walk unsupported when they returned from interrogation. They described to each other what had happened. Many of them said that they had also been beaten, hung upside down, and given electric shocks. MA said he could hear sounds of screaming and beatings all night.

I remember seeing DAD Abdulrahim forced to spend an entire night standing up with his hands handcuffed to the ceiling. I don't know how he managed to survive that night, it looked so unnatural.

MA said he was taken for a week to an army cantonment, and after that back to RAB headquarters. While at RAB, he heard an officer making a phone call to the Exam Board, who confirmed that MA had been sitting for an exam during the mutiny. He was released, and cleared of all charges. But as he said to Human Rights Watch:

The fear never leaves me. I didn't used to be like this, now I am constantly nervous, I can't sleep, can't be normal. The fear just holds me down all the time.

MA's father was arrested three months after his release. He has heard that his father was tortured by military intelligence, but he has had no contact with or details about his father's case.<sup>77</sup>

### *Case of Kamrul Hasan*

Kamrul Hasan was stationed at Pilkhana barracks at the time of the mutiny. His family was not aware that he faced any difficulties after the mutiny until March 18 when both his mother, Alema Akhter, and his wife, Shamima Akhter, received phone calls from Kamrul. He told both of them in separate conversations that he had been arrested by RAB officials the previous day from Pilkhana barracks and was now in Dhaka Medical College Hospital for treatment. Both his mother and wife immediately went to the hospital to see him and found that he was severely injured and could barely walk.

According to Alema Akhter, Kamrul told her that he had been tortured by RAB after his arrest. He described receiving electric shocks, having his head knocked against the walls, and having the soles of his feet beaten. He told his wife that the electric shocks had been administered to his genitals and his head. When the women visited him in hospital, Kamrul was attached to a urine catheter; his mother reported seeing blood in his urine. Both women stated that Kamrul was unable to walk at that time because of his injuries, and that he seemed "mentally unbalanced."

Because of his injuries, Kamrul was transferred to several different hospitals over the next few months. Eventually, he was taken by RAB from the hospitals to Dhaka Central Jail, where he remains pending the outcome of his trial.<sup>78</sup>

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<sup>77</sup> Human Rights Watch interview with MA, Dhaka, September 25, 2011.

<sup>78</sup> Odhikar interviews, Netrokona, January 28, 29, and 30, 2012.

### *Case of Kaching Marma*

Kaching Marma was stationed at the BDR barracks in Lalmonirhat, Rangpur, in northern Bangladesh at the time of the mutiny. A few days after the mutiny, Marma went to Dhaka to the Pilkhana barracks, where he reported for work and remained without any problems, according to his family, until May 31, 2009. On that day, as he later told his mother, Ning Lau Marma, he was arrested by police officers at Pilkhana barracks and taken by them to the CID offices at Malibagh for questioning.

According to his mother, who spoke with him by phone only after he was transferred from the CID offices to Dhaka Central Jail, Marma was severely beaten and tortured during the interrogation. He told his mother that CID officers had administered electric shocks to his head. He said he was beaten on the soles of his feet. His aunt, Krazai Marma, said that Kaching had also told her he had been tortured but was reluctant to talk about the details.

Abdul Kahar Akand, a superintendent of police interviewed by Odhikar, confirmed that Marma had been brought to the CID offices from Pilkahana for questioning, although he denied any torture. Akand said that after questioning Marma, the CID had produced him before the magistrate's court, and then sent him to Dhaka Central Prison, where he awaits trial.<sup>79</sup>

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<sup>79</sup> Odhikar interviews, Khagracchari, January 10, 11, 12, and 15, 2012

## IV. Due Process and Fair Trials Concerns

Since the mutiny, over 6,000 BDR members have been arrested. Approximately 4,000 were based in the Pilkhana barracks at the time of the mutiny, while the remaining 2,000 or so were based in outlying barracks. The following table shows the number of individuals charged with offenses in military or civilian criminal courts from the Pilkhana barracks, by unit:

Pilkhana Barracks Unit	Individuals Charged with Offenses
Dhaka Shadar Battalion	86
44 <sup>th</sup> Battalion	675
24 <sup>th</sup> Battalion	667
13 <sup>th</sup> Battalion	622
36 <sup>th</sup> Battalion	310
Hospital	256
Signals Sector	186
Rifle Security Sector	113
Records Wing	111
Dhaka Headquarter Sector	735

Most of the BDR soldiers arrested face charges under the BDR mutiny laws. They are being tried before a military tribunal headed by the director general of the BDR or, in his absence, the deputy director general. All members of a particular unit are tried at the same time. For example, all 675 accused from the 44<sup>th</sup> Battalion are tried together in one courtroom.

Of the 6,000 arrested, 850 BDR soldiers are also facing charges under the Bangladeshi Criminal Code and the Explosive Substances Act. Some of these charges carry the death penalty. Three of the 850 have died in custody, reportedly of natural causes. The remaining 847 are being tried in one case in a specially built courtroom in Dhaka. Government officials claim that there are 1,285 witnesses against these accused, including other accused soldiers who have given statements to the prosecuting authorities.<sup>80</sup>

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<sup>80</sup> Human Rights Watch interview with Anisul Huq, Chief Prosecutor of the BDR trials, Dhaka, June 4, 2011.

At the time of writing, around 51 trials had been concluded, with a total of over 3,000 sentenced to anywhere from either 4 months to 7 years, the minimum and maximum allowed under BDR laws. A small number of those already tried have been acquitted.

Mass trials make it almost impossible to ensure basic principles of equality and due process under law. As detailed below, many of the BDR mutiny defendants do not know what the charges against them are, a problem caused by the fact that hundreds of accused are being tried in a single proceeding. The rights to a trial without undue delay, to have adequate time to prepare a defense, to examine witnesses and the evidence against the accused, and to obtain witnesses for the defense have become, as a practical matter, impossible to uphold for large numbers of BDR defendants. Even where the accused have lawyers, they usually have insufficient time with them to prepare an individualized defense.

In the mutiny cases, the resources of the entire judicial system, including judges, prosecutors, defense lawyers, and the police, have been stretched to capacity. In many cases, it has been impossible for an individualized defense to be prepared. Even well intentioned defense counsel have been put in an untenable position when representing so many accused persons, who often have conflicting interests.

The chief prosecutor of the BDR criminal trial, Anisul Huq, told Human Rights Watch that some statements may have been recorded under coercion and torture. As he put it, “Passions were running very high in the security forces in the immediate aftermath of the mutiny.” He denied, however, that any of these statements would be used against the accused, stating that when he was finally given control of the case, he gave express instructions to his investigators to refuse to receive any files against the accused which the security forces had compiled. Huq admitted that there could be bias in questioning by his investigators if they were aware of the existence of a confession by the accused. He said that he had instructed his investigators that, if they knew about the existence of a prior statement by the accused to the security forces, they should take extra care to give that accused extra consideration.<sup>81</sup>

While the prosecutor’s assurances are welcome, it is unclear to what extent his instructions have been followed. Many families believe that statements previously signed

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<sup>81</sup> Human Rights Watch interview with Anisul Huq, Dhaka, June 4, 2011.

under duress will be used against accused. Indeed, lawyers for some of the accused told Human Rights Watch that part of the dossier against their clients contained such statements, and that their clients were often unaware of what the statements said.<sup>82</sup> The chief prosecutor, in response to this charge by the defense, replied that if he were a defense lawyer he would be arguing the same, but again refuted the charge.<sup>83</sup>

Even in cases where there is no allegation of torture, Human Rights Watch found that defendants have been given little information about why they were arrested and the charges against them. Many families recounted not knowing for a long time, often months at a stretch, where their husbands or fathers were or what they were charged with. The BDR would give them no answers, and a trek through local jails would yield no further information.

Most families said that they had not hired lawyers, and were not aware that they had the right to counsel at the government's expense. Some of the families we interviewed said that they did not believe that hiring a lawyer would serve any purpose given the way the trials were being conducted. They believed that, for political reasons, the BDR accused would be convicted, in large part because of a perception that the government needed to appease the army.

The cases below illustrate how little the accused and their families know about the proceedings, the charges against them, and their rights. Together they represent a serious indictment of the mass trials for denying many defendants their due process and fair trial rights.

### *Case of Manuel de Perise*

De Perise joined the BDR in 1972, initially as an ordinary soldier in the border areas, but over time he rose to the rank of BDR deputy assistant director. At the time of the mutiny, he was posted in the 9<sup>th</sup> Rifle Battalion in Marishya in Chittagong. His wife says that at the time of the mutiny, he was attending a program at the local school. She was in Dhaka with the children at the time. She phoned him on his mobile phone to tell him about the mutiny in Dhaka, and he told her then that all was calm in Marishya, and that he had heard nothing about what was happening in the Pilkhana barracks. Later he found out that some soldiers

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<sup>82</sup> Human Rights Watch interview with Sultan Mahmud, Dhaka, June 4, 2011.

<sup>83</sup> Human Rights Watch interview with Anisul Huq, Dhaka, June 4, 2011.

in the Marishya barracks apparently emptied the armory, but later returned the weapons when the BDR command ordered all soldiers back and promised that all would be okay.

Manuel de Perise went back to work on February 26. He told his wife that his runner reported being beaten and being asked for information about him, about whether he had had any involvement in the uprising, but he was not very worried because he had not taken part in the mutiny at all. He did mention that he had heard that some BDR personnel were planning on taking Shaqil Ahmed hostage to get better conditions for the BDR soldiers but he did not take the rumor seriously.

De Perise kept working as normal until he was arrested on May 10, 2009, by RAB soldiers and taken to Rangamati jail, where he was kept for six months. From there he was moved to Bandarbans jail for another six months, and finally to Noakhali, where he has remained since. He was charged with two offenses: taking part in the BDR mutiny and with rebellion against the country, a criminal charge which carries the death penalty. His wife says that he was kept in humiliating conditions for the first few months, made to wear ankle chains and handcuffs all the time. Other than that, he has not reported any mistreatment.

De Perise has been dismissed from service, and the family receives no pension or any other benefits accruing from his years of service to the BDR. The family initially hired a lawyer to defend him, but have since given up. They report that it is too expensive, and that it does no good in any event. His wife said that they just end up throwing a lot of money away on lawyers, and that in a case like this the courts were never going to listen to them anyway.<sup>84</sup>

### *Case of Hasi Gomez*

Gomez was a *Naik Subedar*, a junior commissioned officer, in the BDR, stationed in Pilkhana barracks. Prior to the mutiny, he had not shared with his wife any complaints or problems with the BDR, and seemed happy to work there. On the morning of the mutiny, he was working at the hospital attached to Pilkhana barracks. He had told his wife to come home early because of the celebrations taking place that day.

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<sup>84</sup> Human Rights Watch interview with Jackline de Perise, Dhaka, June 1, 2011. Human Rights Watch received a phone call from Jackline de Perise on September 24, 2011, in which she said she had attempted to file a bail application for her husband but it was denied.

At 9:00 a.m., Gomez phoned his wife and told her not to enter the compound, and to make sure their older girl also stayed away. He said he would go and take care of their younger daughter who was at home in their barracks quarters. He ran home, got their younger daughter, and left the compound by scaling the walls. The family then gathered at a relative's house in Farmgate in central Dhaka. Gomez was very nervous and told his wife that it was all confusion and chaos, that there had been a lot of firing, and officers were running around wondering what to do.

After the announcement on radio, TV, and loudspeakers that BDR personnel were to return to their barracks, and that Sheikh Hasina had agreed to a general pardon for everyone, Gomez returned to Pilkhana. For a month and a half after that, Gomez's family had no contact with him. His wife tried asking at the BDR barracks, and went to all the jails in Dhaka but got no information. Eventually, she heard a rumor that he was in custody in Kasimpur jail near Tangail, and found him there.

Gomez is charged with instigating the mutiny, and of abandoning the barracks without permission. His wife wanted to hire a lawyer for him, but her husband told her not to bother as it would be a waste of money, and would not change the verdict in any event. He is being tried with 180 other BDR accused. To the best of his wife's knowledge, very few of the other accused in that case have lawyers. His trial before the BDR courts is ongoing.

Gomez's wife does not know how he has been treated in jail, although she says his health has deteriorated badly.<sup>85</sup>

### *Case of Furid Marak Costa*

Costa joined the BDR in 1989; at the time of the mutiny, he was stationed in Pilkhana barracks, and the family lived in the quarters on the compound. Costa was a musician in the BDR military band.

On the morning of the mutiny, he had asked his wife to take the following day off of work for the celebrations and a party that had been planned at the barracks. Nothing appeared unusual. He had never mentioned any tensions at the barracks, and had never complained

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<sup>85</sup> Human Rights Watch interview with Hasi Gomez, Dhaka, June 1, 2011.

about his conditions of employment. His wife was working at the hospital that morning, as usual. She started hearing rumors of what was happening at Pilkhana but could not confirm anything.

Their children were in the family quarters at that time. According to their son, Costa came to the quarters accompanied by some BDR soldiers who were holding a gun to his head. Costa told these soldiers that they could do anything to him, but to please let his children out. The children were crying and panicked, and said they did not know where to go. Costa gave them 500 taka and his mobile phone, told them to climb over the wall, and phone their uncle, which they eventually did. The uncle then came to get the children, and take them out safely. Costa got out himself later that night, and joined the family at the uncle's house.

When the announcement was made that all BDR personnel should report back, Gomez reluctantly returned. When his family went to look for him, they saw that all the BDR soldiers were kept outside in an open field surrounded by army personnel. After three days, they were then allowed back into Pilkhana. Costa was told that if he gave information against others and agreed to be a witness, he would be set free. He told them what he knew, which apparently was not much, and he was released. He continues to work in the BDR band, but is not free to leave the barracks. He has told his wife that he knows other soldiers were tortured but was not tortured himself. Neither he nor his wife know anything about where the case against him stands, and they have not hired a lawyer for fear of the expenses.<sup>86</sup>

### *Case of Abu Kasim Sigdal*

Sigdal was stationed at Marishya barracks in Rangamati at the time of the mutiny. When his son spoke to him that day to find out if there had been problems in Rangamati, his father said that there was some tension as a result of hearing about events in Pilkhana but that otherwise things were normal. After this, he continued working at Marishya barracks as normal.

Sigdal was arrested on May 10 along with 75 others. All 75 soldiers were tried at the same time. Sigdal was charged with mutiny, but has not faced criminal charges. His trial before the BDR tribunal concluded in February 2011, and he was sentenced to four months in

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<sup>86</sup> Human Rights Watch interview with Sriti Costa, Dhaka, June 2, 2011.

prison. He did not have a lawyer, knew nothing about the charges against him, and felt that it was better not to rock the boat and engage a lawyer for fear of being seen to be challenging the system. His son described feeling that it was better to do nothing to question the BDR authorities, and that hiring a lawyer was an unnecessary expense which they could ill afford. Like other families facing similar charges, his son said his father was resigned to the fact that nothing they did would make a difference.<sup>87</sup>

### *Case of Nasmul Hudua Chowdhury*

Chowdhury joined the BDR in 1978, and at the time of the mutiny was a DAD stationed at the BDR barracks in Panchagad. Over the years, he had expressed some dissatisfaction with the way the non-army personnel at the BDR were slightly discriminated against, but he was overall quite happy with his job.

According to Chowdhury's wife, some firing broke out at Panchagad barracks after news about Pikhana events arrived. The soldiers were demanding that they be allowed access to the armory, and a senior officer apparently gave them the key. There was a lot of firing going on for a few hours, but no one was injured. Chowdhury managed to contact the brigade commander who assured him that rumors of an army takeover of the BDR barracks were false, and that Chowdhury as the DAD should calm down the situation. Following this guarantee, Chowdhury controlled the situation at Panchagad, and the weapons were returned. According to his wife, things continued as normal at Panchagad barracks after this.

Chowdhury was arrested on May 11, and taken to Panchagad jail where he has remained until this writing. His lawyer has filed numerous bail petitions, but has been denied. In rejecting one bail petition, the High Court judge pointed out that there had been 17 adjournments in the case against Chowdhury and that charges had yet to be framed as of November 2010. The family were hopeful that this might mean the next bail petition would be received favorably, but he remains in prison, and they do not know whether charges have now been framed against him. They now feel that they are wasting their last funds on lawyers and think it better not to retain one any longer. In fact, although they have a lawyer, the family says that Chowdhury has no idea what the specific charges are against him because of problems with access to documents and charge sheets.<sup>88</sup>

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<sup>87</sup> Human Rights Watch interview with Mohamed Jahangir Sholah, Dhaka, June 2, 2011.

<sup>88</sup> Human Rights Watch interview with Zaheeda Parvin, Dhaka, June 3, 2011.

### *Case of Babul Sangma*

Babul Sangma, brother of Sister Trisha, showed up at Mary Convent the day after the mutiny. Sister Trisha was not at the convent at the time, and he talked to several nuns over the course of the day. According to what he told various nuns, Sangma had been playing in the Pilkhana barracks band for the Darbar Hall celebrations when the mutiny started. The account is a bit confusing but it appears that Sangma was ordered to take up arms against the army, and although he did not want to he took a rifle, and fired into the air to pretend he was following orders. He managed to leave the barracks at night, and stayed at the convent and some guesthouses for a few days until the general pardon was announced. He returned to Pilkhana after that, and was then arrested and taken to Kasimpur jail, where he has been since April 2009.

Sister Trisha says Sangma does not seem to have been ill-treated, except that he complains about the food. They are aware that Sangma has the right to a lawyer but Father Lawrence, who is the head of the parish, has told them to wait because he has heard that it would make no difference, and be a waste of money. The family and Sangma know nothing more about the charges or the trial. Sangma is charged under BDR mutiny law for deserting his duty station.<sup>89</sup>

### *Case of Abul Kasim Majumdar*

Majumdar was a DAD in the BDR stationed in Khagrachuri barracks in eastern Bangladesh.

At the time of the mutiny, his family was in Dhaka, living in the family quarters at Pilkhana barracks. When the family called him after the mutiny broke out in Pilkhana, he told them that some soldiers had broken into the armory at Khagrachuri after hearing rumors that the army was going to attack the barracks. At the time, he was the senior most officer in those barracks.

The next day, he told his family everything was fine, and he worked as normal until May 14 when he was arrested by the police. He was taken to the local jail in Khagrachuri, and was told that he would be fine if he gave information against other DAD's who were responsible for the mutiny. The family learned of his arrest, and have been able to visit him. They do

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<sup>89</sup> Human Rights Watch interview with Sister Trisha, Dhaka, June 6, 2011. Human Rights Watch interviewed some other nuns who talked to Sangma, all of whom independently confirmed Sister Trisha's account. They asked to remain anonymous.

not know what charges he faces, and only recently hired a lawyer to apply for bail. That application has since been dismissed, and they noted that the lawyer had a lot of trouble accessing information about the case. They worry that they are spending money for no gain. Like other families, they voiced concern about trusting government-appointed lawyers, and said they would rather not have a lawyer than accept one from the government.<sup>90</sup>

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These cases demonstrate the lack of information that the accused have in these cases, making it impossible to know whether they had a fair hearing or not. Their lack of information about the charges against them, including their right to be represented at government expense, raise serious concerns about whether any of these accused have been accorded their constitutional right to a fair trial.

Human Rights Watch interviewed several defense counsel working on behalf of the accused. One lawyer, Md. Sultan Mahmud, described the situation as follows:

I have work at the Magistrate's court and happened to be there that day when they brought in 3000 arrested *jawans*. They were shouting out to us lawyers as they passed that they needed help. I watched in court as they showed the magistrate their injuries saying they had been tortured; I saw what looked like signs of torture on their bodies. I felt I had to do something for them. Initially I took on 1600 *jawans* as clients, but simply couldn't manage it. I talked to some other defense lawyers who agreed to take on some of these cases. At the moment, I represent 350 of the accused.<sup>91</sup>

Mahmud told Human Rights Watch about the initial interviews he had had with his clients. He said that all 1600 accused said they had been told by Military Intelligence they would be found guilty if they did not give evidence against other accused.<sup>92</sup>

Mahmud described the proceedings as grossly unfair, noting many of the problems identified by the accused above, and said the prosecution had made no legally required

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<sup>90</sup> Human Rights Watch interview with Manohara Begum, Dhaka, June 7, 2011.

<sup>91</sup> Human Rights Watch interview with Mohamed Sultan Mahmud, Dhaka, June 4, 2011.

<sup>92</sup> Ibid.

disclosures of evidence against the accused prior to the initiation of proceedings against his clients.

Another defense lawyer, Saminullah Miya, told Human Rights Watch that understanding the charges was practically impossible. The charge sheet in the criminal trial runs to some 8,500 pages, does not go into any detail as required by law, and is simply too much to process.<sup>93</sup>

A third defense lawyer, Aminul Islam, said that after wading through the charge sheet, he could find not a single witness who had any evidence against several of the clients he represents, and has asked the prosecution several times to provide the witness statements, and the evidence they have in their possession leading to the framing of the charges. He has yet to receive this material. He described how, in the absence of cooperation from the prosecution, he has had to invest his own money to obtain documents and charge sheets, and described the situation as financially and practically untenable.<sup>94</sup>

In court, particularly in the BDR mutiny trials, the defense lawyers were given no time to ask questions but were told that they could instruct their clients on questions to put to witnesses. In practice, however, providing such instruction has most often not been possible for defense counsel because of the scale of the trials, and the number of clients at any one sitting. In December 2010 the judges ruled that each of the defendants in the mutiny cases could have half an hour with defense counsel before the session, another twenty minutes during breaks in the session, and a further half hour at the end. Mahmud pointed out that, even with that concession, it was next to impossible to advise all of the defendants, particularly when (as often happened) more than one of their clients were being tried in a single session.<sup>95</sup>

Defense counsel and families stated that although by law counsel are allowed to have privileged communication with their clients, in practice this has been the exception rather than the rule. Jail authorities often reject lawyers' applications to visit with their clients without giving any clear reasons. The lawyers have sometimes resorted to claiming to be family in order to get access to the accused in jail. And any access they have to them when

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<sup>93</sup> Human Rights Watch interview with Saminullah Miya, Dhaka, September 21, 2011.

<sup>94</sup> Human Rights Watch interview with Aminul Islam, Dhaka, September 23, 2011.

<sup>95</sup> Human Rights Watch interview with Mohamed Sultan Mahmud, Dhaka, June 4, 2011.

they are brought to court is not privileged either; the accused are all shackled and handcuffed together, and there is no chance for private communications.<sup>96</sup>

Funding is a severe problem for the accused. Lawyers are very expensive; one bail hearing can cost up to 30,000 taka (about US\$370).<sup>97</sup> Where the government pays, defense counsel say wages are poor, and their expenses are not met. Although the chief prosecutor told Human Rights Watch that he would personally ensure that each and every accused in the criminal trials were in timely possession of material and evidence against them, the defense counsel Human Rights Watch talked to stated that they had had to photocopy the files themselves and that they had had to forward funds to the accused with no real hope of being paid back.

Aside from problems with provision of information and timely disclosure to defense, a fundamental concern regarding these trials is their sheer scope. All soldiers in a given unit are tried together, regardless of how many accused are from that unit. This is of particular concern in the trials under the Bangladeshi Criminal Code, where many of the charges carry the death penalty as a possible punishment.

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<sup>96</sup> Ibid.

<sup>97</sup> Human Rights Watch interview with Jackline de Peiris, Dhaka, June 1, 2011.

## V. Recommendations

### To the Government of Bangladesh

To address torture and ill-treatment by the Bangladeshi security services, the government should:

- Establish an independent investigative and prosecutorial task force with sufficient expertise, authority, and resources to rigorously investigate and, where appropriate, prosecute all allegations of unlawful deaths, torture, and mistreatment of suspects in the BDR mutiny, regardless of the perpetrator's rank or institutional affiliation.
- Unless and until such an independent task force is established, existing prosecutors should investigate and, where appropriate, prosecute allegations of unlawful deaths, torture, and mistreatment of suspects in the BDR mutiny, regardless of the perpetrator's rank or institutional affiliation.
- Disband RAB and create a non-military unit within the police or a new institution, which puts human rights at its core to lead the fight against crime and terrorism.
- Take genuine and meaningful steps to address the longstanding epidemic of torture and mistreatment by RAB, DGFI, and other security services, including by:
  - Holding all detainees in official places of detention, and treating all other detention as unlawful;
  - Ensuring that all places of detention meet international standards, and are free from torture or mistreatment;
  - Allowing the NHRC and other independent monitors free and unfettered access to all places of detention to ensure conditions meet international standards;
  - Taking immediate action when presented with credible allegations of torture or mistreatment, including suspending, dismissing, and prosecuting officials found to have participated in, ordered, or allowed torture or mistreatment.
- Bring Bangladesh into compliance with the Convention Against Torture, to which it is a state party, by passing the bill criminalizing torture, which has been languishing in parliament since it was introduced in 2009.
- Announce a zero tolerance policy towards torture and mistreatment and, led by the prime minister, initiate a high profile public information campaign explaining that

members of the security services and other government agencies that torture or otherwise mistreat suspects will be prosecuted. Provide adequate compensation to torture victims and to the families of individuals who died following torture.

- Repeal or amend Article 46 of the Bangladesh Constitution, which allows parliament to pass laws that provide immunity from prosecution to any state officer for any action taken to maintain and restore order.
- Repeal Section 197 of the Bangladesh Criminal Procedure Code which requires explicit government approval to prosecute an official purporting to have acted in an official capacity.
- Ratify the Optional Protocol of the Convention Against Torture, and set up an independent inspection body for detention centers.

**To ensure the observance of fair trial standards, the government should:**

- Halt mass trials currently underway. Afford new trials to those already convicted through mass trials.
- Ensure fair trials that provide accused individuals their full range of due process rights, including that:
  - Charges are filed and cases brought to trial only when there is sufficient evidence against the individual charged; charges against the accused should not be based on evidence obtained under torture or duress;
  - The accused have adequate counsel of their choice;
  - The accused and their lawyer have adequate time to prepare their defense;
  - The accused are able to have confidential meetings with their legal representatives;
  - Where the accused is indigent, competent lawyers are appointed, and adequate funding is in place to provide an adequate defense;
  - Charges and the evidentiary base for the charges are clearly framed and understandable to the accused;
  - The accused and their legal representatives have access to all information relevant to the charges against them, including potentially exculpatory evidence, and that each accused has the chance to question the authenticity of the evidence, and the reliability and motivations of the witnesses against them;

- The right to remain silent without such silence being used as evidence against the accused.
- Establish an independent body to observe the conduct of ongoing and future trials under the BDR's mutiny laws to ensure that they meet the standards set out above.
- Establish an independent body to observe the conduct of ongoing and future trials under the Bangladesh Criminal Code and the Explosive Substances Act to ensure that they meet the standards set out above.

**In light of the fact that most families of the accused have little or no information about the legal status of the accused and their rights, the government should:**

- Establish an outreach office for the family members of the accused to help each family understand their rights to pensions, education, health care, and General Provident Fund entitlements.
- Ensure that the accused have regular access to family visits while they are in detention.
- Ensure that family members are aware of the fair trial rights of the accused, including the right to counsel even if indigent.

### **To Donors and Other Influential Members of the International Community**

- While continuing to express outrage over the BDR massacre and demanding that the perpetrators be brought to justice, press the Bangladeshi government in public and private to investigate and prosecute those responsible for abusive treatment of suspects, provide remedies to victims, ensure fair trial rights, and implement the other recommendations above.
- Speak out about the large numbers of custodial deaths, systematic torture and mistreatment, and use of mass trials against the BDR accused.
- Make it clear to the Bangladeshi government that each accused should be accorded the full set of rights accorded under international fair trial standards.
- Assist Bangladesh authorities by ensuring that they have the expertise and resources to meet fair trial standards for the accused in the BDR mutiny trials.

- Ensure that all Bangladeshi security forces are properly vetted, and those responsible for torture and ill-treatment removed from further consideration before they are cleared for UN peacekeeping or other exercises abroad.
- Press Bangladesh to pass legislation criminalising torture, in compliance with its obligations under the Convention Against Torture; there should be no exemptions or immunities and the legislation should provide for criminal responsibility for those in command positions who knew or should have known about abuses and failed to prevent them.
- Monitor BDR mutiny trials and report on their compliance with international fair trial standards. Urge the government to allow independent observers trained in complex investigations and trials to attend the hearings in order to ensure compliance with fair trial standards.

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# “The Fear Never Leaves Me”

## Custodial Deaths, Torture, and Unfair Trials after the 2009 Bangladesh Rifles Mutiny

On February 25-26, 2009, members of the Bangladesh Rifles (BDR) staged a mutiny against their commanding officers. During this mutiny, some of the BDR mutineers engaged in serious violence, including, allegedly, sexual violence against wives of army officers and others. Over the course of the two days, 74 people were killed and many more were injured. After negotiating an end to the mutiny, the authorities arrested more than 6,000 BDR members from different units around the country, badly mistreating many of them.

“The Fear Never Leaves Me” documents the serious abuses that have accompanied the government’s response to the mutiny. More than 40 suspected mutineers have died in custody and many more were tortured. Bangladesh’s notorious Rapid Action Battalion (RAB) is believed to have perpetrated many of the abuses.

While mutineers responsible for crimes should be held accountable, the suspects have been denied fair trial rights, hundreds of them tried at a time in proceedings lacking basic due process guarantees. To date, some 4,000 soldiers have been found guilty in mass trials before military tribunals; 847 soldiers also face charges under the Bangladesh Criminal Code and are being prosecuted in a single mass civilian trial. Some face the death penalty. Most of the accused were summarily arrested without a warrant. Many were detained without charge for several months. Most have been denied proper access to lawyers and have had inadequate or no disclosure of the evidence against them.

Human Rights Watch calls for a halt to the prosecutions until the government establishes an independent investigative and prosecutorial task force with sufficient expertise, authority, and resources to rigorously investigate and prosecute crimes committed during the mutiny. All convictions should be reviewed. The government should also investigate all allegations of custodial death and torture and take appropriate action, including against RAB members, to ensure that the government’s stated zero-tolerance policy toward extrajudicial killings and torture is finally realized.

