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Research Report

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Bangladesh: Successes in the Fight against Islamist Militancy

Democracy and the Rule of Law as a Bulwark against Radicalism

Jasmin Lorch

After Bangladesh's return to democracy, the world's third-largest Muslim-majority country continues to be faced with tendencies of Islamist militancy. In the last two years, however, the government and the judiciary have achieved remarkable successes in three areas: The High Court has strengthened the secular legal system by banning punishment under *fatwa*. A special tribunal has been established for the prosecution of war crimes committed by Islamists during the Bangladesh Liberation War of 1971. And the government has had numerous members of terrorist organizations arrested. Bangladesh provides an example that Islam and democracy can be reconciled. In the fight against Islamist militancy, the country relies mainly on measures grounded in the rule of law.

On December 29, 2008, democratic elections took place in Bangladesh for the first time in seven years. Before that, a military-backed *Caretaker Government* had been in power for two years. Bangladesh has had a parliamentary system of government since 1991. The constitution guarantees fundamental freedoms. But since Bangladesh is a weak state, there are still major deficits in the area of good governance.

In the December 2008 elections, the alliance led by the secularist *Awami League* (AL) was able to secure an absolute majority in parliament, with 262 out of 300 seats. The electoral alliance of the rather right-wing conservative *Bangladesh Nationalist Party* (BNP), which had held power from

2001 to 2006 together with the Islamist parties *Jamaat-e-Islami* (JI) and *Islami Oikya Jote* (IOJ), received only 32 seats. In the run-up to the election, the leader of the AL, Sheikh Hasina, had proclaimed action against Islamist militancy as one of her party's main goals. The leader of the BNP, Khaleda Zia, had campaigned for her own party's "nationalist-Islamist" coalition with the JI and had called on the Bangladeshi people to save Islam. The results of this election hence clearly show that the vast majority of the population rejects Islamist concepts of the state.

While the BNP-led coalition was in power, a number of terrorist attacks took place in Bangladesh. Since a successful

crackdown on terrorist groups in March 2006, however, the problem of Islamist militancy in the country has rapidly faded from international awareness.

At present, Bangladesh is grappling with Islamist militancy in three areas: in the legal system; in the framework of trials against Islamist war criminals, who are being called to account for their crimes during the War of Independence; and in the prosecution of terrorist organizations. Bangladesh is distinguished by its reliance on the rule of law as the primary means of combating Islamist militancy.

Strengthening the secular legal system

Since the People's Republic of Bangladesh was founded in 1971, it has been a secular state. However, in 1977, the ban on religious political parties was removed from the constitution and the principle of "absolute trust and faith in Almighty Allah" was incorporated into its preamble. Islam has been the state religion since 1988. But the laws of the land are still overwhelmingly secular in nature, and there are no official *Sharia* courts.

Over the past two years, the High Court has further strengthened the secular character of the legal system. In August 2009, the court called upon the Ministry of Local Government, Rural Development, and Cooperatives, as well as on all local state agencies and police units, to take immediate measures against *shalish*, informal village courts, that impose punishments not sanctioned by the state such as punishments by *fatwa*. In July 2010, the High Court issued an official ruling declaring all forms of extrajudicial punishments illegal, including punishments under *fatwa*. The court's ruling is comprehensive. It not only authorizes criminal prosecution of individuals who impose or carry out extrajudicial punishments, but also makes failure to protect victims of *fatwas* and other informal legal decisions a criminal offense.

A recent example of the difficulties inherent in enforcing this ruling is the case of the 14-year-old Hena. The girl was raped by her cousin in late January 2011 in the district of Shariatpur and subsequently sentenced to 101 lashes of the whip in a *fatwa* pronounced by an unauthorized village court, which was called ad hoc. One week later, the girl died. Local police imprisoned four suspects immediately after her death, but just a few days later, a police report was released stating that the girl's body showed no evidence of injury. Apparently suspects had bribed the police. On orders from the High Court, a second autopsy was conducted in the capital city of Dhaka. The second post mortem report confirmed the girl's mistreatment. The court, therefore, immediately ordered that the case be re-examined and that two police officers suspected of corruption be prosecuted. Justices of the High Court also questioned local government officials and representatives of the local investigative agencies. The case shows the high priority placed by the upper echelons of the judiciary on defending the secular legal system. At the same time, it also shows that the Bangladeshi state is still too weak on the local level in many areas to effectively implement the High Court's progressive jurisprudence.

Trials of Islamist war criminals

In the Bangladesh Liberation War, which resulted in the secession of East Pakistan from (West) Pakistan in 1971, the Pakistan Army and Islamist militias from East Pakistan who collaborated with them carried out brutal massacres of the civilian population, killing between one and three million people. The JI, to this day the largest and most influential Islamist party in the country, rejected the division of Pakistan and provided fighters for the Islamist *Al-Badr* and *Al-Shams* militias. Since 1975, war crimes committed in the War of Independence have no longer been prosecuted. As a result, there has emerged a

culture of impunity for acts of Islamist violence that promotes militancy up to the present day.

During the electoral campaign of 2008, the currently ruling secularist AL had promised to prosecute war crimes committed in the Liberation War during its tenure. On March 25, 2010, the government established the *International Crimes Tribunal*, which has since been responsible for prosecuting acts of genocide, war crimes, and crimes against humanity committed during the War of Independence. The tribunal consists of three judges led by High Court Justice Nizamul Haque Nasim, and is assisted by a panel of state lawyers and a ten-member investigation agency. The trials of the war criminals have strong support from the general population.

The four top JI leaders have been accused of serious war crimes before the tribunal: the head of the party, Amir Motiur Rahman Nizami, the secretary general, Ali Ahsan Mohammad Mojahid, and senior assistant secretaries general, Muhammad Kamaruz-zaman and Abdul Quader Molla. If the tribunal outlawed the JI or convicted important leaders of the party in the course of the trials, this would have profound repercussions on the balance of power in Bangladesh. Above all, it would mean that the right-wing conservative but largely secularist BNP would be forced to rethink its strategy of entering into electoral alliances with Islamist parties. It could also set a reform process in motion across the Islamist spectrum if moderate forces distanced themselves from war criminals in their own ranks in order to remain politically acceptable.

Such a large-scale legal investigation and prosecution of war crimes that were committed around forty years ago pose enormous financial and procedural challenges to a weak state like Bangladesh. In view of the corruption and poor capability of its police force, the country will face particular difficulties creating an effective witness protection program. Acts of reprisal by militant Islamists are also possible. As

one example, in November 2010, State Minister for Law Qamrul Islam was threatened with bombing if he refused to release the jailed leaders of the JI.

Successes in the fight against terrorism

Terrorist organizations have been active in Bangladesh since the 1990s. Many of them recruit their members from fundamentalist *madrasahs* (Islamic schools). The *Jamaat-ul Mujahideen Bangladesh* (JMB) is said to have trained around 3,000 fighters up to 2005 and has claimed responsibility for orchestrating over 400 coordinated bombings across the country in August 2005. Whereas the JMB pursues a primarily national agenda of establishing an Islamic state in Bangladesh, the *Harkat-ul-Jihad-al-Islami* (HuJI) is more internationally oriented and has been involved in several attacks on Indian territory according to the government in Delhi. There are also Pakistan-based terrorist organizations like *Lashkar-e-Taiba* (LeT) operating in Bangladesh.

Since the AL took power, the state security forces have arrested numerous JMB militants. In late 2009, for instance, around 600 suspected members of the organization were taken into custody, including a number of local leaders. In mid-December 2010, the paramilitary *Rapid Action Battalion* (RAB) neutralized a HuJI training camp in Chittagong, arrested five leaders of the organization, and seized explosives.

In Summer 2009, two leading operatives of the Pakistan-based LeT were detained: Mufti Obaidullah and Moulana Mohammad Mansur Ali. At the end of the same year, the Bangladeshi government succeeded in preventing planned attacks by the LeT on the US embassy and on the British and Indian High Commissions in Dhaka. In October 2010, the RAB apprehended LeT explosives expert Wazed Khan and recovered around 30 kilograms of explosives from the house where he had been staying.

These and other successful arrests show that the security apparatus is indeed ca-

pable of responding to immediate terrorist threats. The state still lacks the capacity, however, to completely dismantle the terrorist organizations operating on its territory. The police in particular are poorly equipped and do not have adequate numbers of qualified personnel.

The paramilitary RAB, which is currently spearheading efforts to eradicate terrorist organizations, has frequently been implicated in severe human rights abuses. Moreover, the security sector is heavily fragmented. And instead of cooperating, many agencies responsible for fighting terrorism are competing against each other. To solve this problem, the government set up an inter-ministerial *Anti-Terrorism Committee* in April 2009 and a *Counter-Terrorism Coordination Cell* in June 2009. This, however, can only be considered a first step towards effectively strengthening coordination among security agencies in the fight against terrorism.

International support needed

Bangladesh is setting a good example that Islam and democracy can be reconciled. The country has achieved remarkable successes over the past two years in the fight against Islamist militancy. At present, three sets of measures are primarily responsible for Bangladesh's success in containing radical Islamist tendencies. In combination, they could also prove effective in other majority-Muslim countries with similar conditions to Bangladesh: first, steps to strengthen the secular legal system; second, efforts to address the historical legacy of Islamist militancy through judicial action and thus to eradicate the culture of impunity that continues to promote this militancy up to the present day; and third, criminal prosecution of potentially violent Islamists and terrorist organizations.

In future development cooperation with Bangladesh, the EU and Germany should concentrate on strengthening the state judicial system and on promoting reforms in the security sector. The USA and the UK

are already providing Bangladesh with support in the fight against terrorism. Up to now, these countries' efforts have been focused on training local security forces and on intelligence sharing. Bangladesh and India have also intensified their cooperation in fighting terrorism and transnational crime.

Measures to strengthen the secular legal system should, above all, aim at ensuring that the judicial guarantees developed within the country for defense against radical Islamist tendencies in society—such as the 2010 law prohibiting punishments by *fatwa*—can be implemented effectively at the local level as well. German and European programs providing aid in the area of security sector reform should focus on strengthening the police apparatus and on conducting human rights training for the security forces engaged in the fight against terrorism. Giving the military a more central role in internal security should be avoided, however, since this would threaten Bangladesh's democratic development.

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