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Summary record of the 3340th meeting

Held at the Palais Wilson, Geneva, on Tuesday, 7 March 2017, at 10 a.m.

Chair: Mr. Fathalla (Vice-Chair)

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Mr. Fathalla (Vice-Chair) took the Chair.

The meeting was called to order at 10 a.m.

Consideration of reports submitted by States parties under article 40 of the Covenant
(continued)

Initial report of Bangladesh (continued) (CCPR/C/BGD/1; CCPR/C/BGD/Q/1 and Add.1)

1. *At the invitation of the Chair, the delegation of Bangladesh took places at the Committee table.*
2. **Ms. Cleveland** said that she would appreciate an answer to her earlier question regarding the number of cases in which the death penalty had been imposed under the Anti-Terrorism Act of 2009 and whether there were plans to fast-track capital cases under that Act. While the Committee was pleased to learn that the State party did not plan to introduce any new capital crimes, it remained concerned about the broad number of crimes for which the death penalty could be imposed, the frequency with which it was imposed and the imposition of the death penalty on large numbers of people in mass trials.
3. She would like specific information regarding complaints, investigations, prosecution, penalties imposed and compensation to victims for acts of extrajudicial and arbitrary killings, disappearances and excessive use of force. The State party had indicated that there was no immunity under the Armed Police Battalion Act; however, the Act clearly seemed to provide for immunity. That being the case, she wondered whether it was simply not being enforced. If not, were there plans to repeal it?
4. **Ms. Waterval** enquired how many of the State party's government ministers and ambassadors were women.
5. **Mr. Shany** said that he would appreciate the delegation's response to his previous comments regarding sexual minorities.
6. **Mr. Heyns**, noting that international law required that there must be a basis in domestic law for the use of force by the police, said that he would like information on the specific legal provisions governing when and under what conditions law enforcement officials in the State party were allowed to use force.
7. **Ms. Pazartzis** said that she wished to know whether there had been any investigations into allegations of torture of persons in custody. If so, what had the outcome of the investigations been and how many cases had been dismissed? She would also appreciate information on what efforts had been made to reduce pretrial detention, which appeared to be imposed frequently, sometimes for excessive periods. Indeed, the Committee had received reports of pretrial detainees being held for several years.
8. Turning to paragraph 14 of the list of issues (CCPR/C/BGD/Q/1), she said that forced and bonded labour and child labour were reportedly still prevalent in the State party, notwithstanding the laws that prohibited them. Moreover, the majority of bonded labourers apparently came from indigenous communities or communities designated as untouchable; child labour was reportedly also a significant problem in such communities. The Special Rapporteur on contemporary forms of slavery had reported that, despite the progress made, a number of people in the State party were still trapped in debt bondage. She would like to know what practical measures the State party was taking to address that situation and what mechanisms were in place to ensure compliance with domestic laws and international standards on forced and bonded labour, particularly in the informal sector. It would also be useful to know what measures had been taken to strengthen the legal framework for the protection of domestic workers.
9. Turning to paragraph 20 of the list of issues, she said that the State party was to be commended for amending its Labour Act following the accident in the Rana Plaza building in 2013. However, that law did not appear to apply to some workers, such as those who worked in export processing zones, in non-profit education and training institutions and on farms. The Committee had been informed that many applications for trade union registration were rejected and would therefore like to hear about any measures taken to

ensure that workers were, in practice, able to exercise their right to form, register and participate in unions and about what charges could be brought against employers who obstructed that right. Additional data on the number of unions that currently existed would also be welcome.

10. **Ms. Cleveland** said that information received from civil society organizations indicated that trade unionists, among others, had been detained under the Special Powers Act, although she had understood the delegation to say that there had been no cases of preventive detention under the Act since 2009. She would appreciate clarification on that point. If the Act was not being applied, did the State party plan to repeal it? The law appeared to be very broad and allowed preventive detention on the basis of a mere suspicion that a person might commit a prejudicial act, which raised a serious risk of arbitrary detention. She recalled that the Committee's position was that preventive detention was allowable only under the most exceptional circumstances and that the State must demonstrate that a person placed in preventive detention posed a present, direct and imperative threat that could not be addressed through alternative measures. She wished to know how the State party ensured that those conditions were met and how it defined "prejudicial act". She would also like to know what possibility existed for judicial review of detention decisions.

11. Referring to paragraph 16 of the list of issues, she noted that the trials of the Bangladesh Rifles border guards had been criticized for significant violation of fair trial rights. Information before the Committee indicated that between April 2010 and October 2012 nearly 6,000 Bangladesh Rifles members had been convicted and sentenced in mass trials and only about 270 had been acquitted. Was that information correct? Civil society organizations had reported that defendants had not been informed of the specific charges against them, had been denied access to counsel and had been deprived of the right to present and cross-examine witnesses. It had also been reported that torture had been used to extract confessions, 80 of which had subsequently been retracted. She would like to know what steps had been taken to investigate and provide remedies in those specific cases and, more generally, what measures the State party was taking to ensure that due process rights were protected. She would also appreciate information on any appeals that had been filed in the cases of the 411 border guards sentenced to prison and an update on the status of the death reference hearing pending before the High Court Division. In particular, had any of the death sentences been reversed and had any executions been carried out?

12. Although the International Crimes Tribunal Act had recently been amended to address some issues relating to fair trial guarantees, human rights groups reported that the procedural protections under the Act were not consistent with those afforded in prosecutions for other serious crimes under domestic law or with international standards. Information from those groups indicated that the definition of crimes against humanity was not in accord with international standards, that defendants were barred by the Constitution from challenging the Tribunal's jurisdiction, that cases appeared to be brought disproportionately against opponents of the current regime, and that suspects could be detained without notice and did not have the right to remain silent or have a lawyer present while they were being questioned. She would like to know what steps were being taken to address those shortcomings and to ensure that the due process and fair trial rights enshrined in the Covenant were respected in cases tried before the Tribunal.

13. The Committee had been informed that magistrates in mobile court proceedings could send defendants to jail instantly without providing them with the opportunity to consult legal counsel or defend themselves, that no bail was available and that defendants could not pay fines in instalments. It would be useful to learn what was being done to address those problems. She understood that a bill amending the Mobile Court Act had been approved by the Cabinet but had not yet been enacted. She would be grateful for information on the status of the bill and on how it would alter the mobile courts' powers and procedures.

14. Although *shalish* decisions and extrajudicial punishment were prohibited by law, reports indicated that punishments such as caning, beating and even stoning continued to be imposed by village mediation councils, especially against women and girls, often through fatwas. She wished to know how many such punishments had been imposed and what the

State party was doing to monitor, investigate, punish and prevent the imposition of extrajudicial punishment.

15. Lastly, the Committee would appreciate a reply to the questions asked by Mr. de Frouville in the previous meeting regarding abortion and, in that connection, maternal mortality.

16. **Ms. Waterval**, referring to paragraph 21 of the list of issues, said that the Committee had not received an adequate reply to its question concerning birth certificates for Rohingya children. The State party had indicated that there was no explicit bar in law with regard to the birth registration of refugee children. What did that mean in practice? She would welcome an update on the status of the citizenship bill of 2016. She would also like to know whether street and vagabond children benefited from the National Action Plan to Prevent Violence against Women and Children. Lastly, she wished to know whether the ban on corporal punishment in educational institutions had been implemented and whether corporal punishment been banned in other settings.

17. **Mr. Ben Achour** said that, according to the information provided by the State party, a verdict had been rendered only in the Ahmed Rajib Haider murder case. A number of other killings of journalists and bloggers, all of them dating back to 2015, were still under investigation. He would like to know what accounted for the delay in prosecuting and trying those cases. Although the Constitution provided that Bangladesh was a secular State, it also recognized Islam as the State religion, and the legal system was heavily influenced by religious law. He would welcome a comment from the delegation on that apparent contradiction. He would also appreciate a reply to the Committee's question, in paragraph 18 of the list of issues, concerning attacks on places of worship, particularly during the Hindu festival of Durga Puja.

18. Referring to paragraph 22 of the list of issues, he noted that several political parties and NGOs had reported that the elections of January 2014 had been marred by violence, arrests and even killings. The elections had been boycotted by various political parties, including the Bangladesh Nationalist Party. There had been allegations of numerous electoral irregularities, including partisanship on the part of the Election Commission. He would be interested to hear the delegation's thoughts on the transparency of the electoral process, both in general and specifically with reference to the 2014 elections. If the allegations of electoral irregularities were true, what was being done to remedy them?

19. **Mr. Iwasawa**, noting with satisfaction that the State party had acknowledged the role of civil society and NGOs in fostering democracy and advancing socioeconomic goals, said that some organizations had expressed concern about the Foreign Donation (Voluntary Activities) Regulation Act, which appeared to give the Government the authority to review and cancel projects proposed by NGOs and required prior government approval for travel abroad for purposes related to work on an NGO project. Groups planning to receive foreign funding were required to register with the NGO Affairs Bureau and seek approval for all planned activities before receiving a grant. The Act imposed tough sanctions for non-compliance, including fines, disciplinary action and cancellation of registration. Furthermore, it was an offence under the Act to make derogatory remarks against the Constitution, the Parliament or other governmental bodies, a provision that could be used to limit criticism of the Government, particularly as the Act did not define what constituted a derogatory remark. The Act thus appeared to subject NGOs and civil society organizations to unreasonable government control and to restrict freedom of expression and association. He would like to hear the delegation's response to those concerns. He also wished to know how the Government would select NGO and civil society leaders to participate in formulating the rules for implementation of the Act.

20. Referring to paragraph 23 of the list of issues, he noted that the Committee had received information indicating that the island of Thanger Char, to which the State party intended to relocate refugees from Myanmar, was engulfed by water at high tide and completely inundated during the monsoon season. He wished to know how long it would take to develop the infrastructure necessary to ensure that the refugees, once relocated, were adequately protected from flooding. In addition, he would appreciate a response to the

Committee's question concerning restrictions imposed on international NGOs seeking to provide humanitarian assistance to Rohingya refugees in the Cox's Bazar district.

21. It would be interesting to learn whether the Government intended to follow the recommendation that the number of recognized ethnic minorities should be increased from 27 to 49. He was curious to know how the State party defined the term "indigenous" and how it distinguished indigenous peoples from ethnic minorities. Why, for example, were the people in the Chittagong Hill Tracts not recognized as indigenous peoples? The Committee had been informed that residents of that area had made numerous complaints about the occupation of their land by the Army of Bangladesh or Bengali settlers. A land commission established under the Chittagong Hill Tracts Peace Accord of 1997 had thus far failed to resolve a single land dispute, as the Government and the Parliament had not implemented an agreed set of amendments to the Land Commission Resolution Act. In January 2015 the Government had reportedly issued a memorandum establishing procedures for access to the region for non-Bangladeshi visitors; information received by the Committee suggested that those procedures would restrict freedom of expression and assembly. He invited the delegation to respond to those reports.

22. **Mr. Shany** said that he too had concerns about the plan to relocate Rohingya refugees to Thanger Char island. While the State party had accepted tens of thousands of refugees and asylum seekers, which was commendable, there had reportedly been cases in which persons seeking asylum had been turned away at the border. He wished to know what laws and procedures were in place to evaluate the status of asylum seekers and refugees, especially members of the Rohingya community, and to ensure that the principle of non-refoulement was not violated. The Committee had been informed that refugees in some camps were living in conditions of extreme poverty, and he would like to hear what assistance was being provided to such individuals. For example, was the Government taking steps to facilitate their integration into the job market? Lastly, he wondered whether the State party was considering acceding to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol.

23. **Mr. Santos Pais**, noting that no act committed by a child under 9 years of age could be considered an offence in the State party, asked what provisions applied to children aged 9 to 18 years. The State party report indicated that children found guilty of an offence punishable by death could be held in a child development centre for between 3 and 10 years. He would like to know what happened after that period and whether there was regular court oversight of such detentions.

24. **Mr. Koita** said that he would like to know what factors, apart from political instability, accounted for the State party's delay in submitting its initial report, which had been due in 2001. A 2013 amendment to the 2006 Information and Communication Technology Act had reportedly criminalized the publication of any online content considered defamatory to the State or to a religious group. He wondered whether the delegation considered that law consistent with the State party's obligations under article 19 of the Covenant. The report submitted by the National Human Rights Commission indicated that the Government intended to remove all contradictory provisions in the Act. He wished to know what revisions were proposed and when they would be made. He would also like to know why the Commission, established in 2009, continued to lack the human and financial resources needed to ensure its independence and enable it to fulfil its responsibilities as the national human rights institution.

The meeting was suspended at 11 a.m. and resumed at 11.25 a.m.

25. **Mr. Huq** (Bangladesh) said that the Government had received no reports or complaints of torture in custody and therefore had not conducted any investigations in that regard. If the Committee had information concerning allegations of torture, the Government would investigate and take steps to remedy any problems found. It would also report its findings to the Committee. The Government was encouraging alternative means of settling cases, such as compounding of offences, which was expected to reduce the number of persons held in pretrial detention. The Government was also striving to ensure that pretrial detainees were made aware of their right, under section 497 of the Criminal Code, to apply for bail and was encouraging them to do so. Delayed trial was considered one of the

primary reasons for granting bail. A national legal aid services organization had been established in 2000, but unfortunately it had remained dormant until 2009, when the current Government had taken steps to revitalize it, including by setting up a telephone helpline and opening offices that provided free legal aid.

26. Law enforcement officials were permitted to use force only to defend themselves. The rules on the use of force were clearly laid out in the Code of Criminal Procedures and the police regulations. All allegations of excessive use of force were investigated, and if the allegations were found to be true, the individuals concerned were punished.

27. Under the Children's Act of 2013, no child could be sentenced to death, nor could a person be executed for an offence committed before he or she reached the age of 18 years. Those provisions applied to all children, including those aged 12 to 18 years. Children had to be tried under the Children's Act, which provided that they could not be tried with adults or in an adult court. If children were found guilty, even of an offence punishable by death, the maximum penalty was 10 years' imprisonment. Children could not be jailed with adults. Existing facilities for child offenders were currently being modernized and improved. They served as rehabilitation centres that provided schooling and training to prepare children to return to society after completing their sentences.

28. Forced and bonded labour were prohibited as a form of slavery. With support from development partners, the Government had implemented a number of programmes with the aim of abolishing child labour, with remarkable success. The garment and shrimp-processing sectors, for example, were now free of child labour, which persisted mainly in the informal sector. In accordance with the International Labour Organization (ILO) Worst Forms of Child Labour Convention, 1999 (No. 182), the Government had published a list of hazardous jobs deemed detrimental to children's physical, mental and moral development.

29. Child labour issues had been incorporated in all major national development plans. The Government had committed to achieving the elimination of all forms of child labour by 2025 as a target under the Sustainable Development Goals, and specific budgets had been allocated to various ministries for that purpose. The Ministry of Labour and Employment had adopted a national child labour elimination policy in 2010 under which child workers and their parents were being offered incentives to encourage school attendance. To facilitate the implementation of the policy, the Government had formulated a national plan of action for the period 2013-2016, and four committees had been set up to monitor and evaluate its implementation. Projects aimed at eliminating child labour had been implemented with various partners, including ILO, the United Nations Children's Fund (UNICEF) and the United States Department of Labor.

30. **Mr. Ahsan** (Bangladesh) added that, as a result of the measures taken by the Government, the number of child labourers had been reduced from 3.2 million in 2003 to 1.7 million in 2013.

31. **Mr. Huq** (Bangladesh) said that he was aware of claims that trade union leaders in the garment sector had recently been detained under the Special Powers Act. However, he had found no record of anyone being detained under the Act since 2009. Section 3 of the Act provided for preventive detention if someone was found to have committed a prejudicial act, as defined in section 2 of the Act. It was the deputy commissioner of a district who determined whether an act was prejudicial. Persons could be detained for up to 30 days. The Ministry of Home Affairs could extend the period of detention for an additional 60 days. A person detained under the Act could appeal the detention decision to the High Court Division under article 102 of the Constitution and section 491 of the Code of Criminal Procedure. In the event that the detention was extended, a three-member advisory council headed by a High Court judge would have to be satisfied that the detention was necessary. The detainee had the right to be heard by the advisory council.

32. All the former members of the Bangladesh Rifles border guards who had been tried for their involvement in the 2009 mutiny had been afforded the right to appoint a lawyer and all witnesses had been cross-examined during the course of the trial. Under section 342 of the Code of Criminal Procedure, the defendants had been given the opportunity to plead guilty or not guilty, and those who had pleaded not guilty had been allowed to present

witnesses in their defence. The death sentences handed down to 152 of the defendants were awaiting confirmation before the High Court Division of the Supreme Court. The Chief Justice of the Supreme Court had set up a special bench comprised of three judges to hear the cases.

33. The International Crimes Tribunal Act and the Tribunal's rules of procedure incorporated the international standards for fair trials and due process, including trials conducted in public, the presumption of innocence and the right to appeal. All trials conducted by the Tribunal were fully accessible to national and international media outlets and the families of victims. Persons convicted by the Tribunal had the right to appeal to the Supreme Court, which had on a number of occasions overturned sentences, including death sentences, passed by the Tribunal.

34. *Shalish* decisions were illegal in Bangladesh and the Government prosecuted individuals who carried out punishments issued by fatwas. The Ministry of Law, Justice and Parliamentary Affairs had requested the Ministry of Public Administration to issue a circular to district authorities reminding them that *shalish* decisions were prohibited.

35. The Government had introduced mobile courts to issue punishments for petty crimes. Executive magistrates who had caught an individual in the act of committing a crime which carried a maximum sentence of less than 2 years' imprisonment were authorized to try him or her. If the accused admitted guilt, he or she was entitled to appeal the severity of the sentence handed down. The Ministry of Law, Justice and Parliamentary Affairs was considering amendments to the Mobile Court Act to ensure that the right to a fair trial was not infringed.

36. While the Government was not aware of any complaints of harassment of NGOs, it stood ready to follow up on any information held by the Committee regarding such allegations. The Foreign Donation (Voluntary Activities) Regulation Act of 2016, which defined the rules governing NGOs, had undergone an extensive consultation process. Under the Act, which was designed to counter the financing of terrorism, registration was mandatory for NGOs wishing to receive foreign donations. The Act also made provision for the NGO Affairs Bureau to approve the work of NGOs within 24 hours during and after the occurrence of disaster or emergency situations.

37. **Mr. Ahsan** (Bangladesh) said that, while the Act had repealed the legislation that had previously been in place, its provisions remained essentially the same as those contained in the Acts it had replaced.

38. Following the collapse of the Rana Plaza building in 2013, the Labour Act had been amended to simplify the regulatory framework for trade unions and improve safety conditions. The amendments had led to an increase in the number of trade unions from 132 to 562. With technical assistance from ILO, the authorities had developed a standard operating system for trade union registration and a mechanism for handling grievances. Initiatives had also been implemented in the areas of arbitration, collective bargaining, the welfare of workers and the right to strike. The Parliamentary Standing Committee was in the process of updating the Act to improve the well-being of workers. The Government had also drawn up a national action plan covering legislation and policy, administrative reforms and practical activities. As a result of the plan, the labour inspection authorities had tripled the size of their workforce and had conducted safety assessments of more than 3,780 buildings.

39. **Mr. Huq** (Bangladesh) said that Bangladesh had 2 female consuls general and 5 female ambassadors out of a total of 60. Around 25 per cent of the diplomatic corps was made up of women. Referring to the State Party's reply to paragraph 23 of the list of issues, he said that Bangladesh had lived up to its humanitarian obligations and had not refused entry to Rohingya refugees from Myanmar. The Government called upon the international community to encourage the authorities in Myanmar to address the causes of the influx of refugees. With regard to the Chittagong Hills Tracts, the Land Commission set up following the Peace Accord of 1997 had lain dormant for many years. The present Government had formed a new Land Commission and had successfully resolved its differences with local leaders regarding the powers conferred by the Land Commission Resolution Act of 2001.

40. **Mr. Tripura** (Bangladesh) said that, following the implementation of the amended Act, the Commission had received 25,000 petitions relating to the settlement of land disputes. The Government imposed restrictions on foreign nationals entering the Chittagong Hill Tracts in order to ensure their safety and security.

41. **Mr. Huq** (Bangladesh) said that section 13 of the Torture and Custodial Death (Prevention) Act did not provide immunity from prosecution for law enforcement agents. While agents acting on the orders of the Government were protected from prosecution, they bore individual liability if they exceeded those orders.

42. Given that the purpose of governance was to reflect the will of the people, the Government was not yet in a position to enact liberal legislation regarding the rights of lesbian, gay, bisexual and transgender (LGBT) persons. Nevertheless, it did not discount the possibility of doing so in the future. While abortion was prohibited under the Penal Code, exemptions were made when the life of the pregnant woman was in danger. Health-care services were improving and the Government had instituted family planning programmes.

43. Following the parliamentary elections in January 2014, the Election Commission had conducted a number of elections at other administrative levels. The Bangladesh Nationalist Party and Jamaat-e-Islami had boycotted the 2014 elections and perpetrated acts of violence, including the burning of polling stations and the killing of voters.

44. **Mr. Shahjahan** (Bangladesh) said that on the occasion of the elections in 2014, the Election Commission had deployed a large number of law enforcement agents to maintain law and order. As a result of the boycott of those elections by some political parties, 153 parliamentary seats had been uncontested. Under the legislation in force, in cases where there was only one candidate running in a constituency, that candidate had been elected.

45. **Mr. Huq** (Bangladesh) said that, following a case submitted by Jamaat-e-Islami in 2009, the High Court Division of the Supreme Court had ruled that the party's registration was illegal. Jamaat-e-Islami had filed an appeal which was pending before the Appellate Court. Given that the International Crimes Tribunal had found that the party had committed war crimes during the Liberation War of 1971, the decision on the future of the party lay with the highest court in the country.

46. **Mr. Ben Achour** said that he wished to recall that all information received by the Committee was available for consultation on the website of the Office of the United Nations High Commissioner for Human Rights (OHCHR). The religious nature of certain laws in the State party was at odds with the secular nature of the State.

47. **Mr. Shany** said that, while he understood the challenges involved in changing deeply embedded cultural norms such as those relating to the LGBT community, the Government had a responsibility to ensure the gradual transformation of such norms and to protect all citizens from violence.

48. He wished to learn whether the relocation of refugees from Myanmar to the island of Thanger Char would be undertaken with their consent. Given that forced relocation would represent a form of detention, the delegation should explain the legal basis for the relocation process if the consent of the refugees could not be obtained.

49. **Ms. Cleveland** said that, with regard to the situation of the LGBT community, States parties had a special responsibility to ensure that minority groups enjoyed the rights enshrined in the Covenant.

50. She had received information that at least two habeas corpus proceedings relating to cases of enforced disappearance were pending before the Supreme Court in the State party. She would appreciate the delegation's comments regarding petition No. 2851 of 2010, submitted on behalf of Mr. Mohammad Salim Mian, who had disappeared in February 2010, and petition No. 14880 of 2012, submitted on behalf of Mr. Mohammad Imam Hassan, who had last been seen in the custody of the Rapid Action Battalion in March 2012.

51. **Mr. Politi** said that he wished to learn more about the workings of the International Crimes Tribunal, including how the principle of complementarity was implemented, whether the Tribunal operated under the standards provided for in the Rome Statute and

who had the authority to decide whether a case was admissible. The delegation should clarify whether the ordinary courts were competent in the first instance and whether the Tribunal examined cases relating to crimes other than genocide, crimes against humanity and war crimes. He wished to receive more information about the appeals procedure.

52. **Mr. Muhumuza** said that, given that sharia courts were thriving in the State party, he wished to know how many people had been held accountable for issuing fatwa-inspired orders that had led to injury or death and the nature of the punishments handed down to those people.

53. **Mr. Santos Pais** said that the delegation should clarify whether corporal punishment was prohibited in schools and in the family setting. Referring to paragraph 192 of the State party's report, he would like to know whether the police were able to issue orders to intercept personal communications.

54. **Mr. Huq** (Bangladesh) said that, following the parliamentary elections in 2009, the Supreme Court had amended the Constitution to reaffirm secularism as a fundamental principle. While Bangladesh was a moderate Muslim country, the Government was striving to change the religion-based national mindset that had become entrenched during the 25 years leading up to its taking power. The perpetrators of offences against members of the LGBT community would be held accountable for their actions. While the Government would endeavour to obtain the consent of the Rohingya refugees to their relocation, it should be noted that the relocation programme was intended to be beneficial to the refugees. The International Crimes Tribunal, which was the only domestic court empowered to try cases of genocide, crimes against humanity and war crimes, had an independent investigation wing which reported directly to it. Persons convicted by the Tribunal had the right to lodge an appeal with the Appellate Court. There were no sharia courts in operation in Bangladesh.

The meeting rose at 1.05 p.m.