



**Convention against Torture
and Other Cruel, Inhuman
or Degrading Treatment
or Punishment**

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Committee against Torture

**Decision adopted by the Committee under article 22 of the
Convention, concerning communication No. 610/2014*^{*}, ****

<i>Communication submitted by:</i>	R.M. (represented by counsel, Ahmed Ziauddin)
<i>Alleged victim:</i>	The complainant
<i>State party:</i>	Sweden
<i>Date of complaint:</i>	6 June 2014 (initial submission)
<i>Date of present decision:</i>	30 November 2016
<i>Subject matter:</i>	Deportation to Bangladesh
<i>Procedural issue:</i>	Lack of substantiation
<i>Substantive issues:</i>	Non-refoulement; prevention of torture
<i>Articles of the Convention:</i>	3 and 22

1.1 The complainant is R.M., a national of Bangladesh born in 1981. He sought asylum in Sweden, his application was rejected and he now risks deportation. He claims that his removal to Bangladesh by Sweden would put him at risk of being killed or kidnapped by the Awami League party and of being put in jail by a law enforcement agency, in violation of article 3 of the Convention.

1.2 On 6 June 2014, the Committee, acting through its Rapporteur on new complaints and interim measures, requested the State party not to expel the complainant pending consideration of the complaint.

The facts as presented by the complainant

2.1 The complainant submits that he was forced to seek asylum in Sweden on 26 February 2012, after members of the ruling party in Bangladesh, the Awami League, had tried to torture and kill him. The local party leader attacked the complainant and his family members on many occasions and forced the complainant to hide in various parts of the

* Adopted by the Committee at its fifty-ninth session (7 November-7 December 2016).

** The following members of the Committee participated in the examination of the communication: Essadia Belmir, Alessio Bruni, Felice Gaer, Claude Heller Rouassant, Jens Modvig, Ana Racu, Sébastien Touzé and Kening Zhang.



country before the Bangladesh Nationalist Party helped him escape to Sweden. The complainant also submits that a law enforcement agency has been searching for him in order to arrest and torture him, and that its officers have interrogated his father on many occasions.

2.2 On 28 August 2012, the complainant informed the Committee that the State party refused to issue a work permit to him, although his deportation was stayed after the interim measures request had been granted. The complainant submits a statement dated 21 July 2014 from his lawyer in Bangladesh pointing to a court verdict of 24 November 2005 finding the complainant guilty of torture and rape and indicating that the complainant had left Bangladesh because he lacked protection owing to his political convictions. The complainant also submits a statement dated 13 August 2014 by the Chair of the National Human Rights Commission confirming the political persecution of the complainant in Bangladesh and the need for international protection.

The complaint

3. The complainant claims that, by not granting him international protection and by returning him to Bangladesh, which would put him at risk of torture, kidnapping and death at the hands of the Awami League and the above-mentioned law enforcement agency, the State party would violate article 3 of the Convention.

State party's observations

4.1 By a note verbale dated 8 December 2014, the State party submitted its observations on admissibility and the merits of the complaint and drew the Committee's attention to the fact that the decision to expel the complainant would become statute barred on 14 February 2017.

4.2 On the facts as presented by the complainant, the State party clarifies that the complainant applied for asylum on 26 February 2012, the day he claims to have arrived in Sweden. The Swedish Migration Board rejected his application and decided, on 11 May 2012, to expel him to Bangladesh. The Migration Court rejected the appeal on 4 January 2013. On 14 February 2013, the Migration Court of Appeals refused to grant a leave to appeal and thus the decision to expel the complainant became final and non-appealable. The complainant subsequently claimed before the Swedish Migration Board that there were impediments to enforcing the decision to expel him and requested a re-examination of his case. The Swedish Migration Board rejected his request on 5 June 2014. The Migration Court rejected his appeal on 23 June 2014.

4.3 On the communication's admissibility, the State party claims that the complainant has failed to substantiate to the minimum level necessary his claim that, if returned to Bangladesh, he would be treated in a manner amounting to a breach of article 3 of the Convention. According to the State party, the communication is manifestly unfounded and inadmissible.

4.4 On the communication's merits, the State party submits that the general human rights situation in Bangladesh does not in itself suffice to establish that a return of the complainant would be in violation of article 3 of the Convention.¹ The State party goes on

¹ The State party refers to the following reports: Sweden, Ministry for Foreign Affairs, *Mänskliga rättigheter i Bangladesh 2013*, available in Swedish only from www.manskligarattigheter.se/DownloadCountryReport/Get/?f=DM5%2fAsien+och+Oceanien%2fBangladesh%2c+MR-rapport+2013.pdf; Odhikar, *Bangladesh Human Rights Report 2013*, available from www.refworld.org/cgi-bin/tehis/vtx/rwmain?page=publisher&docid=5358cb964&skip=0&publisher=IFHR&querysi=bangladesh%20human%20rights%20report&search

to assess whether the complainant would be personally at risk of being subjected to treatment contrary to article 3 of the Convention. It refers to the Committee's general comment No. 1 (1997) on the implementation of article 3 and notes that the Committee is not an appellate, quasi-judicial or administrative body; that considerable weight will be given to the findings of organs of the State party concerned;² and that it is for the courts of the States parties to the Convention, not for the Committee, to evaluate the facts and evidence in a particular case, unless it can be ascertained that the manner in which such facts and evidence were evaluated was clearly arbitrary or amounted to a denial of justice.³ The State party submits that the domestic authorities have thoroughly examined the complainant's case, that the Swedish Migration Board conducted three interviews with the complainant, with the participation of the complainant's legal counsel and an interpreter, whom the complainant claimed to understand well. The legal counsel was allowed to ask the complainant questions during the interview and to scrutinize the minutes afterwards. On appeal, the Migration Court also held an oral interview with the complainant, with the participation of his counsel and an interpreter.

4.5 The State party submits that the domestic authorities were not able to confirm the identity of the complainant. The passport he presented was issued to him through an agent. He admitted that he had lived in Greece in 2008, under a different name, and that he had used a fake passport to enter Sweden. Also, during a police check conducted at his place of work, the complainant had a name and date of birth that was different from those he gave during the asylum procedure.

4.6 The State party further submits that the complainant gave different reasons for requesting protection to the domestic authorities in his asylum application and to the Committee in his submission: to the domestic authorities he said that, if returned to Bangladesh, he would risk being imprisoned for life or sentenced to death owing to false criminal charges made against him by a powerful person with whom he had been in a land dispute; to the Committee, he claimed that he was seeking protection from political persecution by the ruling Awami League party and the law enforcement agents who had searched for him at his house and had interrogated and threatened his father. The complainant brought forward a claim about being politically active in Bangladesh only in the application for re-examination of his case, once the expulsion order against him had become final and non-appealable. However, since his identity could not be properly established, and since the documents were copies and not originals, the domestic authorities gave low evidentiary value to the documents presented by the author. The State party concludes that the complainant has failed to plausibly establish that he would be at risk owing to his political activities.

4.7 The State party states that the author had applied for a passport at the Embassy of Bangladesh in 2008, when he was in Greece, but that he had left the country before he was able to pick it up. During the asylum proceedings, he failed to submit any documents to support his allegations regarding the land dispute, which had allegedly led to false criminal charges being made against him, and regarding the hospitalization that had resulted from an assault connected to said land dispute. The State party submits that the author was

in=title&sort=date; United States, Department of State, "2013 country reports on human rights practices: Bangladesh", available from www.state.gov/documents/organization/220600.pdf; and Human Rights Watch, *World Report 2014: Bangladesh*, available from <https://www.hrw.org/world-report/2014/country-chapters/bangladesh>.

² Reference is made to communication No. 277/2005, *N.Z.S. v. Sweden*, Views adopted on 22 November 2006, para. 8.6.

³ Reference is made to communication No. 219/2002, *G.K. v. Switzerland*, Views adopted on 7 May 2003, para. 6.12.

incoherent, provided vague descriptions and was unable to provide clear answers during the oral hearings. The State party observed that the complainant remained in Bangladesh two years after the alleged land dispute and that, upon his return from Greece and after the police and its Rapid Reaction Battalion came looking for him in his house in 2008, he spent three more years in the country before coming to Sweden in February 2012.

4.8 In summary, the State party submits that there are valid reasons to question the veracity of the complainant's account of his need for protection. The documentary evidence and the circumstances invoked do not suffice to show that the alleged risk of torture fulfils the requirements of being foreseeable, real and personal, and that the complainant's expulsion to Bangladesh would lead to a violation of article 3 of the Convention.

4.9 Lastly, the State party submits that it is not within its sphere of competence to grant work permits in the present situation and that such competence lies exclusively with the Swedish Migration Board and the migration courts.

Complainant's comments on the State party's observations

5.1 On 7 October 2015, the complainant submitted a copy of a passport issued by the Embassy of Bangladesh in Sweden to prove his identity.

5.2 On 2 May 2016, the complainant provided his comments to the State party's observations. He alleges that the decision of the domestic authorities was politically motivated, unsubstantiated and did not take into account the human rights situation in Bangladesh. He states that the reports referred to by the State party provide formal information and differ from the reality. He further states that when he arrived in Sweden he suffered from post-traumatic stress disorder resulting from the torture he was subjected to upon orders of the person with whom he had a land dispute and that his vulnerable condition was not taken into account by the domestic authorities. As for the State party's argument that he did not mention his political activity and previous torture during the asylum proceedings, the complainant states that it was because he did not understand the interpreter and because, as consequence of his post-traumatic stress disorder and memory loss, he could not follow the questions. He claims that the letters from the Bangladesh Nationalist Party's representative and from his father confirm his involvement in politics. The complainant also states that he has been recently operated three times and that the level of his post-traumatic stress disorder has reached the highest threshold.

Issues and proceedings before the Committee

Consideration of admissibility

6.1 Before considering any complaint submitted in a communication, the Committee must decide whether it is admissible under article 22 of the Convention. The Committee has ascertained, as it is required to do under article 22 (5) (a) of the Convention, that the same matter has not been and is not being examined under another procedure of international investigation or settlement.

6.2 The Committee recalls that, in accordance with article 22 (5) (b) of the Convention, it shall not consider any complaint unless it has ascertained that all available domestic remedies have been exhausted. The Committee notes that, in the present case, the State party has not challenged the admissibility of the complaint on this ground.

6.3 The Committee notes the complainant's claim that if deported to Bangladesh he risks being subjected to treatment contrary to article 3 of the Convention by the Awami League party and a local law enforcement agency. The Committee notes, however, that the complainant's submission is half a page long and does not provide any detailed information whatsoever about his political activity in Bangladesh, about his previous conviction for

torture and rape on 24 November 2005 or about why the law enforcement agency was interested in him. All the documents submitted by the complainant, namely the letters from the Bangladesh Nationalist Party representative, the complainant's father, his lawyer and the Chair of the National Human Rights Commission, are limited to a statement that the complainant is in danger owing to his political affiliation, without explaining his role in the Bangladesh Nationalist Party or his previous political activities. In the light of the foregoing, the Committee notes, in particular, that the complainant, despite allegations of political persecution in Bangladesh, approached the consulate of Bangladesh in Sweden and received a passport without reporting any problems. The Committee also notes that there is nothing on file to confirm the complainant's allegations about the previously experienced torture. The complainant has provided no dates, no details and no supporting documents on the matter. From the material before it, the Committee is not able to establish whether the complainant has faced any persecution or ill-treatment in the past, or whether he would be at a personal risk of torture upon returning to Bangladesh. On the basis of the above, the Committee concludes that the complainant has failed to sufficiently substantiate his claims for the purpose of admissibility.

7. The Committee therefore decides:

- (a) That the communication is inadmissible under article 22 (2) of the Convention;
 - (b) That the present decision shall be communicated to the complainant and to the State party.
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