

Review and Recommendations on Cabinet-approved ‘National Human Rights Commission Act, 2026 (Draft)’ by Transparency International Bangladesh (TIB)

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Of the 133 ordinances promulgated during the tenure of the interim government, a Special Committee of the Thirteenth National Parliament, following scrutiny, recommended that 16 ordinances of significant public importance, including those concerning the National Human Rights Commission, the Anti-Corruption Commission, the Police Commission and the prevention of enforced disappearance, not be enacted into law, and that new laws be formulated following further review. The stated reason for not passing the ‘National Human Rights Commission Ordinance, 2025’ in Parliament was that the Ordinance contained certain ambiguities and that, following consultation with relevant stakeholders and further scrutiny, the law would be redrafted. Accordingly, on 17 May 2026, the government prepared the draft ‘National Human Rights Commission Act, 2026’ and published it on the website of the Law and Justice Division to solicit public opinion. After reviewing the draft, TIB, independently¹ on 8 June 2026 and jointly with the Human Rights Forum Bangladesh on 7 July 2026, identified various provisions of concern and submitted recommendations to the government for their amendment following consultation with relevant stakeholders². The review found that several new provisions had been added, creating scope for improvement in certain respects compared with the 2025 Ordinance. However, the draft law also introduced significant departures from the ‘National Human Rights Commission Ordinance, 2025’ that run counter to the long-standing public expectation of establishing a genuinely independent and effective National Human Rights Commission, free from government influence. There is concern that these provisions conflict with the Paris Principles and may constitute major impediments to the National Human Rights Commission of Bangladesh ((NHRC) obtaining ‘A’ status from the Global Alliance of National Human Rights Institutions (GANHRI). They are also in conflict with commitments made in the election manifesto of the Bangladesh Nationalist Party (BNP).

This draft law was subsequently revised and approved at a Cabinet meeting on 10 August 2026. The Cabinet-approved draft includes several positive provisions consistent with recommendations made by TIB and relevant stakeholders. These include representation on the Selection Committee by a person from an ‘ethnic minority’ or disadvantaged community who has experience working to protect their rights; functions of the Commission relating to ensuring the rights of women, children, persons with disabilities and other vulnerable groups, monitoring implementation and taking action in accordance with law; reviewing the conformity and compatibility of domestic laws with international human rights instruments; taking necessary legal measures to protect individuals and organisations engaged in the protection of human rights from harassment; encouraging the activities of civil society organisations and non-governmental organisations and undertaking

¹ <https://www.ti-bangladesh.org/bn/articles/law-review/7496>

² <https://www.ti-bangladesh.org/bn/articles/policy-brief/7511>

partnership-based initiatives for the promotion of human rights through regular communication and institutional coordination with them; and empowering the Commission to make rules. Nevertheless, the provisions that stakeholders had warned would create the most serious obstacles to the Commission's independent and effective discharge of its mandate have been retained. In some instances, provisions of the 'National Human Rights Commission Act, 2009' have been reproduced verbatim; in others, the draft represents a regression even from the existing provisions of the 2009 Act. This is deeply disappointing.

In these circumstances, TIB presents the following observations on provisions of the Cabinet-approved draft that raise concern regarding the establishment of an independent and effective Human Rights Commission and may undermine the Commission's institutional autonomy. TIB also proposes the following recommendations for reconsideration by the Government and amendment following meaningful consultation with relevant stakeholders:

Establishment of an Independent and Autonomous National Human Rights Commission (Section 3)

Observation: The phrase 'which shall not be under the authority of any ministry or division of the Government' has been omitted from the provision in the 'National Human Rights Commission Ordinance, 2025' stating that 'the Commission shall be an independent body which shall not be under the authority of any ministry or division of the Government'. This omission creates scope for the executive to exercise control over the Commission and is inconsistent with the Paris Principles requirement that *a national human rights institution be independent and autonomous and discharge its mandate independently*.

Recommendation 1: Section 3(2) of the draft law should include a provision stating: 'The Commission shall be an independent body and shall not be under the authority of any ministry or division of the Government.'

Authority to Establish and Expand Commission's Offices (Section 4)

Observation: Although the 2025 Ordinance authorised the Commission to maintain its head office in Dhaka, establish a divisional office in every division, and establish offices at district and upazila levels as necessary, the draft law removes the mandatory requirement to establish divisional offices outside Dhaka. Moreover, it introduces a requirement to obtain the Government's prior approval before establishing any office of the Commission. This is inconsistent with the Paris Principles requirement that *a national human rights institution be independent and autonomous and discharge its mandate independently*. Even the 2009 Act did not require prior government approval for establishing offices.

Recommendation 2: Section 4 of the draft law should provide: 'The head office of the Commission shall be in Dhaka, and it shall have a divisional office in every division. The Commission may, as necessary, establish offices at district and upazila levels and in any other location considered at risk.' The requirement to obtain prior government approval for establishing offices should be removed in order to safeguard the Commission's independence in decision-making.

Pluralistic Representation in the Composition of the Commission (Section 5)

Observation:

- The 2025 Ordinance required that the Commission include at least one member from an ‘ethnic minority’ or disadvantaged community and at least two women Commissioners. The draft law, however, requires only one woman member and provides that, ‘subject to the availability of a qualified candidate’, the inclusion of an ‘ethnic minority’ or a representative of a disadvantaged community as a Commissioner shall merely be ‘considered on a priority basis’. Even the 2009 Act required the inclusion of a member of an ‘ethnic community’ in the Commission. This provision of the draft law risks turning the Commission into a ‘patriarchal’ and ‘majoritarian’ institution.
- This provision conflicts with the Paris Principles requirement to ensure pluralistic representation of the social forces, including civil society, involved in the protection and promotion of human rights in the composition of a national human rights institution.

Recommendation 3: Section 5 of the draft law should expressly require that, in appointing the Chairperson and Commissioners, the Commission include at least one member from an ‘ethnic minority’, persons with disabilities, gender-diverse communities or other disadvantaged groups, and at least two women Commissioners to help ensure gender equality within the Commission.

Qualifications and Disqualifications for the Appointment of the Chairperson and Commissioners (Section 6)

Observation:

- The draft law permits a serving public official to be appointed as a Commissioner while retaining their substantive post, through deputation, lien or leave without pay. This would impede the impartial and conflict-of-interest-free functioning of the Commission and is inconsistent with the Paris Principles.
- The initial draft included being ‘adjudged a loan defaulter or declared insolvent’ as grounds for disqualification from appointment as Chairperson or Commissioner. The words ‘adjudged a loan defaulter’ were, however, omitted from the Cabinet-approved draft, thereby allowing loan defaulters to become members of the Commission.
- The draft law also does not prescribe any age limit for the Chairperson and Commissioners.

Recommendation 4: Section 6(4)(b) of the draft law should include being ‘adjudged a loan defaulter’ as a ground for disqualification from appointment as Chairperson or Commissioner.

Recommendation 5: The provision in section 6(4)(c) of the draft law permitting a serving public official to be appointed as a Commissioner while retaining their substantive post through deputation, lien or leave without pay should be deleted.

Recommendation 6: The minimum age for the Chairperson and Commissioners should be 35 years and the maximum age 75 years.

Constitution of the Selection Committee for the Appointment of Commissioners (Section 7)

Observation: The inclusion of the Speaker of Parliament, two Ministers, a Member of Parliament from the ruling party and the Cabinet Secretary among the nine members of the Selection Committee creates a risk of dominance or influence by the ruling party and, consequently, the executive in the appointment of Commissioners; control over the Human Rights Commission; impairment of the impartiality of the appointment process; and conflicts of interest.

Recommendation 7: In accordance with the ‘National Human Rights Commission Ordinance, 2025’, the Selection Committee should comprise: a Judge of the Appellate Division nominated by the Chief Justice, who shall chair the Selection Committee; two Members of Parliament nominated respectively by the ruling party and the opposition; a professor serving at a recognised university in Bangladesh with experience in human rights research, nominated by the University Grants Commission; the President of the National Press Club or a journalist nominated by the President who has experience in human rights journalism; a citizen representative with experience in protecting human rights, nominated by the President; and a representative from an ethnic minority or disadvantaged community who has experience working to protect the rights of such communities. For these nominations, the President should invite lists of prospective members from forums, organisations or platforms engaged in protecting human rights and working with ethnic minorities or disadvantaged communities.

Selection Process for the Chairperson and Commissioners (Section 8)

Observation:

- The draft law does not require publication on the website of the objective criteria used to scrutinise applications, the list and identifying particulars of preliminarily shortlisted candidates, or the list and identifying particulars of persons recommended to the President. Such disclosure is necessary to ensure that the selection process is conducted transparently.
- The provision in the 2025 Ordinance requiring the Selection Committee to interview shortlisted candidates has been omitted from the draft law.

Recommendation 8: Section 8 of the draft law should include a subsection requiring publication on the website of the objective criteria used to scrutinise applications, the list and identifying particulars of preliminarily shortlisted candidates, and the list and identifying particulars of persons recommended to the President, in order to ensure a transparent selection process.

Recommendation 9: A provision should be added requiring the Selection Committee to interview shortlisted candidates.

Removal of the Chairperson and Commissioners (Section 9)

Observation: The draft law provides that neither the Chairperson nor any Commissioner may be removed except in the same manner as a Judge of the Supreme Court, and that the Supreme Judicial Council shall formulate a code of conduct applicable to the Chairperson and Commissioners for this purpose. The draft, however, does not clearly specify the grounds for removal or the procedure for conducting an inquiry.

Recommendation 10: The draft law should specify the procedure for removing the Chairperson and Commissioners more clearly. It should also set out reasonable and clearly defined grounds for removal and identify both the inquiry procedure and the authority responsible for conducting the inquiry.

Functions of the Commission: Powers of Search, Inspection and Investigation (Section 13)

Observation: Under section 13(b), the draft law includes among the Commission’s functions only the power to question any person and inspect any place, office, court, lock-up or detention centre during or after the investigation of an allegation of a human rights violation. It does not provide for regular inspections of such places. Moreover, it requires the approval of the relevant authority before such inspections may be conducted. Neither the 2009 Act nor the 2025 Ordinance imposed such a requirement. This provision conflicts with the Paris Principles requirement that *the Commission discharge its mandate independently*. It also fails to empower the Commission to regularly inquire into, inspect and investigate potential places of detention operated by law-enforcement, intelligence and surveillance agencies and the armed forces, where persons subjected to enforced disappearance or other forms of torture may be held; to make necessary recommendations to the Government for improving such places and conditions; and, where such places are unlawful, to recommend their closure and appropriate action against those responsible.

Recommendation 11: Section 13(b) of the draft law should be amended to empower the Commission to ‘regularly inquire into, inspect and investigate potential places of detention operated by all law-enforcement, intelligence and surveillance agencies and the armed forces, where persons detained for the purpose of enforced disappearance or other forms of torture may be held; make necessary recommendations to the Government for improving such places and conditions; and, where any such place is unlawful, recommend to the Government that it be closed and that accountability of those responsible be ensured.’

Functions of the Commission (Section 13)

Observation:

Several important functions included in the 2009 Act and the 2025 Ordinance have been omitted from the Commission’s functions, including the following:

- Providing legal assistance to an aggrieved person, or to another person acting on behalf of an aggrieved person, for filing a complaint with the Commission.
- Providing training on the protection of human rights to public officials, including members of the law enforcement agencies.
- The draft refers only to reviewing the conformity and compatibility of existing domestic laws with international human rights instruments; it does not empower the Commission to review the proposed law for such conformity.
- The omission of the provision empowering the Commission to ‘undertake any other activity considered necessary for the promotion of human rights’ narrows the scope of the Commission’s mandate.

Recommendation 12: The following matters should be added to the functions of the Commission under section 13 of the draft law:

12.1: Provision of legal assistance to an aggrieved person, or to another person acting on behalf of an aggrieved person, for filing a complaint with the Commission.

12.2: Provision of training on the protection of human rights to public officials, including members of the law enforcement agencies.

12.3: Review of the conformity and compatibility of both existing and proposed domestic law with international human rights instruments.

12.4: Authority to undertake any other activity considered necessary for the progression of human rights.

No Excuse for Human Rights Violations Shall Be Admissible

Observation: The ‘National Human Rights Commission Ordinance, 2025’ contained a separate provision entitled ‘No Excuse for Human Rights Violations Shall Be Admissible’, which provided that, unless expressly authorised by the Constitution or any law in force, no person would be exempt from liability for a human rights violation on the ground that the act was committed pursuant to an order or instruction of the Government or a superior authority. This provision was retained in the initial draft law but omitted from the Cabinet-approved draft, thereby creating scope for members of the law enforcement agencies or public officials to invoke various excuses for human rights violations.

Recommendation 13: The Act should include the following provision: ‘No excuse for a human rights violation shall be admissible. Unless expressly authorised by the Constitution or any law in force, no person shall be exempt from liability for a human rights violation on the ground that the act was committed pursuant to an order or instruction of the Government or a superior authority.’

Receipt of Complaints (Section 14)

Observation: The draft law contains no special provision to facilitate the receipt of complaints concerning human rights violations committed against women, children, gender-diverse persons, persons with disabilities, religious minorities, ethnic minorities, and marginalised or disadvantaged communities, taking into account their particular risks and vulnerabilities.

Recommendation 14: In view of the risks and particular sensitivities and vulnerabilities involved, the Act should provide for the establishment of a special or separate ‘cell’ to receive and investigate complaints of human rights violations against women, children, gender-diverse persons, persons with disabilities, religious minorities, ethnic minorities, and marginalised or disadvantaged communities, and to facilitate remedies. It should also require the Commission to deploy ‘mobile teams’ at specified intervals to remote and marginalised areas to receive complaints concerning human rights violations occurring in those areas.

Authority to Investigate Complaints and Arrest the Accused (Section 15)

Observation: The 2025 Ordinance provided that, ‘where an accused person is a public official or a member of a law enforcement agency, the prior approval of the court or tribunal, or, as the case may be, the Commission, shall be required for arrest, and the prior approval of the Government or the relevant appointing authority shall not be required’. The 2026 draft law contains no clear direction on this matter.

Recommendation 15: Section 15(5) of the draft law should provide: ‘Where an accused person is a public official or a member of a law enforcement agency, the prior approval of the court or tribunal, or, as the case may be, the Commission, shall be required for arrest, and the prior approval of the Government or the relevant appointing authority shall not be required.’

Taking Cognisance of Human Rights Violations Complaints (Section 15)

Observation:

- The draft law provides that, within 15 (fifteen) days of the filing of a complaint or receipt of information, the Commissioner responsible may appoint an investigating officer if, ‘in their own discretion’, they consider the complaint fit to be taken cognisance of. This creates a risk that a complaint may be taken cognisance of, or disregarded, for improper purposes or on political considerations.
- This section does not clearly address the Commission’s power to take cognisance, on its own motion, of published information concerning human rights violations in the media or other sources, or the course of action where the Commission declines to take cognisance of such information.

Recommendation 16: Section 15(1) of the draft law should provide: ‘Upon the filing of a complaint or receipt of information, or on the basis of information concerning a human rights violation obtained through the media or any other source, the Commissioner responsible may conduct an inquiry or investigation personally or by appointing an investigating officer.’

Recommendation 17: The Act should explicitly include a provision stating that: ‘Where information concerning a human rights violation is published in or obtained from the media or any other source and the Commission declines to take cognisance of the matter, it shall record the reasons for doing so and publish them on its website.’

Jurisdiction to Inquire into and Investigate Allegations against the Law Enforcement Agencies (Section 19)

Observation:

- The draft law omits the powers included in the 2025 Ordinance to conduct an independent inquiry and investigation into allegations of human rights violations against a law enforcement agency or any of its members and, upon conclusion of the inquiry or investigation, to recommend the severity of punishment, compensation or an administrative order, and disciplinary action against the responsible person or institution.

- The initial draft law had restricted the Commission’s jurisdiction to inquire into and investigate allegations of human rights violations against the law enforcement agency to seeking a report from the head of the relevant force or the Government and, on the basis of that report, making recommendations to the head of the relevant force or the Government concerning the action to be taken. The Cabinet-approved draft narrows the provision still further by limiting the Commission to seeking a report only from the relevant agency or institution and, on the basis of that report, making recommendations to that same agency or institution concerning the action to be taken. This provision conflicts with the Paris Principles.
- The inclusion of this provision makes the draft law a regression even from the 2009 Act.

Recommendation 18: Section 19 of the draft law should be deleted and replaced with a provision empowering the Human Rights Commission to ‘inquire into and investigate allegations of human rights violations against a law enforcement agency or any of its members and, upon conclusion of the inquiry or investigation, recommend the severity of punishment, compensation or an administrative order, and disciplinary action against the responsible person or institution.’

Annual Report on the Functions of the Commission (Section 25)

Observation: The draft law does not include provisions to enhance awareness of human rights among elected representatives and to ensure parliamentary participation in the protection of human rights.

Recommendation 19: To ensure the Commission’s accountability and greater effectiveness, a clear provision should require its annual report to be submitted directly to Parliament through the Speaker. The Speaker should arrange for the report to be tabled in Parliament within thirty working days of its receipt from the Human Rights Commission. The Act should also provide for inclusive consultation meetings with representatives of civil society, as well as public hearings, to evaluate the report and determine the Commission’s subsequent actions.

Appointment of the Commission’s Officers and Employees (Section 30)

Observation:

- By adding the provision to allow persons in the service of the Republic or other public officials to be appointed to the Commission on deputation upon the Commission’s written request and subject to its approval, making them up to 30 per cent of the Commission’s total workforce, the draft law creates risks to the Commission’s independent functioning and its ability to conduct investigations free from influence or government interference. This is inconsistent with the Paris Principles.
- The draft law also does not require recruitment to such posts to be open to all, clearly regulated, transparent, free from conflicts of interest and based on merit.

Recommendation 20: Section 30 of the draft law should provide: ‘The maximum proportion of persons in the service of the Republic or other public officials appointed on deputation to the Commission or its investigation teams shall be 10 per cent, and the reasons for appointing such officials on deputation shall be disclosed. Where the Commission objects to the appointment of a

particular public official on deputation, it may reject the appointment proposal. Recruitment to such posts shall at all times be open to all, clearly regulated, transparent and merit-based.’

Establishment of the National Preventive Mechanism Unit (Section 33)

Observation:

- Although the initial draft law referred to a ‘National Preventive Mechanism Division’, the Cabinet-approved draft describes it as a Unit. For the purposes of the ‘Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment’, section 33(1) provides for the establishment of a National Preventive Mechanism Unit comprising the Chairperson of the Commission, who shall head the Unit; one Commissioner nominated by the Commission; and one human rights defender with experience concerning the rights and welfare of prisoners or persons deprived of liberty. However, inclusion of the Chairperson and a Commissioner of the Human Rights Commission may impair the Unit’s distinct identity and its ability to operate independently.
- The initial draft law empowered the Unit to identify and regularly inspect, without prior notice, all places where persons are deprived of liberty, including prisons, lock-ups, child development centres, police stations, immigration detention centres, psychiatric institutions, military detention centres, vehicles used to transport prisoners or detainees, safe homes and care centres. The Cabinet-approved draft, however, omits ‘military detention centres’ from this list.

Recommendation 21: The relevant provision of the draft law should be amended so that, instead of a Commissioner nominated by the NHRC, the Unit includes impartial experts in human rights, law, forensic medicine, psychology or mental health, gender, or detention management. It should also provide for the appointment to the Unit of members of gender-diverse and other disadvantaged communities.

Recommendation 22: Section 33(3)(a) of the draft law should be amended to include the identification and regular inspection, without prior notice, of ‘military detention centres’.

Human Rights Commission Fund (Section 34)

Observation: The broad and ambiguous provisions in section 34(4)(c), (d), (e) and (f), permitting the receipt of grants from any institution or individual and funds from any other source, create a risk of conflicts of interest. Moreover, although the Commission is a statutory body eligible to receive public funds, it is burdened with the irrelevant and unnecessary responsibility of raising funds.

Recommendation 23: The broad and ambiguous provision concerning the collection of funds by the Commission from ‘any other’ source at the individual or institutional level should be deleted.

Financial Independence of the Commission (Section 35)

Observation:

- Although the 2025 Ordinance required the Commission to submit its own budget proposal to the Government before the annual allocation was determined and required the Government to consider that proposal, the draft law makes the Commission's budget unilaterally dependent upon the Government's discretion.
- To provide constitutional protection against executive interference, the 2025 Ordinance provided that the remuneration and allowances payable to Commissioners would be charged expenditure upon the Consolidated Fund under Article 88 of the Constitution. This safeguard has been entirely removed from the draft law. Without providing any alternative arrangement or procedural safeguard, the draft confers unfettered discretion upon the executive over both the amount of the budget and the remuneration of Commissioners.

Recommendation 24: Section 35(1) of the draft law should be amended to provide: 'For each financial year, the Government shall allocate funds in the budget for the expenditure of the Commission, in accordance with the proposal received from the Commission, as expenditure charged upon the Consolidated Fund; and the Commission shall not be required to obtain prior approval from the Government to incur expenditure from the amount so allocated under the approved and specified heads.'

Recommendation 25: To ensure constitutional protection against executive interference, the draft law should, in line with the 2025 Ordinance, add provision stating that: 'the remuneration and allowances payable to Commissioners shall be paid as expenditure charged upon the Consolidated Fund under Article 88 of the Constitution.'

Finally, in enacting the draft as law, the BNP's election-manifesto commitment to ensure the protection of human rights in accordance with the Universal Declaration of Human Rights must be reflected. Simultaneously, the government and all political parties represented in Parliament must remember the experiences endured by the people, particularly the leaders and activists of those parties, during the previous authoritarian regime, and must play an effective role in preventing any recurrence. TIB therefore expects the Government and all other parties to act sincerely to establish an effective and independent National Human Rights Commission by duly considering the specific observations and recommendations concerning the controversial provisions of the draft law, in light of past experience and the commitments declared in their manifestos.
