

Review and Recommendations on ‘Prevention and Remedy of Enforced Disappearance Draft Bill, 2026’ by Transparency International Bangladesh (TIB)

24 August 2026

Bangladesh Nationalist Party (BNP), which holds representation for two-thirds of the seats in the Thirteenth National Parliament, stated in its election manifesto that human rights would be protected in accordance with the Universal Declaration of Human Rights and that in order to ensure justice for the incidents of enforced disappearance committed during the ‘fascist’ regime and to ensure that no person in Bangladesh becomes a victim of enforced disappearance in the future, appropriate legal measures would be adopted swiftly in accordance with the International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED), as adopted by the United Nations.¹

Out of the 133 ordinances circulated during the tenure of the interim government prior to the first session of the Thirteenth National Parliament, 97 were enacted into law verbatim and 13 with amendments, following review by a Special Committee of the National Parliament, marking a development that deserves commendation. However, it was 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 but instead be redrafted following further scrutiny and that a total of seven ordinances, including those relating to the appointment of Supreme Court judges and the establishment of the Supreme Court Secretariat, be repealed.

The stated reason for not passing the ‘Prevention and Redress of Enforced Disappearance Ordinance, 2025’ in Parliament was that the Ordinance contained certain ambiguities and the law would be redrafted following consultation with relevant stakeholders and further scrutiny. Accordingly, a draft of the ‘Prevention and Remedy of Enforced Disappearance Act, 2026’ was prepared and published on the website of the Ministry of Home Affairs on 27 July 2026, with the deadline for public comment set for 28 July. However, stakeholders were given only a single day to submit comments, reflecting a lack of sincerity, given the national importance of this law, in soliciting the views of victims and other stakeholders. This draft law was subsequently approved by the Cabinet on 3 August 2026. The Cabinet-approved draft includes several positive provisions,

¹BNP, ‘Election Manifesto 2026’, p. 10 <https://www.bnpbd.org/manifesto>

such as recognizing enforced disappearance as a distinct, ongoing criminal offense; bringing senior officials and those who issue orders within the domain of accountability; and declaring state security or other pretexts inadmissible as justification in incidents of enforced disappearance. These provisions are consistent with the International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED).

However, compared to the ‘Prevention and Redress of Enforced Disappearance Ordinance, 2025,’ the draft ‘Prevention and Remedy of Enforced Disappearance Act, 2026’ introduces certain significant discrepancies that run contrary to the long-held public expectation of ensuring an independent investigation free of government influence and securing justice in the redress of enforced disappearances, while simultaneously creating a risk that victims of enforced disappearance and their families will be deprived of rights granted to them under the draft law. Certain provisions have been incorporated into the draft law that are inconsistent with ICPPED and with international best practice. In these circumstances, alongside setting out its observations on the draft law approved by the Cabinet, TIB puts forward the following recommendations for reconsideration by the Government and amendment following meaningful consultation with relevant stakeholders, prior to the Bill's passage by the National Parliament:

Preamble of the Draft Law

Observation: Following Bangladesh's accession to the International Convention for the Protection of All Persons from Enforced Disappearance on 29 September 2024, the preamble of this draft law does not include reference to the obligation to enact legislation on the subject or to implement the commitments and pledges arising from the International Bill of Human Rights and other human rights-related treaties. The preamble of this draft also fails to mention the constitutional obligations to safeguard every citizen's right to the protection of the law; to protect the right to life and personal liberty; to refrain from detaining any person without informing them of the grounds for arrest; to ensure the right to consult a lawyer and to defend oneself; and to refrain from inflicting torture or cruel, inhuman, or degrading punishment or treatment.

Recommendation 1: In line with the ‘Prevention and Redress of Enforced Disappearance Ordinance, 2025,’ the preamble of this draft law should specifically mention the implementation of the commitments and pledges under the International Convention for the Protection of All Persons from Enforced Disappearance, the International Bill of Human Rights, and other international treaties, as well as the relevant obligations under the Constitution of Bangladesh.

Definition of Enforced Disappearance (Section 4)

Observation:

- The draft law's definition of enforced disappearance (section 4) has been narrowed to cover only the involvement of “government employees” and members of the law enforcement

agencies in the offense of enforced disappearance. At the same time, the draft law's definition of “government employee” (section 2) refers to any person engaged in service under the Republic or any autonomous or statutory body. As a result, the law nowhere clearly identifies the involvement of public representatives and members of parliament, ministers, advisers, or other representatives of the state in the offense of enforced disappearance. It may be noted that the definition of enforced disappearance under the relevant international convention states: “arrest, detention, abduction, or any other form of deprivation of liberty by agents of the state or by persons or groups of persons acting with the authorization, support, or acquiescence of the state, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which places such a person outside the protection of the law.” This definition under the relevant international convention is not fully reflected in the draft law's definition of enforced disappearance.

- Furthermore, the definition in the draft law does not specifically explain what constitutes enforced disappearance committed in a “widespread” or “systematic” manner.

Recommendation 2: The definition of enforced disappearance should be brought into conformity with the International Convention for the Protection of All Persons from Enforced Disappearance so that all persons and groups acting on behalf of the state who are associated with the offense of enforced disappearance can be identified.

Recommendation 3: The terms “widespread” and “systematic” as used in the draft law should be further clarified.

Punishment for Enforced Disappearance (Section 5)

Observation: The International Convention for the Protection of All Persons from Enforced Disappearance requires that enforced disappearances be treated as serious crimes. The ‘Prevention and Redress of Enforced Disappearance Ordinance, 2025’ states that those found guilty can be punished with life imprisonment or at least 10 years in prison, along with a fine of up to BDT 50 lakh. However, while the draft law retains the maximum punishment of life imprisonment and the fine of BDT 50 lakh unchanged, it reduces the minimum term of imprisonment to three years.

Recommendation 4: In accordance with the ‘Prevention and Redress of Enforced Disappearance Ordinance, 2025,’ the punishment for enforced disappearance should be set at imprisonment for life or a minimum of 10 (ten) years, together with an additional fine not exceeding BDT 50 (fifty) lakh.

Punishment for Destruction of Evidence Relating to Enforced Disappearance (Section 7)

Observation: While the ‘Prevention and Redress of Enforced Disappearance Ordinance, 2025’ provided for punishment of up to 7 (seven) years’ imprisonment, together with an additional fine not exceeding BDT 20 (twenty) lakh, for the destruction, concealment, alteration, or falsification of evidence relating to enforced disappearance, the draft law reduces this to a minimum of 5 (five) years.

Recommendation 5: In accordance with the ‘Prevention and Redress of Enforced Disappearance Ordinance, 2025,’ the punishment for the destruction, concealment, alteration, or falsification of evidence relating to enforced disappearance should be set at up to seven years’ imprisonment, together with an additional fine not exceeding BDT 20 lakh.

Punishment for the Construction of Secret Detention Centers (Section 8)

Observation: While the ‘Prevention and Redress of Enforced Disappearance Ordinance, 2025’ provided for punishment of up to 7 (seven) years’ imprisonment, together with an additional fine of BDT 20 (twenty) lakh, for the construction, establishment, or use of a secret detention center by any person, the draft law reduces the imprisonment to a minimum of 5 (five) years while retaining the additional fine of BDT 20 (twenty) lakh.

Recommendation 6: In accordance with the ‘Prevention and Redress of Enforced Disappearance Ordinance, 2025,’ the punishment for the construction, establishment, or use of a detention center should be set at up to seven years’ imprisonment, together with an additional fine of BDT 20 lakh.

Special Provision for Senior Persons Who Are Not Members of the Law Enforcement Agencies (Section 11)

Observation:

- This section of the draft law fails to clarify who is to be regarded as a “senior person who is not a member of the law enforcement agencies.”
- Section 10 of the draft law, as a special provision applicable to the law enforcement agencies, states that if any senior officer, commander, or leader of the law enforcement agencies orders, permits, consents to, approves of, or incites the commission by a subordinate of any offense under sections 5, 6, 7, 8, and 9 relating to enforced disappearance or personally participates in such an offense, they shall be liable to the punishment prescribed for the principal offense. However, no equivalent provision has been made for a “senior person who is not a member of the law enforcement agencies.” As a result, this section will not apply where a senior government employee, a minister with responsibility, a senior representative of the state, or any other person orders, permits, consents to, approves of, or incites the commission of such an offense by a subordinate.

Recommendation 7: This section should clarify who is to be regarded as a “senior person who is not a member of the law enforcement agencies” and should make clear that this includes any public representative or member of the executive branch, including the President, the Prime Minister, Ministers, or senior officials of the administration or of any other department.

Recommendation 8: A provision modeled on section 10 of the draft law should be added, providing that “If a senior person who is not a member of the law enforcement agencies orders, permits, consents to, approves of, or incites the commission by a subordinate of any offense under sections 5, 6, 7, 8, and 9, or personally participates in such an offense, they shall be liable to the punishment prescribed for the principal offense.”

Filing of Complaints, Investigation, and Cognizance of Offenses Relating to Enforced Disappearance (Section 14)

Observation:

- Under the ‘Prevention and Redress of Enforced Disappearance Ordinance, 2025,’ the receipt of information or complaints relating to enforced disappearance and the conduct of inquiries and investigations into enforced disappearance fell within the jurisdiction of the National Human Rights Commission. The draft law, however, assigns responsibility for receiving complaints and conducting investigations into offenses of enforced disappearance to the officer-in-charge of the relevant police station, with a provision allowing a private complaint case to be filed before a magistrate of competent jurisdiction should the officer-in-charge refuse to accept the complaint. The involvement of the law enforcement agencies has been observed in the majority of enforced disappearance incidents that have previously occurred in Bangladesh, and the definition under this draft law explicitly includes the law enforcement agencies among the possible perpetrators of offenses relating to enforced disappearance. Assigning responsibility for receiving complaints and conducting investigations into offenses of enforced disappearance committed by the law enforcement agencies, particularly by senior members of these agencies, to a member of the police force, itself part of the law enforcement agencies, will create a serious conflict of interest and a risk of impeding independent investigation. This provision of the draft law risks not only impeding independent, unbiased investigation but also, through deliberately fabricated false investigation reports, depriving victims of enforced disappearance of the statutory rights to recognition, compensation, and rights relating to the use and inheritance of family property. At the same time, it creates a mechanism whereby, if the complaint of a victim or their family is proven false, the complainant may face imprisonment of up to 5 years, which is a prospect likely to deter many from lodging complaints for fear of this consequence.

- The draft law makes no provision for a suo motu investigation into an offense relating to enforced disappearance where no complaint has been filed following the commission of such an offense.
- The ‘Prevention and Redress of Enforced Disappearance Ordinance, 2025’ set out various functions of the National Human Rights Commission for the prevention and redress of enforced disappearance, including: monitoring compliance with detention-related safeguards under various laws; conducting on-the-spot inspections of any place or establishment, including prisons, holding cells and detention centers; inspecting any premises for the purpose of identifying secret detention centers and taking lawful action; collecting documents or information from any person, organization or institution; undertaking and conducting education, research, training and awareness-raising activities for the prevention and suppression of enforced disappearance; maintaining a register of information on all complaints relating to enforced disappearance; taking any necessary legal steps, including the filing of cases; monitoring the activities of relevant institutions in establishing the rights of disappeared persons and their relatives; taking action against persons found responsible for dereliction of duty; and administering a fund for activities relating to the prevention and redress of enforced disappearance and for the welfare of victims and survivors, among other functions. The draft law, however, does not include such important functions; specifically, this draft contains no provision at all relating to the prevention of enforced disappearance.

Recommendation 9: In order to conduct an independent and impartial inquiry and investigation, free from conflict of interest, into offenses relating to enforced disappearance, the authority to receive complaints of offenses of enforced disappearance and to conduct inquiries and investigations into enforced disappearance alongside the functions set out above should be vested in the National Human Rights Commission, as under the ‘Prevention and Redress of Enforced Disappearance Ordinance, 2025.’

Interim Investigation Report in Cases of Enforced Disappearance Committed by a Senior Official of the Law Enforcement Agencies (Section 15)

Observation:

- In the case of an offense relating to enforced disappearance committed by a senior official of the law enforcement agencies [offenses under section 10(c) and (d)], the draft law provides that a magistrate of competent jurisdiction shall direct the investigating officer to submit an interim investigation report on that matter alone and shall order the discharge of the senior official from the proceedings if no satisfactory evidence is found against them. Under the ‘Prevention and Redress of Enforced Disappearance Ordinance, 2025,’ this interim investigation report was to be prepared by an investigating officer appointed by the

National Human Rights Commission. Under section 14 of their draft law, however, this interim report will instead be prepared, as investigating officer, by an officer of the law enforcement agencies. In current practice, it is questionable to what extent a subordinate investigating officer would be able to maintain impartiality in preparing and submitting an “interim report” against their own senior officer. At the same time, the provision empowering a magistrate of competent jurisdiction to discharge the senior official from the proceedings where no satisfactory evidence is found against them on the basis of this report creates a real risk, in practice, of granting impunity to senior members of the law enforcement agencies implicated in offenses relating to enforced disappearance.

- The preparation of an interim investigation report has been made applicable only to senior officials of the law enforcement agencies; this section has not been made applicable to senior persons who are not members of the law enforcement agencies.

Recommendation 10: In order to conduct an independent and impartial inquiry and investigation, free from conflict of interest, the authority to receive complaints of offenses of enforced disappearance and to conduct inquiries and investigations into enforced disappearance should be vested in the National Human Rights Commission, as under the ‘Prevention and Redress of Enforced Disappearance Ordinance, 2025.’ Further, the investigating officer appointed by the Commission should prepare this interim investigation report in respect of both senior officials of the law enforcement agencies and senior persons who are not members of those agencies.

Process for the Search for a Disappeared Person and Issuance of a Search Warrant in the Course of Investigation (Section 16)

Observation: While the ‘Prevention and Redress of Enforced Disappearance Ordinance, 2025’ provided that the National Human Rights Commission shall continue the search for a disappeared person until such time as the person is found or their fate becomes known and that a progress report shall be sent every three (3) months to the complainant and the family of the disappeared person, the draft law contains no such provision.

Recommendation 11: In order to secure the right of all victims to know the truth, in accordance with the relevant international convention, the draft law should include a provision requiring that the search for a disappeared person continue until the person is found or their fate becomes known as under the 2025 Ordinance and that a progress report be sent every three (3) months to the complainant and the family of the disappeared person.

Mitigating or Aggravating Factors (Section 17)

Observation: Sections 17(2)(b) and 17(4)(b) of the draft law provide that, in imposing punishment for an offense relating to enforced disappearance, the sentence may be mitigated or aggravated having regard to “any other circumstance deemed reasonable by the court.” The vagueness of this

provision creates a risk of subjective judicial discretion, or of sentences being reduced under pressure from particular quarters.

Recommendation 12: Sections 17(2)(b) and 17(4)(b) of the draft law should clearly explain the phrase “any other circumstance deemed reasonable by the court,” meaning it should be made clear under what reasonable circumstances a court may consider mitigating or aggravating the sentence.

Measures Against False Cases (Section 21)

Observation: Although the draft law reduces the punishment for all offenses where a complaint of enforced disappearance is proven false and vexatious, it increases the punishment for the complainant to rigorous imprisonment not exceeding five (5) years, in addition to an order for the payment of compensation to the person against whom the complaint was filed. Under the ‘Prevention and Redress of Enforced Disappearance Ordinance, 2025,’ this punishment does not exceed 2 (two) years. While the draft law reduces the minimum punishment for enforced disappearance to three years, it raises the punishment for false or vexatious complaints to five years, which may instill fear among victims and their families in filing complaints. Since responsibility for investigating offenses of enforced disappearance committed by members of the law enforcement agencies has been assigned to a member of the police force, there is a risk that complainant victim families may themselves face punishment as a result of weak, deliberately motivated investigations tainted by conflicts of interest and institutional influence and by a lack of proper evidence.

Recommendation 13: Under the ‘Prevention and Redress of Enforced Disappearance Ordinance, 2025,’ where any case is proven false or vexatious, the maximum punishment should be set at no more than 2 (two) years. In this regard, the authority to receive complaints of offenses of enforced disappearance and to conduct inquiries and investigations into enforced disappearances should be vested in the National Human Rights Commission.

Fund for the Treatment, Rehabilitation, and Compensation of Victims (Section 30)

Observation: While the ‘Prevention and Redress of Enforced Disappearance Ordinance, 2025’ vested the authority to establish a fund, raise funds, and disburse funds for the treatment, rehabilitation, compensation, and legal assistance of victims of enforced disappearance and their families in the National Human Rights Commission, the draft law places this authority in the hands of the Government, without specifying under which ministry or department this fund will operate. This creates the possibility of complications in victims' access to treatment, rehabilitation, compensation, and legal assistance and also creates a risk of political considerations and bias in the provision of such assistance.

Recommendation 14: Under the ‘Prevention and Redress of Enforced Disappearance Ordinance, 2025,’ the authority to establish and disburse the fund for the treatment, rehabilitation, and

compensation of victims of enforced disappearance should be vested in the National Human Rights Commission.

Trial Proceedings for Offenses Relating to Enforced Disappearance (Section 19)

Observation: While the ‘Prevention and Redress of Enforced Disappearance Ordinance, 2025’ provided for the establishment of one or more Enforced Disappearance Prevention and Redress Tribunals with defined geographical jurisdiction in each division or district to take cognizance of and conduct trials of offenses relating to enforced disappearance, the draft law instead assigns such trial proceedings to the Court of Sessions of competent jurisdiction. Imposing an obligation on the Court of Sessions to complete these trial proceedings creates a risk of case backlog.

Recommendation 15: To reduce delays in trial proceedings and case backlog, a separate Enforced Disappearance Prevention and Redress Tribunal should be established to conduct trials of offenses relating to enforced disappearance. Its composition, functions, and jurisdiction should be specifically defined in line with the ‘Prevention and Redress of Enforced Disappearance Ordinance, 2025.’

Establishment of a Database on Enforced Disappearance and Preparation of Annual Reports (Section 32)

Observation: While the ‘Prevention and Redress of Enforced Disappearance Ordinance, 2025’ vested responsibility for establishing a database on enforced disappearance and preparing annual reports in the National Human Rights Commission, the draft law does not specify who will carry out this function.

Recommendation 16: Under the ‘Prevention and Redress of Enforced Disappearance Ordinance, 2025,’ the responsibility for establishing a database on enforced disappearance and preparing annual reports should be vested in the National Human Rights Commission.

Power to Make Rules

Observation: While the ‘Prevention and Redress of Enforced Disappearance Ordinance, 2025’ empowered the National Human Rights Commission to make rules, by notification in the official gazette, to fulfill the purposes of the Ordinance, the draft law makes no such provisions.

Recommendation 17: Under the ‘Prevention and Redress of Enforced Disappearance Ordinance, 2025,’ the National Human Rights Commission should be empowered to make rules to fulfill the purposes of the law.
