

Before Accountability Arrives: Enforced Disappearance, International Law and the Politics of Delay in Bangladesh

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Abstract:

Bangladesh's accession to the International Convention for the Protection of All Persons from Enforced Disappearance marked a decisive break from years of official denial. However, accession followed by the lapse of the Enforced Disappearance Prevention and Redress Ordinance 2025 exposed a deeper concern—whether formal treaty acceptance can coexist with the weakening of the domestic framework intended to give it effect. To address the issue, this article investigates Bangladesh's obligations concerning unresolved enforced disappearances and develops the concept of post-accession implementation regression. A qualitative and doctrinal analysis of the ICPPED, the ICCPR, UNCAT, domestic constitutional and statutory frameworks, Commission of Inquiry findings, UN materials and comparative practice identifies the legal consequences of continuing concealment and the principal gaps in criminalisation, investigation, habeas corpus, victim protection, universal jurisdiction and memorialisation. The article argues that the ICPPED cannot ordinarily impose retroactive criminal liability for completed pre-accession conduct; nevertheless, where fate or whereabouts remain concealed, the continuing character of disappearance generates present duties of search, truth, investigation, reparation and non-recurrence. Bangladesh's movement through institutional denial, political rupture, provisional implementation and legislative retrenchment demonstrates that delay is not legally neutral. It can prolong family uncertainty, weaken evidence, preserve institutional control over information and entrench impunity. The article translates the Convention's requirements into domestic pathways, including permanent criminalisation, a dual-track liability model, an independent investigation authority, a National Search Mechanism, effective habeas corpus safeguards, protected archives, enforceable reparation and security-sector reform. Rather than treating disappearance as a single legislative defect, the proposed framework connects prevention, accountability, victim-centred remedies and institutional non-recurrence within one model suited to Bangladesh's post-accession transition and its particular history of institutional denial. Together, these measures provide a transitional architecture of disappearance justice capable of converting accession into durable compliance and preventing enforced disappearance from remaining an available technology of rule in Bangladesh.

Keywords: Enforced disappearance, ICPPED, Post-accession implementation regression, Continuing violations, Bangladesh, Transitional justice, Disappearance justice

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1. Introduction

Bangladesh's accession to the International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED) marked a decisive break from years of official denial.¹ Yet accession is not itself compliance. The more difficult question is how international law should understand a State that accedes to the ICPPED, begins constructing a domestic accountability framework, and then permits that framework to lapse while numerous disappearances remain unresolved. Bangladesh's recent experience may be understood through four successive phases: institutional denial, political rupture, provisional implementation and legislative retrenchment. This chronology provides the context for examining whether the weakening of a domestic implementation framework after treaty accession can prolong the legal and institutional conditions of enforced disappearance.²

This article characterises that process as post-accession implementation regression: a situation in which a State formally accepts an international obligation and initiates domestic implementation, but subsequently allows the resulting legal or institutional protections to weaken, lapse or become ineffective. The argument is not that the ICPPED applies retroactively to all disappearances preceding Bangladesh's accession. Rather, where the fate or whereabouts of a disappeared person remain concealed, the disappearance retains a continuing character and gives rise to present obligations of search, truth, investigation, reparation and non-recurrence.³ Post-accession implementation regression is therefore particularly consequential: weakening the domestic accountability framework or allowing it to lapse may impede the discharge of those continuing obligations, prolong the uncertainty experienced by families and preserve the institutional concealment through which the disappearance remains unresolved. The problem is therefore not confined to criminalisation, but extends to disappearance justice: a legal order capable of preventing secret detention, locating disappeared persons, protecting families, prosecuting perpetrators, preserving memory and ensuring that enforced disappearance cannot again become a technology of rule.

¹ United Nations Treaty Collection, 'International Convention for the Protection of All Persons from Enforced Disappearance: Status of Treaties' (accessed 17 May 2026).

² গুম প্রতিরোধ ও প্রতিকার অধ্যাদেশ, ২০২৫ [Enforced Disappearance Prevention and Redress Ordinance 2025] (Ordinance No 73 of 2025).

³ International Convention for the Protection of All Persons from Enforced Disappearance (adopted 20 December 2006, entered into force 23 December 2010) 2716 UNTS 3 (ICPPED) arts 12 and 24.

2. The ICPPED Standard and Bangladesh's Temporal Problem

The ICPPED defines enforced disappearance as the deprivation of liberty by state agents, or by persons acting with state authorisation, support or acquiescence, followed by a refusal to acknowledge that deprivation or the concealment of the fate or whereabouts of the person, thereby placing that person outside the protection of law.⁴ It prohibits enforced disappearance absolutely, including during war, internal instability or a public emergency.⁵ It also requires criminalisation, investigation, superior responsibility, jurisdiction, detention safeguards, truth, reparation and guarantees of non-repetition.⁶

Bangladesh acceded to the ICPPED on 30 August 2024.⁷ Accordingly, the Convention was not directly binding during most of the Awami League period or during the July–August 2024 uprising.⁸ However, where a person's fate and whereabouts remain concealed, the disappearance has a continuing character.⁹ Bangladesh must therefore search for victims, investigate unresolved cases, disclose truth, provide reparations and prevent recurrence.¹⁰ This article does not invoke the Convention to impose retroactive punishment for past conduct; rather, it applies the Convention to Bangladesh's present obligations concerning continuing concealment, institutional impunity and continuing victimhood.¹¹

3. Bangladesh's Four Political Phases

During the Awami League period, Bangladesh was not yet a party to the ICPPED, but it was already bound by the ICCPR and UNCAT.¹² The Human Rights Committee expressed concern in 2017 about enforced disappearances, extrajudicial killings, lack of accountability and

⁴ *ibid* art 2.

⁵ *ibid* art 1.

⁶ *ibid* arts 4–6, 9–12, 17–24.

⁷ United Nations Treaty Collection (n 1).

⁸ OHCHR, 'Preliminary Analysis of Recent Protests and Unrest in Bangladesh' (16 August 2024).

⁹ Nikolas Kyriakou, 'The International Convention for the Protection of All Persons from Enforced Disappearance and its Contributions to International Human Rights Law' (2012) 13 *Melbourne Journal of International Law* 424.

¹⁰ ICPPED arts 12 and 24.

¹¹ Amnesty International, 'Bangladesh: Signing of Convention on Enforced Disappearances is a much welcome first step' (30 August 2024).

¹² International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171; Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (adopted 10 December 1984, entered into force 26 June 1987) 1465 UNTS 85.

absence of truth or redress.¹³ The Committee against Torture later treated unacknowledged detention and refusal to disclose fate or whereabouts as conduct capable of amounting to enforced disappearance, even where victims later reappeared.¹⁴ These findings show that the ICPPED did not create Bangladesh's obligations from nothing; it sharpened duties already visible under general human rights law.

Odhikar records 747 alleged enforced disappearances between 2009 and 5 August 2024, including allegations involving RAB, DB police, ordinary police, DGFI and other agencies.¹⁵ It records that 84 victims were found dead, 501 resurfaced alive and 162 remain unaccounted for.¹⁶ Its statement to the Human Rights Council characterised enforced disappearance as a tool for suppressing political opponents and silencing dissent.¹⁷ HRW and FIDH similarly documented patterns of denial, intimidation, political targeting and impunity.¹⁸ The Commission of Inquiry later received more than 1,676 complaints and applied the framework set out in Article 2 of the ICPPED.¹⁹ Its final report identified 1,569 potential enforced-disappearance complaints, 251 persons who never returned or were presumed dead, 36 bodies recovered and at least 287 deaths plausibly associated with disappearance.²⁰ These are inquiry findings, not judicial determinations, but they show that Bangladesh's problem is institutional rather than episodic.²¹

The July Revolution must be treated with temporal precision. The ICPPED was not yet binding during the crackdown.²² Yet OHCHR documented serious violations during July–August 2024, including unlawful killings, arbitrary detention, torture and allegations of

¹³ Human Rights Committee, 'Concluding Observations on the Initial Report of Bangladesh' (27 April 2017) UN Doc CCPR/C/BGD/CO/1, paras 19–20.

¹⁴ Committee against Torture, 'Concluding Observations on the Initial Report of Bangladesh' (26 August 2019) UN Doc CAT/C/BGD/CO/1, paras 14–18.

¹⁵ Odhikar, 'Bangladesh: Enforced Disappearances 2009–2024 (AL Govt Period)' (Statistics, updated 2025) 1–2.

¹⁶ *ibid.*

¹⁷ Odhikar, 'Bangladesh: Government's Use of Enforced Disappearance as a Tool for Suppressing Political Opponents and Silencing Dissent' UN Doc A/HRC/48/NGO/118, 2.

¹⁸ Human Rights Watch, "'Where No Sun Can Enter': A Decade of Enforced Disappearances in Bangladesh' (16 August 2021); FIDH, 'Vanished Without a Trace' (March 2019) 7–8, 48–55.

¹⁹ Commission of Inquiry on Enforced Disappearances, 'Interim Report' (Dhaka, 14 December 2024) 10–12.

²⁰ Commission of Inquiry on Enforced Disappearances, 'Unfolding the Truth: A Structural Diagnosis of Enforced Disappearance in Bangladesh' (Final Report, 2026) 35–39, 62–64.

²¹ *ibid* 44–45.

²² United Nations Treaty Collection (n 1).

enforced disappearance.²³ Odhikar similarly described mass repression, arrests, torture and disappearance-related conduct against protesters.²⁴ The legal point is therefore not retroactivity. The July Revolution created the political and evidentiary rupture through which post-accession duties of truth, search, investigation and reparation became unavoidable.²⁵

The interim government marked a clear break from denial. OHCHR welcomed accession and the Commission of Inquiry.²⁶ The WGEID recognised Bangladesh's acknowledgement after years of denial, but identified victim fear, institutional non-cooperation, alleged perpetrators remaining within security institutions, weak witness protection and the need to align domestic law with Articles 2 and 24.²⁷ Odhikar also recognised progress, while continuing to call for criminalisation, prosecution, reparation, NHRC reform and security-sector accountability.²⁸

The current BNP-led government inherited this incomplete architecture after the February 2026 election.²⁹ The central legal problem is the lapse of the Enforced Disappearance Prevention and Redress Ordinance 2025.³⁰ The Ordinance was Bangladesh's first direct attempt to translate the ICPPED into domestic law through provisions on the definition of the offence, jurisdiction, investigation, tribunals, victim protection, compensation, database creation and confidentiality.³¹ However, the official legal record states that it lapsed under Article 93(2) of the Constitution.³² The government's position is that a stronger bill will follow, but Article 4 cannot be satisfied by a promise of future legislation.³³ Victims' representatives warned that the lapse removed the domestic legal definition of enforced disappearance, while outgoing NHRC commissioners warned that government forces may again investigate

²³ OHCHR (n 8); OHCHR, 'Human Rights Violations and Abuses Related to the Protests of July and August 2024 in Bangladesh' (12 February 2025).

²⁴ Odhikar, 'Three-Month Human Rights Report: July–September 2024' (14 November 2024) 5.

²⁵ ICPPED arts 12 and 24.

²⁶ OHCHR, 'Update on UN Human Rights Office work in Bangladesh' (30 August 2024).

²⁷ WGEID, 'Technical Advice on Bangladesh' (25 June 2025) paras 6–7, 39–42, 50–58.

²⁸ Odhikar, 'Annual Human Rights Report 2024' (10 February 2025) 4, 22–23, 30–31, 52; Odhikar, 'Annual Human Rights Report 2025' (4 February 2026) 18–20, 52–53.

²⁹ 'Tarique Rahman sworn in as Bangladesh's PM after landslide election victory' *Reuters* (17 February 2026).

³⁰ Enforced Disappearance Prevention and Redress Ordinance 2025 (n 2).

³¹ *ibid.*

³² 'Enforced Disappearance: Ordinance Flawed, There Will Be a Stronger Bill' *The Daily Star* (Dhaka, 6 April 2026) <<https://www.thedailystar.net/news/bangladesh/news/enforced-disappearance-ordinance-flawed-there-will-be-stronger-bill-4144641>> accessed 15 May 2026.

³³ *ibid.*

allegations against themselves.³⁴ This legal vacuum goes to the heart of Bangladesh's compliance with the ICPPED.

4. The Core Compliance Gaps

4.1 Criminalisation and Investigation

Article 4 requires enforced disappearance to be an offence under domestic criminal law.³⁵ Ordinary offences such as abduction, kidnapping, wrongful confinement, murder or torture may capture fragments of harm, but not the distinctive structure of disappearance: state involvement, denial, concealment and removal from legal protection.³⁶ This is why the CAT Committee specifically recommended that Bangladesh criminalise enforced disappearance as a distinct offence.³⁷ The lapsed Ordinance recognised this need, but its expiry returned Bangladesh to legal uncertainty.³⁸ The problem is sharpened by the fact that the International Crimes Tribunal can address mass disappearances amounting to crimes against humanity, but not isolated cases of enforced disappearance.³⁹ If enforced disappearance is recognised only as an international crime, individual cases may fall outside ordinary criminal accountability.⁴⁰ A future statute must therefore incorporate Article 2, recognise continuing disappearance, include superior responsibility, remove limitation barriers, prohibit amnesties and “good faith” immunities, and cover intelligence agencies even where they possess no formal arrest power.⁴¹ It should criminalise orders, authorisation, support, acquiescence and concealment, because disappearance is normally produced through chains of custody, bureaucratic silence and institutional denial.⁴²

³⁴ *ibid*; ‘Ordinance Repeal Puts Disappearance Victims, July Fighters at Risk’ *The Daily Star* (Dhaka, 13 April 2026) <<https://www.thedailystar.net/news/bangladesh/news/outgoing-nhrc-commissioners-warn-legal-vacuum-after-ordinance-repeal-4150741>> accessed 15 May 2026.

³⁵ ICPPED art 4.

³⁶ *ibid* art 2; Declaration on the Protection of All Persons from Enforced Disappearance, UNGA Res 47/133 (18 December 1992) arts 4 and 17.

³⁷ CAT Concluding Observations (n 14) paras 14–18.

³⁸ Enforced Disappearance Prevention and Redress Ordinance 2025 (n 2).

³⁹ ‘Ordinance Repeal Puts Disappearance Victims’ (n 34).

⁴⁰ Rome Statute of the International Criminal Court (adopted 17 July 1998, entered into force 1 July 2002) 2187 UNTS 90, art 7(1)(i).

⁴¹ ICPPED arts 2, 4 and 6; Commission of Inquiry, Final Report (n 20) 44–45.

⁴² UN Working Group on Enforced or Involuntary Disappearances, ‘General Comment on Enforced Disappearance as a Continuous Crime’ in ‘Report of the Working Group on Enforced or Involuntary Disappearances’ (26 January 2011) UN Doc A/HRC/16/48, para 39.

In addition, Article 12 requires prompt, thorough and impartial investigation wherever there are reasonable grounds to believe that enforced disappearance occurred.⁴³ In Bangladesh, the problem is a structural conflict of interest. Odhikar attributes alleged disappearances to RAB, DB police, ordinary police, DGFI and other agencies.⁴⁴ The Commission identifies a security architecture involving police, RAB, DB, CTTC, DGFI, NSI and BGB.⁴⁵ A disappearance regime cannot be credibly investigated by agencies structurally connected to the practice. The CAT Committee recommended independent investigation of unacknowledged detention, disappearance and death in custody.⁴⁶ The WGEID warned of victim fear, institutional non-cooperation and alleged perpetrators remaining within police, military and intelligence bodies.⁴⁷ In *Radilla-Pacheco v Mexico*, the Inter-American Court rejected military or internal jurisdiction for enforced disappearance involving security forces.⁴⁸ Bangladesh therefore needs an independent disappearance investigation authority or special prosecutor-led mechanism with the power to subpoena documents, inspect detention sites, access intelligence records, protect witnesses, preserve evidence and refer cases for prosecution.⁴⁹

4.2 Habeas Corpus and Secret Detention

Next, another gap lies in habeas corpus and secret detention. Article 102 of the Constitution empowers the High Court Division to examine unlawful detention.⁵⁰ However, enforced disappearance exposes the limits of ordinary habeas corpus because its defining feature is official denial. If the State denies custody and no central detention register exists, the court is forced to adjudicate in a factual vacuum. In *Velásquez Rodríguez*, habeas petitions

⁴³ ICPPED art 12; Human Rights Committee, ‘General Comment No 31: The Nature of the General Legal Obligation Imposed on States Parties to the Covenant’ (26 May 2004) UN Doc CCPR/C/21/Rev.1/Add.13, paras 15 and 18.

⁴⁴ Odhikar (n 15) 1–2.

⁴⁵ Commission of Inquiry, Final Report (n 20) 44–45.

⁴⁶ CAT Concluding Observations (n 14) paras 16–18.

⁴⁷ WGEID, ‘Technical Advice’ (n 27) paras 39–42, 50–58; UN OHCHR, *The Minnesota Protocol on the Investigation of Potentially Unlawful Death* (2016) paras 22–25.

⁴⁸ *Radilla-Pacheco v Mexico* Inter-American Court of Human Rights Series C No 209 (23 November 2009).

⁴⁹ *El-Masri v The Former Yugoslav Republic of Macedonia* App no 39630/09 (ECtHR, 13 December 2012) paras 191–93.

⁵⁰ Constitution of the People’s Republic of Bangladesh 1972, art 102(2)(b)(i); Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, UNGA Res 43/173 (9 December 1988) principles 11, 12, 15, 16 and 32.

failed because state authorities concealed the victim's fate and whereabouts.⁵¹ The relevance to Bangladesh is direct: a writ remedy exists, but it becomes ineffective where agencies deny having made an arrest, transfer victims through unofficial locations or produce them later in ordinary proceedings. The fact that victims reappear does not erase the prior disappearance.⁵² Articles 17–22 therefore require Bangladesh to prohibit secret detention, maintain a central detainee register, require that families be notified immediately, guarantee access to lawyers and doctors, preserve custody logs and punish false denials.⁵³ Habeas corpus must become an evidentiary tool against denial, not merely a formal writ against admitted custody.

4.3 Victims, Jurisdiction and Memory

Another gap concerns victims. Article 24 defines a victim broadly and recognises the rights to know the truth and to obtain reparation and compensation.⁵⁴ This matters because enforced disappearance injures not only the person taken, but also the family left in suspended uncertainty. In *Quinteros*, the Human Rights Committee recognised the anguish of the mother of a disappeared person as a violation in itself.⁵⁵ In *Sarma*, a case concerning Sri Lanka, the Committee similarly treated family suffering as legally relevant.⁵⁶ Odhikar's recommendations therefore fit the Article 24 framework: disclosure of fate, legal arrangements allowing spouses and children to manage bank accounts and property, withdrawal of false charges against survivors and prosecution of responsible persons.⁵⁷ A family should not have to declare a disappeared person dead simply to access inheritance, guardianship, pension, banking or property rights.⁵⁸ Nor should resurfaced victims remain burdened by fabricated cases or coerced confessions generated during disappearance.⁵⁹

⁵¹ *Velásquez Rodríguez v Honduras* Inter-American Court of Human Rights Series C No 4 (29 July 1988); *Varnava and Others v Turkey* App nos 16064/90 and others (ECtHR, 18 September 2009) paras 148–49.

⁵² *Yrusta v Argentina*, Communication No 1/2013, UN Doc CED/C/10/D/1/2013.

⁵³ ICPPED arts 17–22.

⁵⁴ *ibid* art 24.

⁵⁵ *Quinteros v Uruguay*, Communication No 107/1981, UN Doc CCPR/C/19/D/107/1981.

⁵⁶ *Jegatheeswara Sarma v Sri Lanka*, Communication No 950/2000, UN Doc CCPR/C/78/D/950/2000.

⁵⁷ Odhikar, 'Statement on the International Week in Remembrance of the Victims of Enforced Disappearances' (May 2025).

⁵⁸ Basic Principles and Guidelines on the Right to a Remedy and Reparation, UNGA Res 60/147 (16 December 2005) paras 18–23.

⁵⁹ *Mariam Sankara et al v Burkina Faso*, Communication No 1159/2003, UN Doc CCPR/C/86/D/1159/2003 (Human Rights Committee, 28 March 2006), paras 12.2–12.3.

Moreover, there is a gap concerning universal jurisdiction and extradition. Articles 9–11 require jurisdiction where the offence occurs in the State’s territory, where the alleged offender is a national, and where the alleged offender is present and not extradited or surrendered.⁶⁰ This creates a treaty-based form of presence jurisdiction, supported by the principle of *aut dedere aut judicare*.⁶¹ Bangladesh’s future law must ensure that alleged perpetrators cannot avoid accountability by leaving the country. It must also preserve files, custody records, witness statements and Commission archives in a form usable for mutual legal assistance and foreign proceedings. The WGEID’s study on universal criminal jurisdiction recommends autonomous criminalisation, specialised units, evidence-sharing, victim participation and removal of amnesty, limitation and immunity barriers.⁶² Orentlicher’s principles similarly treat archives, prosecution, extradition and international cooperation as components of efforts to combat impunity.⁶³

The final gap is memory. Enforced disappearance is a crime of erasure: it removes the victim from the legal order and attempts to remove the event from the public record. Salvioli describes memorialisation as a fifth pillar of transitional justice.⁶⁴ The WGEID specifically recommended that Bangladesh preserve Commission archives, publish reports in Bengali and design places of memory, including at former detention sites where appropriate.⁶⁵ This is significant because alleged secret detention sites such as *Aynaghar* have become part of the public vocabulary of disappearance.⁶⁶ Memorialisation should include a public victims’ register, preservation of detention-site evidence, public education, public access to Commission findings and consultation with families. Argentina’s *Nunca Más* experience shows how truth reports, archives, prosecutions and memory may reinforce each other.⁶⁷ Nepal shows that family-led memorialisation may preserve truth where formal transitional justice is

⁶⁰ ICPPED arts 9–11.

⁶¹ *ibid* art 11.

⁶² WGEID, ‘Universal Criminal Jurisdiction in Cases of Enforced Disappearance’ UN Doc A/HRC/60/CRP.2 (2025).

⁶³ Diane Orentlicher, ‘Updated Set of Principles for the Protection and Promotion of Human Rights through Action to Combat Impunity’ UN Doc E/CN.4/2005/102/Add.1, principles 19–30; *Questions relating to the Obligation to Prosecute or Extradite (Belgium v Senegal)* (Judgment) [2012] ICJ Rep 422, paras 94–95.

⁶⁴ Fabián Salvioli, ‘Memorialization Processes’ UN Doc A/HRC/45/45 (9 July 2020).

⁶⁵ WGEID, ‘Technical Advice’ (n 27) paras 47–48, 61–62; *Gomes Lund et al (“Guerrilha do Araguaia”) v Brazil* (Preliminary Objections, Merits, Reparations and Costs) Inter-American Court of Human Rights Series C No 219 (24 November 2010) paras 211–12, 228–29.

⁶⁶ SMY Arafat and others, ‘Aynaghar (“House of Mirrors”)’ (2026) 36(1) *Torture* 21.

⁶⁷ Emilio Crenzel, *Memory of the Argentina Disappearances* (Routledge 2011).

delayed.⁶⁸ For Bangladesh, memory is part of repairing the legal and social disappearance produced by the crime itself.⁶⁹

5. Overcoming the Gaps: A Transitional Architecture of Disappearance Justice

The way forward is not to treat enforced disappearance as a single legislative defect curable by one criminal provision. Bangladesh needs a transitional architecture of disappearance justice, integrating prevention, search, investigation, prosecution, reparation and memory.

5.1 Permanent Criminalisation and the Search Function

First, Bangladesh should enact a permanent Enforced Disappearance Prevention and Redress Act. The new law should preserve the Ordinance's core premise—that Bangladesh needs a dedicated disappearance statute—while improving its alignment with the Convention.⁷⁰ It should adopt the ICPPED definition, recognise enforced disappearance as a continuing offence, include superior responsibility, and criminalise participation through orders, support, acquiescence, concealment and obstruction.⁷¹ It should not make disappearance dependent on proof of death; the offence is complete when liberty is denied, custody is concealed and the person is placed outside legal protection.⁷² Nor should accountability depend only on the crimes-against-humanity threshold. Article 5 recognises widespread or systematic disappearance as a crime against humanity, but Article 4 separately requires ordinary criminalisation.⁷³ Bangladesh therefore needs a dual-track model: ordinary criminal liability for individual disappearances, and liability for international crimes where the practice becomes widespread or systematic.

Secondly, Bangladesh must separate search from prosecution without disconnecting them. The CED Guiding Principles require immediate search, family participation, preservation of evidence and coordination with criminal investigation.⁷⁴ Families need truth even where prosecutions are delayed; prosecutors need evidence that search bodies may

⁶⁸ Ram Kumar Bhandari, 'Formal but Local Transitional Justice' (2025) 17(3) *Journal of Human Rights Practice* huae038.

⁶⁹ UNESCO, 'The Right to Memory: Archives and Human Rights' (2015) 7–10.

⁷⁰ Enforced Disappearance Prevention and Redress Ordinance 2025 (n 2).

⁷¹ ICPPED arts 2, 4 and 6.

⁷² ICPPED art 2; *Yrusta* (n 52).

⁷³ ICPPED arts 4 and 5.

⁷⁴ Committee on Enforced Disappearances, 'Guiding Principles for the Search for Disappeared Persons' UN Doc CED/C/7, principles 1–5, 7, 11 and 13.

uncover. Bangladesh should create a National Search Mechanism with authority to inspect suspected detention sites, access prison and police registers, examine intelligence-linked custody records, collect DNA samples, coordinate forensic identification and maintain a central database. The Commission's files, witness statements, site visits and institutional findings should be preserved in a protected archive and transferred, where appropriate, to prosecutors.⁷⁵ A commission that only produces a report may create acknowledgement; a commission whose evidence is preserved and used in investigations may create accountability.

5.2 Custody Safeguards and Effective Habeas Corpus

From the custodial perspective, Bangladesh must make habeas corpus effective against denied custody. The High Court should be able to order the production of detention registers, summon agency heads, direct the independent inspection of suspected detention sites and sanction false affidavits.⁷⁶ The point is not to replace criminal investigation with constitutional litigation. Rather, it is to prevent the first hours and days of secret detention from becoming legally invisible. Habeas corpus must operate not only after detention is admitted, but as a judicial mechanism for piercing denial.

5.3 Reparation, Jurisdiction and Non-Recurrence

In terms of reparation, Bangladesh's law must anticipate cross-border accountability. Articles 9–11 require jurisdiction where an alleged offender is present and not extradited or surrendered.⁷⁷ This matters where suspects flee, evidence is transferred or witnesses relocate. Bangladesh should draft the new Act with extradition and mutual legal assistance in mind, preserve the chain of custody for Commission materials, digitise archives and allow cooperation with foreign prosecutors where jurisdictional conditions are satisfied.⁷⁸ Universal jurisdiction should not be imagined as a foreign substitute for domestic justice; it changes incentives by making disappearance unsafe beyond borders.

Additionally, reparation must be enforceable rather than discretionary. Article 24 requires truth, reparation and compensation, but reparation should include restitution, rehabilitation, satisfaction, psychosocial support, legal aid, educational support for children, official apologies, correction of records and removal of false charges.⁷⁹ Victim participation

⁷⁵ Commission of Inquiry, Interim Report (n 19) 42–44.

⁷⁶ Constitution of Bangladesh (n 50) art 102(2)(b)(i); ICPPED arts 17–22.

⁷⁷ ICPPED arts 9–11.

⁷⁸ WGEID, 'Universal Criminal Jurisdiction' (n 62).

⁷⁹ ICPPED art 24.

must be central. Families should participate in designing the statute, search mechanism, memorialisation process and reparation scheme. The WGEID's victim-centred approach reflects the point that victims are rights-holders, not beneficiaries of state charity.⁸⁰

Finally, institutional non-recurrence requires security-sector reform. Bangladesh must review the mandates of RAB, DGFI, NSI, DB and other agencies implicated in disappearance allegations; prohibit intelligence bodies from detaining civilians; require inspections of detention sites; strengthen the NHRC under the Paris Principles; and enact witness and human-rights-defender protection laws.⁸¹ Comparative practice supports this architecture. Sri Lanka shows the value of a humanitarian missing-persons body; Mexico shows the danger of fragmented search and weak forensic capacity; Colombia shows the value of separating truth, justice, reparation, search and non-repetition; and the Philippines provides an Asian statutory model for criminalisation and compensation.⁸² Bangladesh should borrow from these examples without transplanting them mechanically.⁸³ Its model must respond to its own history: disappearance as a state-security practice, denial as a governing technique and families as the first custodians of truth.

6. Conclusion

Bangladesh has not yet fully complied with its obligations under the ICPPED. The Awami League period produced the legacy of alleged institutionalised disappearance; the July Revolution made continued denial politically untenable; the interim government began constructing the architecture of compliance; and the current BNP-led government faces the decisive test of whether that architecture will be strengthened or diluted. The lapse of the 2025 Ordinance exposes the central contradiction of Bangladesh's ICPPED posture: formal accession without stable disappearance justice. It therefore exemplifies post-accession implementation regression: formal acceptance of the Convention followed by the weakening of the domestic framework intended to give it effect. Compliance requires more than a new

⁸⁰ WGEID, 'Technical Advice' (n 27) paras 39–42.

⁸¹ Odhikar, 'Annual Human Rights Report 2025' (n 28) 52–53.

⁸² International Convention for the Protection of All Persons from Enforced Disappearance Act, No 5 of 2018 (Sri Lanka); Vishakha Wijenayake, 'The Office on Missing Persons in Sri Lanka' (2017) 99(905) *International Review of the Red Cross* 641; Committee on Enforced Disappearances, 'Report on its Visit to Mexico' UN Doc CED/C/MEX/VR/1 (18 May 2022); Final Agreement between Colombia and the FARC-EP (24 November 2016); Anti-Enforced or Involuntary Disappearance Act of 2012, Republic Act No 10353 (Philippines).

⁸³ Alison Bisset, 'Transitional Justice in Nepal: The Commission on Investigation of Disappeared Persons, Truth and Reconciliation Act 2014' (2014) 13(1) *Chinese Journal of International Law* 149.

offence. It requires a legal order in which no person can be secretly detained, no family is left without truth, no agency investigates itself, no archive disappears and no future government can inherit enforced disappearance as an available technology of rule.