

Submission of the Commonwealth Human Rights Initiative (CHRI) for the Universal Periodic Review of Bangladesh
September 2008

This submission is based on information gathered CHRI's human rights monitoring section and based on research undertaken for CHRI's annual report on the Commonwealth members of the UN Human Rights Council. Most of the information is from secondary sources.

A. Consultation process

1. Civil society sources have informed CHRI that meetings were held between the government and a section of the civil society. CHRI also understands that some civil society groups have chosen not to participate in such meetings as they see the current government as an unconstitutional entity.

B. The current normative and institutional framework of the country under review

- *Elections and emergency rule*

2. On 11 January 2007, after the dissolution of the parliament and on the first day in power as the head of the interim/caretaker government, an intermediate government whose task is facilitating neutral elections, President Iajuddin Ahmed declared a state of emergency. Following this, the legality of the declaration of emergency, and the legitimacy of the current 'caretaker' government has been in question as according to Article 141 (A1) of the Constitution the parliament should have been involved in the declaration of emergency.ⁱ CHRI has observed reports that allege that the caretaker/interim government, which was meant to prepare for the upcoming general elections, has been accused of appointing sympathisers in the election commission and other parts of civil administration, as well as the judiciary and is said to be backed by the military. The official reason for delaying elections has been that it is necessary to eradicate corruption and the nexus between organised crime and politics before holding fresh elections sometime in 2008. The legitimacy of elections to be organised by the interim government has been characterised by some in the international community as jeopardized due to instability in the country.ⁱⁱ
3. Following this the government announced the Emergency Power Rules (EPR) on 25 January 2007. Certain freedoms, such as freedom of expression, assembly, association and media freedom have been restricted,ⁱⁱⁱ whilst bans on political activity and meetings were subsequently eased.^{iv} The Emergency Rules proclaim that the enforcement of the fundamental right catalogue in part three of the constitution will remain suspended.^v The EPR allow for preventive detentions without arrest warrants, as well as the ability to deny release on bail of the accused during the enquiry, investigation and trial of the case. Offenders under the Emergency Rules may be convicted by a Speedy Trial Tribunal, which may hold its proceedings in secret.^{vi} Following the EPR, law enforcement agencies cannot be held accountable for "anything done in good faith", it is feared that this may be a step towards the institutionalisation of impunity.^{vii}
4. According to reports the government appears uncertain on when to withdraw the state of emergency,^{viii} although it has announced that democracy will be restored by the end of 2008. Earlier this year following government announcements on holding local elections will be held on 4 August 2008, was met by criticism, with opposition parties citing the fact that elections under emergency cannot be free and fair, and that holding local elections before general elections is unconstitutional.^{ix} Media reports have indicated that the local elections were held on 4 August 2008 peacefully with a high voter turnout sans incidences of violence or rigging.^x

5. An unknown number, allegedly tens of thousands of people,^{xi} (civil society estimates place it at 440,684)^{xii} have been temporarily detained under the EPR and a considerable number remain in detention. Reports indicate that arrests often occur in the early hours of the morning by plain-clothed officers without arrest warrants pursuant to the EPR, and detainees are often brought temporarily to unofficial detention centres like army camps or military intelligence service (DGFI) sites,^{xiii} encouraging chances of mistreatment in detention.^{xiv}
6. A massive purported anti-corruption drive is in full swing, and has also included the arrests of hundreds of politicians, including the leaders of the country's two main political parties and former prime ministers, Khaleda Zia (of the Bangladesh Nationalist Party) and Sheikh Hasina (of the Awami league).^{xv} The caretaker government has also installed special Anti-Corruption courts to process the large number of cases against high profile political and economic personalities. Reportedly, associated court procedures do not fulfil international standards on the due process of law and transparency.^{xvi} While the government did not publish any details about the detentions, Civil society groups estimate that over 900 persons, mostly politicians were preventively detained under the Special Powers Act 1974. CHRI has also observed civil society reports that indicate a rise in corruption in Bangladesh in spite of the draconian clampdown, with over 97 percent of respondents in a survey stating they had been victims of corruption within the first six months of emergency rule starting in January 2007.^{xvii} In May 2008 it was reported that the government has set up a Truth and Accountability Commission to deal with corruption cases.^{xviii} The commission has faced scepticism in civil society circles. In August 2008 it was reported that Bangladeshi civil society groups challenged the legality of the Commission in a petition at the Supreme Court of Bangladesh.^{xix} The petition reportedly alleged that the Commission did not provide for fair trial and questioned the authority of the Commission that was established by an Ordinance.
7. The government has been accused of denying medical treatment to politicians arrested after the declaration of emergency. Ward Commissioner Mohammed Quayyum Khan of the Bangladesh National Party reportedly died in hospital, allegedly due to the denial of medical care for his heart disease while in detention. Complaints about lack of medical treatment have also been raised by human rights advocate Sigma Huda, Sabera Aman, wife of a former state minister and many others.^{xx}
8. The caretaker government issued a complete ban on political activity on 8 March 2007, applying retrospectively from 11 January 2007. Offices of political parties were closed and political activists faced arrest when dealing with political issues. Despite lifting a ban on domestic politics on 10 September 2007, complaints indicate that this has not been equally applied to all parties and not applied at all to actors outside the capital. It has been further alleged that political forces that collaborate with the current government are allowed more freedom than others. This is reportedly evident from the continuing arrests of prominent politicians, as well as district level officials of political parties. On 4 June 2008, police reportedly arrested around 10,000 people, including local politicians as part of their policy to eradicate crime in the run up to the elections.^{xxi} According to reports Intelligence services are monitoring all political activity in the capital.^{xxii}

Furthermore, under the EPR, protests and demonstrations were banned, severely impairing the freedom of lawful assembly.

9. Among other violations reportedly perpetrated under the EPR, torture with impunity by security forces remains a critical problem. Article 35 (5) of the constitution of Bangladesh prohibits the use of torture. However, no specific law further defines torture. According to reports under the Emergency, torture remains endemic by state and non-state actors and it has been alleged that the interim government used torture in its anti-corruption drive.^{xxiii} The arrest of persons without arrest warrant under the Special Powers Act, 1974 and the EPR as well as detention and interrogation at unofficial places reportedly kept detainees out of the scrutiny of courts and civil society and led to mounting allegations of torture. According to reports suspects are routinely detained by the security forces and tortured in custody, often in order to extract evidence against themselves or others.^{xxiv} Reports suggest that at least 44 persons were tortured by security forces in 2007.^{xxv}

- *Institutional reform*

10. For a long time several successive governments promised to separate Bangladesh's judiciary from the executive and also to establish a National Human Rights Commission. These two commitments were also included in

Bangladesh's pre-election pledge to the UN Human Rights Council of which it is a member. However, to date, the two commitments have not been fulfilled in earnest.

C. The implementation and efficiency of the normative and institutional framework for the promotion and protection of human rights

• *Policing and Extrajudicial Killings*

11. CHRI's observations of reports indicate that the Rapid Action Battalion (RAB) a paramilitary force set up in March 2004 after a government move against pervasive crime in 2001, utilises police and military units without clear lines of authority, with sweeping powers and enjoys wide immunity from prosecution. According to reports the RAB was involved in a large number of human rights violations in the reporting period. In 2006 international human rights groups implicated the RAB in at least 350 extrajudicial deaths in custody and the torture of hundreds more since its creation in April 2004.^{xxvi}
12. Bangladeshi human rights groups have reported that in 2007, 184 known cases of extrajudicial killings by law enforcement agencies occurred. Most of the killings are allegedly by the RAB, but major law enforcement agencies have also been implicated. It is reported that of these 184 known cases, 130 persons were killed in so called "crossfire" incidents, 30 persons tortured to death and the others killed due to other causes. Most cases reportedly remain un-investigated, with the notable exception of the investigation into the death of Morshed Rana in a police station on 28 October 2007.^{xxvii} However, many concerns have been raised about the impartiality of the investigation.^{xxviii} During the first four months of 2008, 29 extrajudicial killings and 31 custodial deaths were recorded by Bangladeshi groups, with evidence of torture in most of the deaths.^{xxix}
13. Under its international obligations as state party to the international Covenant on Civil and Political Rights, pursuant to Article 4 (2), the government of Bangladesh is not allowed derogation from the right to life, especially in the form of extra-judicial killings, or death resulting from torture.^{xxx} During its term on the UN Human Rights Council and despite a longstanding request, Bangladesh did not issue an invitation to the UN Special Rapporteur on Extrajudicial Killings.^{xxxi}
14. Policing in Bangladesh remains unreformed and is governed by antiquated laws. Frequently, the police force is abused by the powers of the day for suppression of opposition and dissent as exemplified by its failing performance when dealing with social or political unrest, terrorism, extortion or crime against women.^{xxxii} The police service is characterised by poor working conditions and out-dated training and its public reputation is tainted by corruption, abuse of power and impunity and external political interference. Bangladeshi civil society groups have alleged that that the police are responsible for about one third of the 184 extrajudicial killings since the declaration of the emergency.^{xxxiii}
15. The intelligence service DGFI has a history of being used by various regimes to silence opposition and dissent and serve the interest of the group in power. Under the Emergency Regulations, the service has been accused of being behind many operations against opposition party members, government critics and allegedly corrupt businesspersons. Reportedly, the DGFI also arbitrarily detained and assaulted journalists, activists or academics.^{xxxiv}
16. It must however be noted that a Police Reforms Programme was initiated in 2006, with the partnership of the United Nations Development Programme, the European Union and the Department of International Development (DFID) of the UK with a budget of over US\$15 million, and has so far yielded promising results. A draft Bill replacing the colonial-era Police Act was completed in 2007, and was open to civil society inputs. After collecting data from citizen surveys, the Bill is now with the Ministry of Home Affairs, which will incorporate the data collected into the bill, and then ready it for ratification by the caretaker government.

• *Minorities*

17. Despite comprising of approximately 45 indigenous communities, the Bangladeshi constitution does not recognize their identity and rights.^{xxxv} The indigenous population of Bangladesh is distributed in the Chittagong

Hill Tracks (CHT) and plains in the lowlands. In the lowlands, they have been allegedly sidelined by Bengali settlers while in the CHT, large areas of hilly and rather inaccessible land are designated as tribal areas.^{xxxvi} Here around 12 groups of tribals, collectively known as the Jummas make up around 50 percent of the population of the CHT. According to reports indigenous people are often not involved in development projects said to be for their sake.^{xxxvii} The government is accused of facilitating the settlement of Bengali settlers in the CHT, where a peace accord between a tribal militant group and the Bangladeshi government has reportedly created limited stability. Evictions by security forces and land grabs by Bengali settlers have reportedly created unrest particularly among the indigenous hill peoples.

18. It is alleged that torture and religious prosecution have increased in the CHT since the declaration of the State of Emergency. Reportedly over 50 Jummas have been arrested since the Emergency, often on false charges. Frequent charges of torture by the security forces have been reported in this context.^{xxxviii}
19. On 13 August 2007, it was reported that Bengali settlers tried to grab land from a Buddhist temple complex at Sadhana Tila in the CHT and repeatedly attacked the indigenous people and their settlements. It has been reported that the Bangladesh Army may be involved in land expropriation of indigenous groups.^{xxxix}

- ***Civil Society space Human Rights defenders and media freedoms***

20. CHRI has observed various reports that indicate that individuals and NGOs working for the realisation and protection of human rights faced threats and interference by security forces. On 3 May 2007, Mr. ASM Nasiruddin Elan, acting director of Odhikar, a human rights organisation in Bangladesh, was allegedly threatened at the Navy headquarter in Banani, Dhaka. He was reportedly separated from an accompanying colleague and asked to meet Navy captain Zubayer in order to discuss the custodial deaths of two people that were investigated by the organisation. Mr. Elan was reportedly threatened, and verbally abused, while demands were made to stop Odikhar's work and the organisation and its members were accused of sedition and anti-state activities.^{xl} Odhikar's Kushtia representative, Mr. Hasan Ali, was reportedly taken to the Kushtia Sadar Police Station on 4 December 2007 and physically assaulted by the police.
21. In a well reported case, Mr. Tasneem Khalil, journalist and human rights activist was arrested on 11 May 2007, allegedly held in an intelligence detention centre and interrogated. He accused the security forces of having tortured him and forced him into making false confessions. According to reports given his precarious situation, he had to flee Bangladesh with his family and seek asylum in Sweden.^{xli}

The EPR contains a number of regulations that directly or indirectly restrict media freedom and are in violation of the government's international obligation as state party to the International Covenant on Civil and Political Rights. News coverage considered provocative is banned and specific sections of the EPR on this topic are loosely worded, inflicting uncertainty on journalists and editors on what specifically would be punishable. The intelligence service, DGFI and the National Security Intelligence jointly run a media cell that frequently summons editors and media journalists over provocative and irresponsible news and issues news directives and editorial instructions to media outlets. Additionally, journalists reportedly face intimidation and physical violence and even torture by state agencies such as the army and DGFI.^{xlii} Violations of the Emergency Rules may be punished with five years in prison and substantive fines. The Rules empower the government to enforce pre-publication censorship and stop the distribution of any banned information.^{xliii} Concerns have been expressed that such severe regulations have gone a long way to encourage self-censorship and hamper the culture of investigative journalism.

- ***Violence against women***

22. Violence against women continues to be intense in Bangladesh. While relevant legislation is in place to prevent such violence, the issue has been neglected as the vast majority of victims reportedly tend to hail from poor, underprivileged backgrounds. Between January and April 2008, Bangladeshi human rights groups recorded 60 killings related to dowry, 35 instances of "acid violence" and 147 cases of rape.^{xliv} While it has been claimed that the emergency has been in place to increase security, violence against women continues unchecked. In 2007, Bangladeshi civil society groups reported 459 cases of rape, of which 246 were committed against

minors. Furthermore, 96 women were victims of acid attacks.^{xlv} However, in a positive development, the government has pushed forward a “National Women’s Development Policy” in April 2008, which includes reserving of one-third of seats in political parties for women, as well as new laws and increased quotas to ensure equal opportunity and control for women over their earned property.^{xlvi}

D. Cooperation of the country under review with human rights mechanisms

23. Bangladesh has not extended an open invitation to the Special Procedures of the UN Human Rights Council.

24. At several sessions of the UN Human Rights Council Bangladesh has consistently advocated confining special procedure mechanisms with a code of conduct. Bangladesh also opposed country specific mandates for Special Procedures. In September 2007 Bangladesh also opposed the encouragement provided for broad consultation by governments on their reports to the Universal Periodic Review by asking for the deletion of the word ‘broad’ from the relevant provision of the Council’s draft resolution on institution building.

ⁱ Odhikar Annual Report 2007: Human Rights Concerns 2007; p. 7, s. 15

ⁱⁱ “Observers shun Bangladeshi vote”, *BBC News*, 11th January 2007, URL: http://news.bbc.co.uk/2/hi/south_asia/6252095.stm

ⁱⁱⁱ <http://www.amnesty.org/en/for-media/press-releases/one-year-human-rights-bangladesh-under-state-emergency-20080110> as on 14.02.2008

^{iv} HRW: The Torture of Tasneem Khalil – How the Bangladesh Military Abuses Its Power under the State of Emergency, February 2008, p.4

^v Odhikar Annual Report 2007: Human Rights Concerns 2007; p. 8, s. 19

^{vi} Section 10 of the Emergency Power Rules, 2007

^{vii} <http://www.amnesty.org/en/for-media/press-releases/one-year-human-rights-bangladesh-under-state-emergency-20080110> as on 14.02.2008

^{viii} In a press briefing, Law Adviser AF Hassan Ariff declared that the EPR would be withdrawn before general elections are held, as they ban certain electoral activities, contradicting earlier statements that only a few specific regulations would have to be relaxed. The Daily Star 29.02.2008, <http://www.thedailystar.net/story.php?nid=25450>; as on 29.02.2008

^{ix} “Bangladesh to hold local election”, *BBC News*, 20th June 2008. URL: http://news.bbc.co.uk/2/hi/south_asia/7466479.stm

^x http://news.bbc.co.uk/2/hi/south_asia/7542317.stm

^{xi} HRW: the Torture of Tasneem Khalil – How the Bangladesh Military Abuses Its Power under the State of Emergency, February 2008, p.5

^{xii} Odhikar Annual Report 2007: Human Rights Concerns 2007; p. 19, s. 88

^{xiii} Human Rights Watch, World report 2008, <http://hrw.org/englishwr2k8/docs/2008/01/31/bangla17602.htm> [20.02.08]

^{xiv} HRW: The Torture of Tasneem Khalil – How the Bangladesh Military Abuses Its Power under the State of Emergency, February 2008, p.5

^{xv} “Bangladesh former PM arrested”, *BBC News*, 20th September 2007. URL: http://news.bbc.co.uk/2/hi/south_asia/6975340.stm

^{xvi} HRW <http://hrw.org/englishwr2k8/docs/2008/01/31/bangla17602.htm> as on 14.02.2008

^{xvii} “Bangladesh losing on corruption”, *BBC News*, 19th June 2008. URL: http://news.bbc.co.uk/2/hi/south_asia/7463377.stm

^{xviii} <http://www.thehindu.com/2008/05/28/stories/2008052860851600.htm>

^{xix} <http://www.ahrchk.net/statements/mainfile.php/2008statements/1663/>

^{xx} Odhikar, 13 Month of Emergency in Bangladesh. A human rights monitoring report, p.2

^{xxi} “Thousands arrested in Bangladesh”, *BBC News*, 4th June 2008. URL: http://news.bbc.co.uk/2/hi/south_asia/7435001.stm

^{xxii} Odhikar Annual Report 2007: Human Rights Concerns 2007; pp. 13, 14, ss. 55- 58

^{xxiii} HRW: Torture of Tasneem Khalil – How the government abuses its power under the state of Emergency. Section II, <http://hrw.org/reports/2008/bangladesh0208/index.htm>; as on 28.02.2008

^{xxiv} Odhikar: 13 Month of Emergency in Bangladesh. A human rights monitoring report, p.1

^{xxv} Odhikar Annual Report 2007: Human Rights Concerns 2007; p. 19, s. 78

^{xxvi} HRW: Judge, Jury, and Executioner – Torture and Extrajudicial Killings by Bangladesh’s Elite Security Force, December 2006 p. 3

^{xxvii} Odhikar Annual Report 2007: Human Rights Concerns 2007; pp. 17-19, ss. 73 - 86

^{xxviii} “Man arrested over false charges dies in police custody”, *AHRC*, 12th December 2007, URL: <http://www.ahrchk.net/ua/mainfile.php/2007/2694/>; as on 29th July 2008.

^{xxix} Odhikar, Press Releases, March and April 2008, URL: <http://www.odhikar.org/press.html>

^{xxx} Public statement of the UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, 26 March 2007, <http://www.unhcr.ch/hurricane/hurricane.nsf/view01/6447F7BFE6FB01B7C12572AC005D9A26?opendocument>; as on 28.02.2008

^{xxxi} Ibid at endnote 35.

^{xxxii} The Daily Star, Community Policing: Sharing responsibility with people, 26.01.2008, <http://www.thedailystar.net/story.php?nid=20573>; as of 27.02.2008

^{xxxiii} Odhikar, 13 Month of Emergency in Bangladesh. A human rights monitoring report, p.2

^{xxxiv} HRW: the Torture of Tasneem Khalil – How the Bangladesh Military Abuses Its Power under the State of Emergency, February 2008, p.6

^{xxxv} Statement by the President of the Bangladesh Indigenous Peoples Forum, Mr. Jyotirindra Bodhipriya Larma. <http://www.unpo.org/article.php?id=7640>; as on 29.02.2008

^{xxxvi} I read that somewhere – but where?!

^{xxxvii} Statement by the President of the Bangladesh Indigenous Peoples Forum, Mr. Jyotirindra Bodhipriya Larma. <http://www.unpo.org/article.php?id=7640>; as on 29.02.2008

^{xxxviii} Survival International <http://www.survival-international.org/news/2694>, as on 03.03.2008

^{xxxix} Asian Indigenous and Tribal People’s Network, Indigenous Rights Quarterly, Vol. II, No. 03, July – September 2007, *Bangladesh: Evictions and land grabbing in the CHTs*, <http://www.aitpn.org/IRQ/vol-II/Issue-03/story06.html>; as on 29.02.2008

^{xl} Asian Human Rights Commission, Urgent Appeal 4 May 2007, <http://www.ahrchk.net/ua/mainfile.php/2007/2369/>

^{xli} Human Rights Watch, World Report 2008 <http://hrw.org/englishwr2k8/docs/2008/01/31/bangla17602.htm> [20.02.2008] and

HRW: the Torture of Tasneem Khalil – How the Bangladesh Military Abuses Its Power under the State of Emergency, February 2008, pp. 10 - 39

^{xlii} Most prominent are the cases of Tasneem Khalil, journalist, contributor to CNN and HRW consultant and the case of Jahangir Alam, correspondent for the newspaper Sangbad, CSB News and the German Deutsche Welle

^{xliiii} HRW: the Torture of Tasneem Khalil – How the Bangladesh Military Abuses Its Power under the State of Emergency, February 2008, pp. 5, 7

^{xliv} Odhikar, Press Releases, March and April 2008, URL: <http://www.odhikar.org/press.html>

^{xlv} Odhikar Annual Report 2007: Human Rights Concerns 2007; pp. 20, 21, ss. 94- 97

^{xlvi} “Bangladesh: Government moves to boost women’s rights”, *IRIN*, 1st April 2008, URL: <http://www.irinnews.org/Report.aspx?ReportId=77543>