

AI Index: PRE 01/009/2008  
10 January 2008

## **One Year On: Human Rights in Bangladesh under the State of Emergency**

(Dhaka) Amnesty International today concluded its high level mission to Bangladesh. The delegation, led by Secretary General, Irene Khan, met with a wide range of civil society groups and leaders, took testimony from survivors and victims of human rights violations. It visited Rajshahi and Tangail. The delegation met the Chief Advisor, Dr Fakhruddin Ahmedf, the Adviser for Foreign Affairs, Dr Iftekhar Ahmed Chowdhury, and the Chief of Army Staff, General Mueen Ahmed. The delegation also met with leaders of the main political parties.

On behalf of the delegation, Ms. Khan launched a memorandum of recommendations to the government and political parties, and gave this summary statement to the press:

For many decades the rule of law in Bangladesh has been subverted by political interference, weak institutions and disregard for human rights. The powerful and the privileged have been able to act with impunity, with no fear of being called to account. Abuse of power was the norm, marked by a growing nexus between political violence and organized crime. The poorest people have been often the most vulnerable to abuse and least able to find redress.

Amnesty International's assessment of the human rights situation today and its recommendations for the future has to be made against that background. By placing the current situation in the context of a long history of human rights violations, Amnesty International wants to emphasize that:

- major institutional reform is absolutely necessary for the rule of law to be instituted in Bangladesh
- this government has both an opportunity and responsibility to undertake or initiate those reforms.

That does not mean the current human rights situation is satisfactory. On the contrary, Amnesty International has seen some familiar patterns of human rights abuses continuing under this regime that this government must address with more vigour than it has done so far. AI has also found new patterns of human rights violations emerging for which this government is responsible and which it has done little to address.

### **Key concerns**

Familiar patterns of human rights abuse by the police, RAB, Joint Forces, security and other law enforcement officials continue with impunity. The CTG has claimed that numbers of extra-judicial killings have fallen in 2007, as compared to previous years. However we are deeply concerned that no investigation into any of these incidents has ever been published and to our knowledge no member of the armed forces has been ever brought to court to be prosecuted for any of the killings. That was the situation in the past under a democratic government. That is also the situation under the present CTG.

- The case of Cholesh Richil is very well-known – government has informed us that the inquiry has been completed and that the army has taken some action following that. But despite our strong and repeated requests, the government gave us no assurance to publish the report or to take steps to prosecute those responsible. This is extremely disappointing given the commitment of this government to establish transparency and accountability.
- Rang Lai Mro, a prominent leader of the Chittagong Hill Tracts, was reportedly tortured by army personnel after his arrest in February 2007 and in a police station after his conviction in October 2007. No action has been taken to investigate the allegations of torture.
- The AI delegation met with Jahangir Alam Akash, a journalist and human rights activist, who was arrested and beaten by RAB in Rajshahi in October 2007. Not only has there been no investigation into the case, Akash is afraid of further retaliation for his public exposure of RAB's tactics.
- Tasneem Khalil, a journalist and human rights activist, was detained on 11 May 2007 and allegedly tortured because he had reported on human rights violations and had contacted international human rights organizations.

These cases show that the familiar pattern of the state attacking human rights defenders, social activists, journalists and others who either dissent from the government or expose violations committed by the government has continued unabated.

If the government fails to respond adequately to these very prominent, high-profile cases, then well-known cases will be given even less recourse to justice. This is unacceptable.

A pattern of killings, portrayed by the government as deaths in crossfire, has marked the operations of the RAB since it was established in 2004. Yet under the Armed Police Battalion Ordinance (as amended) that empowers the RAB, the RAB enjoys wide immunity from prosecution. Under the current Emergency Rules all law enforcement agencies, including the police and joint forces cannot be prosecuted “for anything done in good faith”. This language, common in many laws concerning the security forces, institutionalizes impunity. Granting such sweeping immunity to law enforcement personnel is a clear breach of international law.

Amnesty International considers that the use of the military in policing operations is not a sustainable, long-term solution to law enforcement problems. Military personnel are not trained for law enforcement duties. The answer lies in creating a reformed and effective police force. We have noted the effort of the CTG to reform the police. We have included in our memorandum recommendations about the reform.

Amnesty International is also concerned about the creeping role of the armed forces in a range of functions, with no clear rules of accountability, that should rightly be carried out by the civilian administration.

Amnesty International believes that allegations of human rights abuses against personnel of the armed forces must be investigated and prosecuted by the civilian criminal justice system. Currently only rape and murder cases are referred to civilian courts. This should be expanded to include other serious human rights violations including in particular torture and ill treatment. I hope the military leadership will consider our recommendation seriously – we believe it will both ensure justice and instil confidence in the public that no one in Bangladesh is above the law.

The practice of using armed forces in law enforcement and granting them immunity from prosecution was instituted under a democratically elected civilian government. Amnesty International urges all political parties to commit themselves in their manifesto to stop the practice in future.

## **New patterns of manipulating due process have emerged in cases dealing with corruption and political abuse**

The persistent and widespread use of preventive detention without charge or trial in Bangladesh is not new. The Special Powers Act (SPA) 1974 has been used by various administrations as a tool for detaining critics and political opponents.

The Caretaker Government has continued the same practice. It has used the SPA to detain prominent politicians and businessmen accused of corruption-related offences as well as journalists and individuals accused of bomb blasts.

The SPA now applies to offences set out in the Emergency Powers Rules (EPRs) 2007, giving far-reaching powers to law enforcement agencies. Detainees charged under the EPRs are automatically deprived of a number of legal protections, including bail.

Amnesty International believes that some aspects of the emergency regulations have been framed too broadly or are being implemented in a manner in which they violate due process rights of detainees, and should be urgently reviewed and amended.

While the goal of combating economic crime and abuse of political power is important, it will ultimately not be served by proceedings that cut corners on due process, which violate international human rights standards. A state of emergency can never be invoked as grounds for arbitrary deprivation of liberty or denial of fundamental principles of fair trial.

Amnesty International calls on the Caretaker Government to scrupulously adhere to due process and the rule of law, respect fair trial standards, end arbitrary detention, and reinstate the provisions for bail.

Amnesty International has asked previous democratically elected governments to repeal the 1974 Special Powers Act – Amnesty International now asks the CTG to suspend it until a new Parliament can consider its repeal.

### **State of emergency**

Certain human rights have been curtailed under the emergency regulations. There is concern particularly about media freedom and freedom of expression, assembly and association. International law permits derogations or restrictions on these rights during a state of emergency but puts very stringent restrictions on such derogations.

Amnesty International believes that some of the restrictions imposed through the Emergency Powers Rules (EPRs) exceed what is permissible under international law in the current situation in Bangladesh.

Amnesty International believes that the current rules and restrictions on freedom of expression, assembly and association are too widely framed and are being selectively applied, creating uncertainty and fear.

Amnesty International has protested against the arrest and prosecution of the Rajshahi and Dhaka University lecturers. Amnesty International considered the Rajshahi teachers to have been prisoners of conscience. Amnesty International considers the four Dhaka University lecturers, currently under trial, to be prisoners of conscience and calls for their immediate and unconditional release.

We call on the CTG to urgently review and amend the restrictions on rights to freedom of expression, assembly and association invoked under the state of emergency.

We believe such amendments should be a first step towards the lifting of the state of emergency. A state of emergency is by nature temporary and, therefore, should not be used as a long-term mode of governance.

## **Looking ahead**

Tomorrow will be the first anniversary of the state of emergency. This is an opportunity for the CTG to announce publicly its commitment to upholding human rights, to recognize where it is falling short, to communicate where it has made progress and to set out a clear plan for concrete action in 2008 for human rights reform.

In my meetings with the Chief Advisor, the Chief of Army and the Foreign Affairs Advisor, they all stressed their commitment to ensure free and fair elections by the end of 2008. They also pointed out their fight against corruption and in favour of electoral reform.

Amnesty International strongly believes that no effort to tackle corruption or bring about electoral reform will succeed without a strong and unequivocal commitment to the rule of law and respect for human rights by all state institutions and officials. The culture of impunity and non-accountability that has persisted for decades must end. This requires institutional reform. It is a long-term endeavour but the CTG has a unique window of opportunity to implement key human rights reform.

Amnesty International acknowledges the important steps that the CTG has already taken to separate the judiciary from the executive, to initiate police reform, to introduce law on the right to information, and set up a national human rights commission. Our memorandum contains detailed recommendations on each of those issues.

## **In particular**

### *National Human Rights Commission*

Amnesty International urges the Caretaker Government to ensure that the National Human Rights Commission is set up in accordance with international principles, which require it to be independent of the government; diverse in membership; to have a broad mandate, adequate powers of investigation and adequate resources. Its mandate must also include investigation of abuses by armed forces and security officials. I was pleased to note that the Chief Advisor agreed on this latter point.

There should be a clear timeline for making the NHRC operational and transparent. There should also be an inclusive process for selecting the membership. The leadership of the NHRC will be critical to its survival and therefore places a particular responsibility on the CTG to ensure that it is properly done.

### *Judiciary*

The Caretaker Government has taken significant and welcome steps in separating the judiciary from the executive. Yet guaranteeing the independence of the judiciary requires more than the separation of the executive from the judiciary. They must ensure that judicial appointments are made on merit, that security of tenure is properly assured and that patterns of political patronage and interference are broken.

### *Police reform*

Effective policing requires the support of local communities, yet public mistrust in the police is pervasive and cannot be restored unless there is professional, competent and effective police reform. That is a long-term endeavour. But there are some key initiatives that the CTG can begin. As well as the preparation of a draft Police Ordinance, Amnesty International would also encourage it to consider an independent police

complaints mechanism to bring about accountability to the police system and give it operational independence from the executive to carry out its functions without political interference.

### *Freedom of information*

Amnesty International welcomes the commitment made by the Caretaker Government to pass legislation on the right to information. In Bangladesh, where extreme poverty and lack of access to basic services are widespread, the right to information is potentially of great significance to some of the most vulnerable and marginalized groups.

However, the benefits of the proposed law will only be forthcoming if the law is in line with international standards, is well-established by appropriate mechanisms and resources, and if people are made aware of it. Amnesty International therefore urges the Caretaker Government to make the draft law widely available for consultation.

### **Consultation**

This is a CTG – an interim administration without a popular mandate. There is an imperative on the CTG to communicate and build public support. Amnesty International calls on the Caretaker Government to set up regular, extensive and substantive consultations with civil society groups, including grassroots organizations, on all proposals for human rights reforms and actions to end impunity. Human rights are an endeavour of people – their experience and views will give value to the work of the CTG and must be seen not as an adjunct but as an essential element of the work of the CTG.

The CTG must also open political dialogue with political parties – not only on political reform but also on human rights reform. Civil society must also be as rigorous in demanding that political parties demonstrate clear commitment to human rights, as they are vigilant about the performance of the CTG on human rights. Political parties must commit themselves in the run-up to the elections to supporting and undertaking initiatives that enhance protection of and respect for human rights. After elections, they must ensure that parliament entrenches the reforms through legislation where necessary.

The human rights history of Bangladesh is bound by a red thread of impunity and denial of human rights abuses. It goes all the way back to the war crimes and crimes against humanity during 1971. There is a fresh call for justice now – it should not be politicised into a witch hunt of particular individuals but should be used as an impartial and transparent opportunity to seek truth, justice and reparations for the victims, and to heal the wounds in the national psyche. This unelected government should have the courage to do what other elected governments have failed to do – it should seek advice and assistance from the UN to open an independent commission of enquiry. That will be a visible symbol of a new commitment in Bangladesh to human rights and the rule of law.

Let 1/11 be a day for renewing hope.