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# £BANGLADESH

## @A summary of human rights concerns

## **1. Introduction**

Amnesty International welcomes the positive steps towards increased protection of human rights taken by the Government of Bangladesh during the past two years. Several thousand prisoners held under the previous government were amnestied and charges brought against political opponent under the previous government are under review. The government initiated investigations of a number of incidents in which human rights violations were committed, including the possible extrajudicial executions during jail riots in April 1991, the beating of journalists in the Dhaka Press Club in July 1992, and the extrajudicial executions in April 1992 in Logang in the Chittagong Hill Tracts and in January 1993 in Chittagong. However, much remains to be done to effectively and permanently safeguard human rights in Bangladesh.

Amnesty International is concerned that preventive detention continues to be widely used in Bangladesh to detain thousands of political prisoners, including prisoners of conscience; that torture, deaths in custody and extrajudicial executions continue to be reported both in the Chittagong Hill Tracts and elsewhere in Bangladesh; and that the death penalty was increasingly used in 1992.

This paper sets out in detail Amnesty International's continuing concerns in Bangladesh and summarizes its work on human rights violations since the fall of the government of President Ershad in December 1990. The paper also lists a number of recommendations for legal and human rights safeguards. Amnesty International believes that the adoption of these safeguards would help to further improve the human rights situation in Bangladesh.

## **2. Political developments in Bangladesh in 1991 and 1992**

After the resignation of the government of President Ershad on 6 December 1990, an interim government under Acting President Shahabuddin Ahmed was installed. Parliamentary elections on 27 February 1991 were won by the Bangladesh Nationalist Party (BNP) led by Begum Khaleda Zia. She was sworn in as Prime Minister on 20 March 1991. An amendment of the constitution restoring the parliamentary system was unanimously adopted by parliament on 6 August 1991 and confirmed by a national referendum on 15 September 1991. Abdur Rahman Biswas became President in October 1991.

In January 1991, following riots in several prisons, the interim government announced a general amnesty under which more than 3,500 prisoners were released and the sentences of thousands of others were reduced. Most of those detained under the Special Powers Act (SPA) were released after the change of government, but new arrests were made under the SPA. A parliamentary standing committee reviewed charges brought against political activists during the nine-year rule of President Ershad and recommended the withdrawal of 103 cases. By September 1992, 91 such cases were withdrawn. Home Ministry sources said in March 1992 that over 6,000 people could benefit from the ongoing review process.

Several former government members were tried on criminal charges including corruption and abuse of power. Former President Ershad was sentenced to 13 years imprisonment on charges of illegal possession of arms and foreign currency. Almost 20 further charges, mostly for corruption, are pending against him.

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Criminal and political violence declined in 1991 but increased markedly in 1992. More than 25,000 people were arrested during the anti-crime campaign "Operation August 92" but some 22,000 were released within days for lack of evidence. Violent clashes were reported throughout 1991 and 1992 from universities campuses resulting in the death of some 24 students and over 2,000 injured students in 1991 alone.

### **3. Background to Amnesty International's work on Bangladesh in 1991 and 1992**

Over the years Amnesty International has repeatedly urged successive governments of Bangladesh to introduce reforms to halt continuing human rights violations and to provide effective remedies for victims. Amnesty International raised its concerns about the human rights situation in Bangladesh with the interim government under Acting President Shahabuddin Ahmed and the government of Prime Minister Khaleda Zia on a number of occasions.

After the change of government in December 1990, the organization urged the interim authorities to ratify international human rights instruments and to introduce strict limits on powers of administrative detention. In January 1991, before the parliamentary elections were held, Amnesty International sent an open letter to the main political parties and alliances contesting the elections, urging them to make known their position on the protection of human rights and requesting that, should they come to power, they implement various human rights safeguards. This letter, in which Amnesty International outlined its concerns in Bangladesh and summarized the steps the organization would like to see taken to safeguard human rights was published in: Bangladesh: Human rights safeguards (AI Index: ASA 13/02/91). In March 1991 a memorandum was sent to the government of Prime Minister Begum Khaleda Zia urging it to give high priority to the protection of human rights and to implement a range of specific human rights safeguards.

In April 1991 Amnesty International raised its concern with the Government of Bangladesh about several deaths in Dhaka Central Jail as a result of prisoners being beaten and burned with hot water by security forces. Amnesty International feared that these prisoners may have been killed deliberately. The organization called for an independent and impartial inquiry into the incident and urged the government to ensure that security force personnel are instructed not to use unnecessary and disproportionate force in subduing unrest in prisons.

In August 1991 Amnesty International expressed concern to the authorities about the case of an asylum-seeker forcibly returned from Sweden in October 1990, who was tortured by security officials at Dhaka airport (Bangladesh: Torture of asylum-seeker returned from Sweden, AI Index: ASA 13/05/91). The organization called for an investigation into the case, for those responsible to be brought to justice and for steps to be taken to protect all detainees from torture.

In December 1991 Amnesty International issued a report, Bangladesh: Threat of forcible return of refugees to Myanmar (Burma), (AI Index: ASA 13/11/91), expressing its concern that Bangladesh was reportedly planning to return over 30,000 Rohingya refugees then in Bangladesh to Myanmar where Amnesty International believed that they would be at risk of serious human rights violations. In several letters to the government in 1992 Amnesty International urged the government to ensure that none of the Rohingya refugees in Bangladesh would be forcibly returned to Myanmar, and that effective international

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monitoring of returning refugees would be provided.

In April 1992 Amnesty International issued a report, Bangladesh: Reports of torture and possible extrajudicial executions (AI Index: ASA 13/02/92), in which it highlighted its concern about three separate incidents in 1991 in which at least 10 people were killed apparently as a result of unlawful or unnecessary use of lethal force by security personnel. Amnesty International urged the Government of Bangladesh to investigate these possible extrajudicial executions by independent and impartial mechanisms and to bring those responsible to justice. In letters to the government, Amnesty International in January and May 1992 also expressed its concern about the resumption of the active use of the death penalty and in July urged the government to inquire into the circumstances of the beating of journalists in the Dhaka Press Club in July 1992.

Amnesty International continued to monitor the human rights situation in the Chittagong Hill Tracts and in 1991 published the following reports: Bangladesh: Human rights in the Chittagong Hill Tracts, 1989 - 1990 (AI Index: 13/04/91) and Bangladesh: Human rights violations in the Chittagong Hill Tracts: An update (AI Index: ASA 13/09/91). In May 1992 Amnesty International issued a paper Bangladesh: Reprisal killings in Logang, Chittagong Hill Tracts, in April 1992 (AI Index: ASA 13/04/92) in which it expressed its concern that on 10 April 1992 over a hundred tribal civilians were reportedly extrajudicially executed by security forces acting together with Bengali civilians.

#### **4. Amnesty International's concerns in Bangladesh**

##### **4.1. Prisoners of conscience and other political prisoners held in administrative detention**

A large number of political prisoners continue to be detained without charge or trial under administrative detention powers of the government. Amnesty International considers many of these political prisoners to be prisoners of conscience, that is prisoners detained solely for their beliefs or because of their ethnic origin, sex, colour or language and who have not used or advocated violence.

Administrative detention is a measure used by executive government authorities to detain people without charge or trial. Such powers are often used to circumvent the usual judicial process and to intimidate and silence opponents of government. In Bangladesh the constitution provides in Article 33(4-6) for administrative detention for a period of up to six months, which can be extended indefinitely on the advice of an Advisory Board. The same article removes constitutional safeguards designed to protect the rights of prisoners - that they be promptly informed of the reasons for their arrest, permitted to consult a lawyer of their choice and be brought before a magistrate within 24 hours of arrest - from those detained under administrative detention laws. Under Article 33(5) administrative detainees must be informed of the reasons for their detention "as soon as may be" and be given the "earliest opportunity of making legal representation against the order". However, the detaining authority need not disclose facts which it "considers to be against the public interest to disclose".

The Government of Bangladesh has very broad powers of administrative detention under the Special Powers Act (SPA) of 1974 which provides "special measures for the prevention of certain prejudicial activities, for more speedy trial and effective punishment of certain grave offences and for matters connected therewith". The SPA empowers the authorities to detain without charge or trial anyone

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suspected of committing a "prejudicial act" likely or intended "to endanger public safety or the maintenance of public order". Detainees held under the SPA have to be informed of the grounds of detention within 15 days; they are to be brought before an Advisory Board within 120 days of the presentation of the detention order to the detainee. The Advisory Board has to examine the grounds of detention and advise the government on whether there is sufficient cause for detention. It consists of three persons appointed by the government, of whom two are qualified to be judges of the Supreme Court and one is a senior civil servant. Legal representation of the person in detention is not allowed, the detainee can only appear in person. If the Advisory Board is satisfied that there are sufficient reasons for detention, the government can renew the order, and renew it repeatedly. There is no maximum time limit for detention under the SPA.

The SPA, as well as providing for administrative detention, contains in sections 26-31 provisions under which people can be charged for specific offences and tried by special speedy tribunals. The schedule of offences of the SPA currently includes offences punishable under the Arms Act of 1878, the Explosive Substances Act of 1908, the Cruelty to Women (Deterrent Punishment) Ordinance of 1983, and several offences against the state, property offences and rape punishable under sections of the Bangladesh Penal Code. Trial of these offences is before a special tribunal in which certain legal rights of the accused are restricted: bail is very difficult to obtain and the trial is a summary trial, that is to say, only what is deemed to be "substantial evidence" needs to be considered, thereby restricting the defendant's right to present all the evidence he deems relevant to his defence.

The SPA was promulgated by the Awami League government on 9 February 1974. According to official sources, the Awami League government detained some 35,000 people under the SPA, mostly for political reasons, by the end of its term in office in August 1975. The government of President Ziaur Rahman between 1975 and 1982 detained over 100,000 people, while between 1982 and late 1990 the government of President Ershad detained about 150,000 people under the SPA. The SPA was used by successive governments to detain political opponents and to curb the press. Successive opposition parties have similarly demanded the repeal of the SPA only to use it once they themselves assumed office.

In September 1990 President Ershad announced that the SPA would be repealed within two weeks, but before appropriate measures could be taken, the united opposition forced President Ershad to step down. On 6 December, the day of his resignation, President Ershad reportedly repealed the SPA through executive order. The interim government, however, ignored the repeal and the Home Ministry in a press note on 29 December 1990 denied as "baseless and motivated" reports that the SPA had been repealed. It categorically stated that the SPA continued to be in force.

The opposition alliances in their Joint Declaration of 19 November 1990 had committed themselves to abolish this "black law" after the overthrow of President Ershad. Article 4(c) of the Joint Declaration said that "all laws conflicting with fundamental rights will be annulled." The interim government under Acting President Shahabuddin Ahmed in early February informed Amnesty International that it was reviewing the powers of administrative detention. A three-member committee was reportedly set up by the Acting President to explore the possibilities of repeal of the SPA, but its report of late January 1991 was not made public.

In February 1991 the interim government rescinded three clauses (clauses 16, 17 and 18) of the SPA that infringed upon press freedom. This deletion was confirmed by parliament in May but at the same time the

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Bangladesh Penal Code and the Bangladesh Code of Criminal Procedure were amended to provide for the criminal prosecution of anyone publishing "prejudicial reports" and to give the government "the power to declare certain publications forfeited and to issue search warrants for the same". The schedule of offences to be tried under the SPA was also amended in May to include extortion, abduction, kidnapping, rape, cruelty to women and certain offences under the Arms Act.

Prime Minister Begum Khaleda Zia stated on 24 April 1991 that her government was actively considering the repeal of the SPA. The government, however, appears not to have taken any concrete measures towards a repeal of the SPA since then.

Habeas corpus petitions against detention orders under the SPA can be filed in the High Court division of the Supreme Court. An increasing number of detainees have in recent years made use of this possibility. Constitutional lawyer Syed Ishtiaq Ahmed reported, "the Supreme Court by the middle of 1990 was flooded with hundreds of habeas corpus petitions. Sitting in the court-room one could see petitions being disposed of in bunches as a matter of routine every day. There was hardly an instance where the validity of a detention order was upheld." (44 DLR 1992, p. 55.)

Home Minister Abdul Matin declared in June 1992 that between 1 July 1991 and 15 June 1992 some 5,120 people had been detained under the SPA; of these 2,538 were still under detention in June 1992. A total of 2,688 habeas corpus petitions against SPA orders were filed between August 1991 and June 1992. Of these the High Court came to a decision in 1,795 cases. It found 1,742 detention orders to be illegal, while 893 cases were still pending in July. In other words, of 1,795 detention orders only 53 were upheld by the High Court. On an average, people remain in detention under the SPA for some five to six months. Amnesty International has received reports that at least four people continued to be held in detention in 1992 after the High Court had ordered their release.

Most SPA detention orders were found invalid due to procedural irregularities in the detention, or because the grounds for detention were too vague to warrant the assumption that a detainee was likely to commit a prejudicial act. In rare cases the High Court ruled that a detention order was malafide, that is made in bad faith or grounded in improper intention on the part of the detaining authorities. Only if a detention order is held to have been made malafide, does the detainee have the possibility to sue in a separate civil suit for compensation for his illegal detention. In other cases of illegal detention the presumption of innocence of the detaining authorities prevents the illegally detained person from filing a claim to compensation against the government.

The case of a prisoner of conscience held under the SPA may serve to illustrate the illegal use of administrative detention powers.

Serajul Alam Khan was detained on 24 March 1992 in Dhaka airport and held for a day at Cantonment Police Station in Dhaka without any warrant of arrest or order of detention. On 25 March he was transferred to Dhaka Central Jail where he was served with an order of detention under the SPA, detaining him for 120 days. The order said it had become necessary to prevent Khan from pursuing his activities which were considered to be prejudicial to the sovereignty of Bangladesh and to the maintenance of friendly relations with other countries. He was moved to Comilla Central Jail on 7 April 1992. On 18 July he was served with another order of detention for a further three months. Serajul Alam Khan was released following a High Court decision on 23 July that his detention order under the SPA was illegal and that he should be set free.

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The grounds given for Serajul Alam Khan's detention were that over 20 years ago, during the independence struggle of Bangladesh, he had organized the "Mujib Bahini" (Bangladesh Liberation Force), and that he had recently supported a movement for the formation of a "Greater Bengal". The High Court found that Serajul Alam Khan's activities in the remote past could not be considered as "objectively causing prejudice to the sovereignty of the country or the maintenance of friendly relations with other countries" and that the grounds for considering him to support a pan-Bengali movement were "vague, indefinite, unspecific, inadequate and not supported by the materials". It concluded that "the detainee has been illegally and improperly detained and is entitled to be set at liberty". The Deputy Attorney General representing the state in the hearing also conceded the petitioner's argument that the detaining authorities ought not to have extended the detention by another three months as no fresh grounds or new material had been available to the detaining authorities. Amnesty International considers Serajul Alam Khan to have been a prisoner of conscience as he appears to have been detained solely for the peaceful expression of his political views.

#### **4.2. Possible unfair trials of political prisoners - the new special tribunals**

While all trials should conform to the requirements of the International Covenant on Civil and Political Rights, Amnesty International believes that particularly those courts that may try political prisoners or that may impose the death penalty should meticulously conform to these fair trial standards. The organization is therefore concerned about the speedy trial courts in Bangladesh which may fail to provide these protections.

On 15 September 1992 President Biswas promulgated the Curbing of Terrorist Activities Ordinance 1992, extending the death penalty to a number of offences for which the maximum punishment previously was imprisonment. The Ordinance was placed before parliament, which passed the Curbing of Terrorist Activities Act 1992 on 1 November 1992. The Act will remain in force for two years.

The Act lists nine offences under the heading of "terrorism" or "anarchy" and provides punishments of five years up to the death penalty for any one of them, without linking specific offences to specific punishments. The offences listed include extorting money, obstructing or diverting traffic, damaging vehicles and property, snatching jewellery by force, harassing and abducting women and children and obstructing the giving of commercial tenders. The Act provides that investigation of each case must be completed within 30 days, with a possible extension to 45 days. During this time the detainee cannot be granted bail. The defendant is tried by a special tribunal set up under the Act. The trial must be completed within 60 days but, if unavoidable, the tribunal may extend the trial period up to 90 days.

At the end of September special tribunals were set up in 61 of the 64 districts of Bangladesh; shortly afterwards an additional four special tribunals were established in the divisional capitals: Dhaka, Khulna, Rajshahi and Chittagong. Each tribunal is to be headed by a judge who shall be either a sitting or retired district or sessions judge or additional district or sessions judge.

The Act differs from the original Ordinance in several ways. It permits appeals against conviction and sentence passed by a special tribunal to the High Court and ultimately the Supreme Court of Bangladesh while the Ordinance had permitted appeals only to specially set up Special Appellate Tribunals;

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appointment of judges is by the Chief Justice instead of by the executive as the Ordinance had provided; death sentences imposed by the special tribunals are to be confirmed by the High Court and may be appealed before the Supreme Court, not merely by special appellate courts set up under the Ordinance.

In spite of these alterations, procedures of the special courts established under the Curbing of Terrorist Activities Act do not fully meet international standards for fair trial. Under international law, every defendant is entitled to "have adequate time and facilities for the preparation of his defence and to communicate with counsel of his choosing" as laid down in Article 14 (3)(b) of the International Covenant on Civil and Political Rights (ICCPR). Amnesty International fears that the imposition of inflexible time limits with respect to the trial in the Curbing of Terrorist Activities Act may be prejudicial to the ability of the defendant to present a full defence and possibly result in a miscarriage of justice. Again, the defendant's statement made before a magistrate can be used in court in the defendant's absence. This provision conflicts with Article 14 (3)(d) of the ICCPR, which says that every defendant has a right "to be tried in his presence, and to defend himself in person or through legal assistance of his own choosing". The Act does not clearly link specific offences to specific punishments which violates the legal principle of certainty - that people have a right to know precisely the legal consequences of specific acts. To make all offences triable under the act non-bailable during the period of investigation restricts the jurisdiction of the courts which should in every case be entitled to decide bail matters on the merit of the case.

Lawyers, human rights activists and opposition politicians fear that the Ordinance and the subsequent Act would be used to stifle opposition under the pretext of curbing anarchy and to try opposition members in unfair trials. From 15 September to 22 October 1992 some 168 cases were filed under the Curbing of Terrorism Ordinance. Some of the first trials for a variety of offences took only two or three days.

One of the first persons charged under the Curbing of Terrorist Activities Act was Khaledur Rahman Tito, secretary general of the Jatiya Party (JP). After Tito had addressed a press conference in front of the JP office on 24 December, the police asked the gathering of journalists and JP members to disperse. Following Tito's directions, most of the JP supporters joined a peaceful march. The police then reportedly beat Tito and dragged him to a police vehicle. A JP worker who attempted to help Tito was beaten as well. A case was later filed against Tito under the Curbing of Terrorist Activities Act as the meeting had allegedly disrupted traffic in Dhaka. He was also charged under several sections of the Bangladesh Penal Code. Tito was refused bail. Amnesty International is concerned that Kaledur Rahman Tito should be tried before a court whose procedures meet all the international standards for fair trial.

#### **4.3. Review of cases of martial law convicts**

Amnesty International has not been able to ascertain the number of people who remain imprisoned following conviction by martial law courts on criminal charges, including some who may be political prisoners. When these courts were operating between 1982 and 1986, Amnesty International expressed concern that they were being used to try political prisoners by procedures which did not meet international standards for fair trial. Some of the convictions imposed by martial law courts were apparently reviewed by the martial law administration, but this review appears to have merely related to formal aspects of the trials. After the end of the martial law period, a review by civil courts of sentences passed by martial law courts was permitted, but this review did not extend to cases already reviewed



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during the martial law period. In order to ensure that no prisoner is wrongly jailed on the basis of politically motivated charges following an unfair trial, Amnesty International believes that the government should institute an independent and impartial review of the cases of martial law convicts, with the possibility of retrial by a court constituted according to international standards for fair trial. This review should also extend to convictions and sentences passed by martial law courts which have already been formally reviewed.

#### **4.4. Torture and deaths in custody**

Amnesty International in 1991 received fewer reports of torture of criminal and political suspects in the custody of police, paramilitary and military personnel than in earlier years but in 1992 reports of torture again increased. Torture in police custody is believed to occur routinely but it is rarely reported as the victims fear further ill-treatment by the police. Shamsul Haque, coordinator of the Bangladesh Lawyers' Association and former president of the Supreme Court Bar Association said in an interview with Dhaka Courier of 20-26 March 1992, that an ordinary person cannot easily file a case against a government official, a police officer in particular, as there is always "the fear of further and greater harassment".

Torture in police custody in Bangladesh usually involves beating with sticks, with rifle butts and kicking with boots on sensitive parts of the body, including the stomach which may lead to intestinal perforation. For instance on 27 March 1992, Mohammed Kamal Hossain, a 22-year old student, was reportedly punched in the face by an officer of the Reserve Police during his arrest in Chandraghona in Kaptai Upazila. In the Reserve Police Camp his arms and legs were reportedly tied with ropes. He was kicked with boots all over his body and beaten with sticks. Finally hot needles were pushed into his finger tips.

At least two journalists were beaten by riot police when they took photographs during a demonstration on 21 July 1992, and about 50 others were injured, some seriously, when police broke into the National Press Club in Dhaka and opened fire. A one-man inquiry commission under Justice Shafiuddin Ahmed was established. On 21 October Information Minister Nazmul Huda announced that it had submitted its report to the government and that it would be made public soon. Newspapers in Bangladesh say that the report identifies seven police officials involved in the incident and recommended that they be given exemplary punishment. The report has not been made available to Amnesty International; it is not known if criminal proceedings have been initiated against the police officers responsible or whether any compensation has been offered to the victims.

During a visit to Bangladesh in September 1992 Amnesty International representatives met a number of victims of torture who had become highly disoriented during torture and could not state their case with precision and coherence. Bangladesh human rights groups report that victims of ill-treatment in police custody are often educationally too ill-equipped to state the cases of their detention and torture for any human rights group to effectively follow up on their cases.

Human rights lawyers in Bangladesh confirmed reports received by Amnesty International that there are forgotten prisoners who are subjected to torture with impunity, and whose cases sometimes accidentally come to light. For instance in December 1992 the High Court found that Nazrul Islam had been illegally detained for 12 years. He was arrested in November 1980 as a then 12-year old boy, convicted on a robbery charge and sentenced to seven years imprisonment. He continued to be held in Satkhira jail after

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his sentence expired. When in October 1992 the daily newspaper "Ittefaq" carried his story, the High Court examined Nazrul Islam's case. In early December 1992 it found that his entire 12-year detention had been illegal and ordered Nazrul Islam's release. For 11 of these 12 years Nazrul Islam had been held in leg irons; he was also brought to the High Court hearings in chains. During his long imprisonment, the leg irons were removed only when he was transferred to hospital for medical treatment. It is not known if any compensation was awarded to Nazrul Islam for his long-term illegal detention and ill-treatment.

Amnesty International deplors that the cases of such persons, whose rights are most seriously violated, cannot be taken up and presented. It urges the government to set up easily accessible institutions and mechanisms which would permit victims, their families and local human rights groups to report cases and which would then assist the victims to file cases against the perpetrators and to seek redress.

Human rights groups and lawyers in Bangladesh report that the incidence of rape in custody, which amounts to torture and is therefore prohibited by international law, is high but, due to the social stigmatisation faced by the victim, this form of human rights violation usually goes unreported. The legal requirement that rape must be reported within 12 hours also makes it difficult for the victim to file a complaint. A case of attempted rape was reported to Amnesty International in 1991. Joytun Nahar, a 21-year-old college student, was attacked on 21 June by five police trainees of the Police Special Training Center in Kaukhali Upazilla in Rangamati district while she was cutting wood. They attempted to undress and rape her, but when Joytun offered resistance and shouted for help, the police officers cut her throat with her knife and left her for dead. Joytun, bleeding profusely, managed to crawl back to her home. Her family took her to Chittagong Medical Hospital where she underwent treatment for 18 days. Protesting villagers were assured by Lt. Colonel Delwar that those responsible for the attempted rape and murder would be brought to justice. A case was filed against the five police trainees in Kaukhali Police Station on 23 June 1991. The then Chairman of the Local Government Council in Rangamati, Gautam Devan, told a fact-finding team of a human rights organization that a committee headed by the Additional District Magistrate would investigate the case. Joytun's family is reported to have received threats both from members of the Police Special Training Center and from the police. It is not known if the police have initiated an investigation of the charges laid against the five police trainees.

Cases of torture sometimes come to light when the victim dies as a result of the treatment received in custody. Amnesty International identified 12 cases of death in custody as a result of torture during 1991; in 1992 17 people were reported to have died as a result of torture by the end of October. Human rights groups in Bangladesh estimate that the actual number of such deaths in custody may be about three times as high as the number publicly reported. The Attorney General of Bangladesh, Aminul Haq, on 10 December 1991 admitted that "On an average, every month one person dies in police lockups in Bangladesh." Death in police custody usually occurs shortly after arrest as the police attempt to obtain forced confessions in order to make the required police report.

The following two examples of death in custody in 1992 may serve to illustrate the pattern discernible in Bangladesh:

Mominuddin Ahmed, aged about 60 to 65, was seized by uniformed police officers at his residence on 18 August 1992 at 5pm and forcibly taken to the Kotwali police station in Rangpur on the pretext that the Officer in Charge (OC) wanted to talk to him. In the police station he was arrested under Section 54 of the Code of Criminal Procedure which permits arrest without warrant. When Mominuddin's wife, Khotaja

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Begum, visited him at 7pm in the police station, Mominuddin could only speak with effort and told her that he had been severely tortured by Shukur Rana, the OC of Kotwali police station. The following day Mominuddin was brought before the magistrate and remanded in judicial custody. During that hearing, Mominuddin again told his wife that the previous day he had been kicked in chest and stomach by the OC and that he feared he would soon die. On 29 August he was served with a 30-day detention order under the SPA. On 31 August, Mominuddin was transferred to the hospital in Rangpur Jail. On the jail medical officer's recommendation, Mominuddin was moved to Rangpur Medical College Hospital, where he died on 1 September. A post mortem, ordered by the Deputy Commissioner at the request of Mominuddin's family, was carried out on 2 September and stated that death was due to "shock as a result of perforation [of the stomach] followed by peritonitis and intracranial haemorrhage which was anti-mortem in nature". The doctor also found coagulated blood on an external wound "which was spread from the right part of his neck to the middle of his skull 'temporal region'". There were also "two wounds on his right hand, each of them 1.5" long and 1" wide.". To Amnesty International's knowledge, no investigation into the death has been carried out.

Momina Khatum was fatally injured by police officers on 30 August 1992. On that day, a group of 10-12 police officers on patrol reached village Bazra Hat in Noakhali district. The police officers learned from a local contact of the prosperity of Nurul Haq, a village doctor. His son-in-law, Nurul Huda, was seized on the street, beaten, bound with ropes and led by the police party to his home. The police then raided the house; as they could not find Nurul Haq, they started beating his wife, Momina Khatum, aged about 35, with rifle butts until she fell to the ground. The police then extorted a sum of money from Nurul Haq's daughter Fatema in exchange for releasing her husband Nurul Huda. Early next morning the doctor from the local Thana Health Complex declared Momina Khatum dead. The villagers protested and the Deputy Commissioner and the Police Superintendent of Noakhali visited the village on the same day and assured members of Momina's family that an investigation would take place. Upon their advice, Nurul Haq filed a case against Assistant Subinspector (ASI) Altaf Hussain, other officers of Begumganj Thana and the local police informer. A post mortem stated that Momina had died of severe injuries. ASI Altaf Hossain was taken into police custody and four other members of the police station were suspended. Several other police officers named in the First Information Report (FIR) went into hiding. The Assistant Superintendent Police of Noakhali is leading an inquiry into the incident.

Whenever a detainee dies in police custody, the police is obliged to file an "unnatural death case", which necessitates a police inquiry into the death. To avoid this, police have sometimes transferred dead bodies of people who died after torture to hospital, and putting pressure on medical staff to have them falsely admitted as alive. Fakir Mohammad Mondol (41) died in Chuadanga sub-jail in the night of 13 August 1991. Prison authorities stated that his death had been due to natural causes, but prisoners held in the same cell with Mondol claimed that he had been physically well on the day he died. An investigating team of a human rights group was told by sources in Chuadanga Sadar Hospital that Fakir Mohammad Mondol was already dead when he was brought to the hospital. He was shown to have been admitted to hospital alive in order to forestall any inquiry. "This is the normal practice in case of death in custody. The doctors usually submit to the police authority to keep their jobs, or to please the police", the investigators were told by hospital staff.

Investigations into deaths in custody are carried out by the police through internal departmental inquiries, which may attempt to cover up the crime. Sometimes police personnel are transferred or temporarily suspended. Amnesty International knows of only one conviction of police responsible for deaths in

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custody. In 1988 five police officers were convicted for murder of a 17-year-old student who had died in 1986 while in the custody of a Dhaka police station. This is the only case known to AI in which the state prosecuted the police officers; in the few other cases in which there have been criminal prosecutions they were initiated by relations of the victims.

In March 1992 Amnesty International was informed through the office of the President that eight officers were to be arrested in connection with the death of a prisoner in police custody in Mymensingh in 1989. Kamal was reportedly arrested on 4 November 1989 in Mymensingh Ferry Station allegedly with a truckload of smuggled video equipment. He was taken to Kotwali Police Station in Mymensingh, where he was reportedly severely beaten by several police officers. The following morning he was sent to Mymensingh Medical College Hospital, where he died seven days later. An eye-witness of the arrest and subsequent beating protested to the police and tried to lodge a complaint but was reportedly warned by the police not to interfere. He approached a human rights group and the Home Ministry which then ordered an inquiry to be conducted by the Central Intelligence Department (CID). Both the CID and the human rights group concluded that Kamal's death was due to beating administered in the police station. The police, however, claimed that Kamal had been picked up unconscious by the police on 5 November 1989 and been taken later in the day to the hospital for medical treatment.

The human rights group filed a complaint on behalf of the witness before a magistrates court in Mymensingh against eight police officers for causing the death of Kamal. The magistrate submitted the report of his judicial inquiry on 10 September 1990 stating that the case was unfounded and should not be sent up for trial by a Sessions Court. The human rights group considered this report biased and approached the Subdivisional Magistrate on 15 September 1990 who passed an order directing a new examination of the case. As a result of the report submitted by the Upazila Magistrate, the District and Sessions Court took cognizance of the case and warrants of arrest of eight police officers, including the then OC of Mymensingh Kotwali police station, were issued. A first hearing took place on 22 October 1991, but Amnesty International does not know if the police officers have in fact been arrested or if any person has been tried and convicted yet.

Amnesty International has also received numerous reports of torture perpetrated by members of the military and paramilitary forces in the Chittagong Hill Tracts. Some of these cases are described below (see pp. 25).

#### **4.5. Possible extrajudicial executions**

Extrajudicial executions and attempted extrajudicial executions were reported to have been perpetrated in various parts of Bangladesh in 1991, 1992 and early 1993 by police, the Bangladesh Rifles (BDR) and the military. (Reports of extrajudicial executions in the Chittagong Hill Tracts are described on pp. 25.) The police reportedly resorted to unnecessary and unlawful use of lethal force in the face of rioting prisoners or unruly crowds without apparently first exhausting other methods of crowd control. The BDR, a paramilitary force under the supervision of the army and entrusted with ensuring the security of border areas of Bangladesh, appears to have in several instances raided market places in border areas and to have deliberately shot at villagers in order to intimidate them. Members of the naval staff were in early 1993 reported to have attacked civilians near the Essa Khan Naval Base in Chittagong killing several people and injuring hundreds. Amnesty International has also learned of several instances in which members of

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the law enforcing agencies have connived in criminal acts, including politically-motivated murders. Investigations, where they have been carried out, do not appear to have led to the prosecution and conviction of those responsible for human rights violations.

In 1991 eleven possible extrajudicial executions were reported and, as of August, at least seven more were reported in 1992. The number of dead allegedly killed by naval staff in January 1993 is variously estimated at between 10 and 30. The actual number of people extrajudicially executed in Bangladesh over the last two years may be considerably higher.

#### a. Possible extrajudicial killings by police in 1991 and 1992

##### The jail riots in late 1990 and early 1991

During the interim government of Acting President Shahabuddin Ahmed and the early period of Prime Minister Khalida Zia's term of office, the jails of Dhaka, Chittagong, Khulna and Comilla experienced considerable unrest. Certain categories of prisoners began to be released after the interim government of Acting President Shahabuddin Ahmed granted an amnesty to some, and reduced the sentence of others. However, the agitation continued. In several incidents prisoners died through the action of security force officers. For example, in late December 1990 about 10 prisoners were reportedly shot dead by security forces in Dhaka Central Jail. On 27 March 1991, at least eight prisoners were killed at Comilla jail when police opened fire to prevent them escaping. Amnesty International was not in a position to assess whether the deaths in these incidents were the result of deliberate killings. On 9 and 10 April 1991 about 7 prisoners were reportedly killed in Dhaka Central Jail when members of the police, the paramilitary Bangladesh Rifles and the army entered the prison after five prisoners had attempted to escape. According to an eye-witness, police sprayed hundreds of prisoners through the windows of their cells with tear gas and hot water causing hundreds of prisoners to suffer blistering burns. Many prisoners were beaten and some had their limbs broken. The government reportedly set up an inquiry into the killing of prisoners in Bangladeshi jails, but to date Amnesty International has not received any report of its findings nor is the organization aware of anyone having been brought to justice for any of the killings of prisoners in jail.

##### Killings by police in Bheramara, Chotodarogahat and Ukhia

On 25 March 1991 about 100 people were injured in Bheramara in Kushtia district when police attacked a gathering of unarmed civilians with sticks, glass bottles and chains following protests about the arrest of a villager on allegedly false charges. The police then opened fire reportedly aiming deliberately at the crowd and injuring at least five people. The injured persons were arrested and taken to the police station where they were beaten. One of those arrested, Sukchand, was reportedly beaten to death. The Minister for Social Welfare, Tarikul Islam, was reported to have visited Bheramara and to have promised free medical treatment for the injured and appropriate action against the police personnel involved. According to Amnesty International's information the family of Sukchand received some money in compensation for his death but the cost of treatment of the injured does not appear to have been met by the government. Amnesty International does not know if the government has initiated any inquiry into the incident; to its knowledge no action has been taken to bring to justice the police personnel responsible for the shootings or torture.

In a similar incident on 18 August 1991, police reportedly shot dead three men and injured several others in Chotodarogahat near Chittagong. The killing occurred following an incident in which three police officers were suspected by local villagers of involvement in a robbery. Villagers seized one of the police officers and, when the police demanded the officer's release, villagers insisted that he be charged with robbery. Police officers then opened fire on the villagers, killing three and injuring several others. According to Amnesty International's information the people who were the target of the police attack were not directly involved in the seizure or continued captivity of the police officer. Amnesty International is not aware of any official inquiry into the incident and no police officers responsible or the killings appears to have been brought to justice.

During "Operation August '92" a 10-member police party from Ramu Police Station on 4 August 1992 arrested Yusuf in Ukhia village in Cox's Bazar district on criminal charges. As he was led away, eight or nine members of his family followed the police party at a distance crying loudly for Yusuf's release. Suddenly a police officer turned and opened fire at them, killing Quader, a relative of Yusuf's, and critically injuring two other family members. The Superintendent of Police of Cox's Bazar and other police officers visited Yusuf's family on the following day and assured them that judicial action would be taken against the police officer responsible for the killing and the injuries. Quader's father was later brought to the Ramu police station and was offered money on condition that he not file a complaint. On 5 August Quader's family filed an FIR against the police and on the same day the police filed a complaint stating that hundreds of villagers had attacked the police and prevented them from performing their duty. Police claimed they had had to open fire in self-defence. Amnesty International is not aware of any official investigation into either complaint.

#### b. Killings by the Bangladesh Rifles (BDR) in 1992

Three men were shot dead and one person was injured on 7 March 1992 in Taniaghara, Jessore district, when a BDR patrol opened fire on them in the course of a search for robbers during which many villagers had congregated. The villagers were reportedly agitated but did not resort to violence. The Deputy Commissioner and the Police Superintendent assured the villagers on the following day that the incident would be investigated and the BDR personnel responsible for the killings would be brought to justice. An inquiry committee was apparently set up but it is not known if any report on its findings has been submitted.

During a search of Mohashtan Garh Bazar in Bogra district on 5 June 1992, a party of about 50 men of the BDR seized some cattle which they claimed had been smuggled from India. The BDR did not permit the cattle owners to establish their claims to ownership by presenting their documents but instead drove the cattle away from the market. When the owners ran after them and began to throw stones at the BDR, the BDR hit them with rifle butts and kicked them. They then opened fire without any warning, killing two young men, Azizar Rahman and Zaidur and injuring five others.

In a similar incident on 10 July 1992 a BDR party of about 50 men seized cattle in Ramchandrapur Hat in Chapai Nawabganj district which they claimed were smuggled. When the owners protested, the BDR first beat them with rifle butts, then opened fire at them. Manirul Islam, aged 16, was killed and some 150 were injured, including a bystander, Ahsan Khan, who was shot in the face. Subsequently the BDR filed a

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First Information Report (FIR), accusing five persons, including Manirul Islam and Ahsan Ali, of agitation and creating a law and order problem. The FIR states that 500-600 persons armed with lethal weapons had attacked the BDR and attempted to throw explosives at them, thereby preventing the BDR from carrying out their lawful duties. A Bangladesh human rights organization investigated the incident and found that no weapons had been used by the villagers. A large number of eye-witnesses stated that the BDR personnel had fired at the cattle owners to drive them away in order to appropriate their cattle. While the BDR dismissed the killing as "just an incident", the Deputy Commissioner reportedly assured the investigating team that the killing would be investigated. It is not known if an official investigation has indeed been carried out or if the perpetrators have been brought to justice.

Saidul Bahar Shoab, aged 14, was a victim of deliberate firing at unarmed civilians by the BDR in Chapai Nawabganj district on 10 March 1992. The BDR raided the market place early in the morning and confiscated cattle which they claimed had been smuggled from India. When the villagers protested, the BDR resorted to beating and injured at least 10 people. They then opened fire at the crowd and Shoab was hit in the back. The boy is now paralysed and confined to a wheelchair. The BDR promised assistance, but eventually only contributed 5,000 Taka towards the cost of the medical treatment which amounted to some 60,000 Taka, and provided a wheelchair. Shoab's family did not file a case against the attempted extrajudicial execution as the BDR had promised to give all necessary assistance towards Shoab's medical treatment and rehabilitation. Local authorities apparently ordered an inquiry into the incident, but by late September, no one had approached Shoab, his family or any other eye-witnesses to give their testimony.

### c. Possible extrajudicial executions by naval staff in January 1993

On 3 January 1993 several people in Bandartila and Halishahar were reportedly killed by naval staff of the Essa Khan Naval Base in Chittagong. Several hundred people were reportedly injured during the attacks and thousands lost their homes due to arson allegedly committed by naval personnel.

The incident was apparently sparked by a quarrel between naval personnel and local people. Three naval ratings were reportedly caught harassing some local women on 31 December 1992. They were then forced by local people to sign a document containing the promise that they would not harass local women again. The following day, the three naval ratings and some of their colleagues returned to the locality and seized two men who had been witnesses to the signing of the document. The two men were reportedly taken back to the naval base and tortured in the custody of the naval staff. Members of the local community protested against the abductions and threatened families of naval staff with retaliatory measures if the two men were not released. On the evening of 2 January personnel from Essa Khan Naval Base reportedly equipped themselves with weapons from the naval armoury and in several waves on 2 and 3 January attacked the inhabitants of Bandartila and Halishahar, killing and injuring several people. While the police stated that 10 people were killed by the naval ratings, human rights groups and local observers reported that between 17 and 30 people were killed and another 40 people remained missing.

Amnesty International learned that a one-man inquiry commission was set up on 7 January to investigate the incidents of 2 and 3 January. It wrote to the Government of Bangladesh welcoming the setting up of the commission and requested to be informed about its terms of reference. Amnesty International said the inquiry should establish whether the two men were indeed tortured in naval custody and it should ascertain the conditions in which the killings took place and whether any of the killings were the result of

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unlawful and unnecessary use of lethal force by the naval staff. The terms of reference and the findings of the inquiry should be made public promptly.

According to a Defence Ministry press release on 15 January, the Navy dismissed four naval officers and 15 ratings from service for participating in the attacks and arrested five other officers and eight ratings for their direct participation in the incident. Those arrested will be tried by court-martial in trials that are not open to the public. Amnesty International requested the Government of Bangladesh to be informed of the precise charges brought against these persons.

#### d. Police connivance in politically-motivated killings

Amnesty International is concerned that in a variety of incidents, police have connived in acts of political violence either through direct involvement or by failing to take preventive measures. In several cases of student unrest on or near the university campuses, the police did not take any action to stop violence but passively stood by while students fired at each other or refrained from arresting students indulging in violence if they belonged to the student or youth fronts aligned with the government party.

On 13 March 1992 Moin Hussain Raju, a 23-year old student leader of the Democratic Students Alliance (DSA), was shot dead in the presence of a strong police contingent on the campus of Dhaka University allegedly by members of the Jatiyatabadi Chhatra Dal (JCD), the BNP-affiliated student group, during its clash with the Bangladesh Chhatra League (BCL), the Awami League-affiliated student organization. The DSA, a left-leaning alliance of eight student organizations, seeks to restore calm on the campus by organizing peace marches during clashes, by urging police to stop the gunbattles and to arrest students who resort to violence.

According to eye-witnesses, the police took shelter behind the JCD during clashes in the early afternoon of 13 March, it fired teargas at the position held by the BCL but not at that of the JCD students. When the wind drove the teargas in the direction of the JCD, most combatants dispersed. The DSA students then approached the police and questioned them about their inactivity during the gunfight. When the police reacted by verbally abusing DSA students, they withdrew and organized a peaceful march protesting against campus terror and the inactivity of the police. During their march the DSA students were attacked by JCD students who had regrouped. At about 5.30 Raju was shot in the head. He was removed to Dhaka Medical College Hospital where he died at about 7.30 pm. Two other students also received bullet injuries. The police was reportedly present in large number during the shooting, but according to eye witnesses did not undertake any preventive measures to stop the shooting. The DSA filed a complaint against the killers of Raju on 14 March in Ramna police station, but by late September no investigation appeared to have been initiated. A three-member fact-finding committee was constituted by Dhaka University on 14 March to investigate the incident but it is not known if this committee submitted a report on its findings.

The police also failed to protect the right to life of citizens when two Bengali dailies, "Dainik Millat" and "Dainik Sangram" on 28 March 1992 published "hitlists" of over 30 persons issued by right-wing organizations. Among the names was that of Rashid Khan Menon, a prominent leader of the socialist five-party alliance, who was in the article described as an Indian agent and threatened to be executed by suicide squads. Rashid Khan Menon was on 17 August 1992 shot at and critically wounded. The



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government had not taken any preventive measures to protect him and others on the list though Rashid Khan Menon had reportedly informed both the local police station and the Home Ministry about the threat to his life.

Political opponents of the government are also known to have been harassed by criminal or political enemies in the presence of the law-enforcing agencies without the latter taking any action. For instance on 7 December 1992 the office of the Communist Party of Bangladesh was reportedly set on fire in the presence of the police and the Bangladesh Rifles who did not intercede. The incident was reported in the national press, but no action appears to have been taken against the apparent connivance of the police with the criminals in this incident.

During recent attacks on Ahmadi places of worship in October 1992 as also during attacks on Hindus in December 1992, in a public reaction to the destruction of the Babri mosque in Ayodhya in India, the police appear not to have adequately protected the lives and property of members of the religious minorities. Reports speak of the inactivity of the police and the local administration during attacks on Hindus and the connivance of the authorities in the destruction of the property, ill-treatment, including rape, and killing of Hindus by members of the Muslim majority. For instance, on 7 December 1992 police officers, magistrates and in one instance the Deputy Commissioner, were reportedly present during attacks on Hindus in the area under Bhola Sadar Police Station. They reportedly did nothing to stop the attackers or to aid the victims. In Tajumuddin district houses and shops of Hindus were reportedly looted and burned to the ground in the immediate vicinity of the police station; again the police reportedly did nothing to stop the attack. Similarly in Kutubdia and Ramu the police reportedly silently stood by during attacks on Hindus. Several victims filed complaints with the police about the attacks but police had reportedly not initiated any investigations by the first week of January.

#### **4.6. The death penalty**

In 1992 at least four people were executed in Bangladesh. Abdul Kuddus, aged 25, was hanged in Pabna jail for murder on 12 January; Rafiqul Islam, aged 32, was hanged for murder in Jessore jail on 23 April; Mohammad Shihab Ali was hanged for murder on 27 April in Barisal district jail; Akul, aged 35, of Chuadange was executed in Khulna jail on 25 August. Amnesty International does not know for which offence he was sentenced to death.

According to official sources there are at present 114 persons on death row in Bangladesh; 66 of these prisoners were sentenced to death between the beginning of 1991 and September 1992.

No executions were reported to have taken place in 1991, and only one execution was reported in 1990. Amnesty International fears that the four reported executions in 1992 may signal a resumption of the active use of the death penalty in Bangladesh.

Amnesty International is further concerned that during 1992 the Bangladesh Government increased the number of offences for which the death penalty can be imposed. The Curbing of Terrorism Ordinance promulgated by President Biswas in September and the Curbing of Terrorism Act based on it and adopted by parliament on 1 November 1992 extend the death penalty to new offences. The Act lists nine offences under the heading of terrorism or anarchy and provides punishments from five years imprisonment to the

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death penalty for any one of them, without relating specific offences to specific punishments. Amnesty International is also concerned that under the provisions of the ordinance and the act based on it, people could be sentenced to death after trials that fall short of international standards for fair trial. The organization believes that all trials should be fair but insists that particularly those that may result in the imposition of the death penalty must meticulously adhere to standards for fair trial.

#### **4.7. The human rights situation in the Chittagong Hill Tracts (CHT)**

##### **a. Political developments in the Chittagong Hill Tracts**

Human rights violations in the Chittagong Hill Tracts (CHT) continue to be committed in the context of an ongoing conflict between the government and an armed tribal organization, the Shanti Bahini (Peace Force), which seeks local autonomy. Acting President Shahabuddin Ahmed declared on 30 December 1990 that his government would continue the policies of the previous government towards the CHT. In February 1989 the government had established District Councils in the CHT with responsibility for several areas of local civil administration, including land sales and the appointment of police up to the rank of assistant sub-inspector. Of the 22 areas of civil administration to be transferred to District Council control only six, including primary education, health and agriculture, had been handed over in 1990. A Council Committee on the Chittagong Hill Tracts Affairs headed by Acting President Shahabuddin Ahmed reportedly decided in June 1991 to transfer the remaining subjects to the District Councils shortly. The Bangladesh representative to the UN Working Group on Indigenous Populations in Geneva stated on 31 July 1991 that all 22 subjects had been transferred to the District Councils, but Gautam Dewan, then Chairman of the Rangamati District Council in early September declared that this had not in fact been the case.

On 21 October 1991 the government announced an amnesty, together with awards of money, land and foodgrain to any Shanti Bahini members who would surrender and renounce violence. It is not known how many persons responded to the amnesty offer. Government sources estimate that some 2,500 Shanti Bahini are fighting in the CHT; about 18,000 military and paramilitary forces are said to be stationed in the region.

In 1992 both sides in the continuing conflict took steps towards a political solution. During Prime Minister Begum Khaleda Zia's visit to India in May 1992, Bangladesh's responsibility for creating conditions in the CHT suitable for the return of some 50,000 tribal refugees at present in camps in Tripura was emphasized. Subsequently the government in July appointed a nine-member committee under Communications Minister Oli Ahmed to negotiate with tribal representatives. In August 1992 the Shanti Bahini declared a unilateral cease-fire, which was twice extended and will now end on 31 March 1993. High level talks between government and tribal representatives took place on 5 November and 26 December, the first direct talks between government and tribal representatives since December 1988. Prior to the talks the government had agreed to temporarily dismantle eight military camps and to suspend operations in five others. The talks were inconclusive but further talks are planned for 1993.

In August 1991 Amnesty International submitted a report to the new government of Prime Minister Begum Khaleda Zia to draw its attention to human rights violations committed in the CHT during the government of former President Ershad. The report, Bangladesh: Human rights in the Chittagong Hill

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Tracts, 1989 - 1990, (AI Index: 13/04/91) described cases of torture and extrajudicial executions of non-combatant tribal inhabitants of the CHT by security forces during 1989 and 1990. Amnesty International recommended that the new government pursue investigations into past abuses, make public the findings, and ensure that the perpetrators are brought to justice. Amnesty International said it believed that by taking such action the government could demonstrate its determination to uphold and safeguard human rights in the future.

## **b. Human rights violations committed in 1991 and 1992**

In spite of the search for a political solution, tribal people in the Chittagong Hill Tracts continued to be subjected to human rights violations by security personnel after the change of government in 1990. In December 1991 Amnesty International published another report, Bangladesh: Human rights violations in the Chittagong Hill Tracts: an update (AI Index: ASA 13/09/91), describing instances of unacknowledged detention, detention without trial, torture and deaths in custody and possible extrajudicial executions of tribal persons in 1991. Amnesty International called on the government to investigate the alleged cases of torture and death in custody, to make public the findings and to ensure that those responsible are brought to justice. Amnesty International has not as yet received any reply to the concerns it raised in this paper.

### **b. i. Illegal detention of tribal political prisoners**

Tribal people in the CHT continued to be detained under the SPA. In June 1992 Home Minister Abdul Matin informed parliament that between September 1991 and June 1992 34 people had been detained under the SPA in Rangamati district, 50 in Khagrachari district and three in Bandarban. Of these 17 had been released in Rangamati and 30 in Khagrachari.

Many detention orders of tribal people under the SPA were found to have been illegal by the High Court. Amnesty International considers these persons to have been political prisoners, many of whom may be prisoners of conscience. Monotosh Dewan, aged 55, the finance secretary of the Hill People's Council, was arrested from his house in Chittagong by plain-clothed military intelligence officers on 8 July 1991. He was first taken to the Chittagong Cantonment 24 Division and questioned about his alleged contact with foreign journalists. He was transferred to jail on 17 July. On 8 August he was served with a detention order under the SPA dated 21 July, initially detaining him for 30 days. The Ministry for Home Affairs twice extended the detention order for additional three month periods. On 12 March 1992 the High Court found the detention order to be "vague, indefinite .. therefore illegal". It also found that the requirement of bringing a detainee before the Advisory Board within 120 days had not been fulfilled. Monotosh Dewan had also been charged with several criminal offences against the state under Sections 121 (waging war against Bangladesh), 121A (conspiracy to wage war against Bangladesh) and 124A (sedition) of the Bangladesh Penal Code (BPC). On 28 May 1992 the High Court granted bail to Monotosh Dewan as it found that the booklets in his possession were "innocent and do not constitute any offence". To Amnesty International's knowledge the charges are still pending. Monotosh Dewan was released on bail in early June 1992.

Some tribal persons were also detained on criminal charges which the High Court subsequently found to have been illegal. Following a demonstration of students of the Chittagong Hill Students' Council in

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Dhaka, a group of 76 students were on 18 February 1992 stopped on their return journey by the military at Manikchari Camp and detained in Manikchari High School. On 19 February most were released, but six students were arrested for anti-state activities as they were found to possess leaflets critical of the government. The military filed a case against them charging the students with conspiracy to wage war against Bangladesh and sedition under Sections 121A and 124A of the BPC. The High Court on 21 April 1992 quashed the proceedings against them and ordered their release. It found that possession of the leaflet, copies of which had been handed over to the government earlier, did not warrant charges of anti-state activity. Moreover the High Court found that the case had been illegally initiated as, according to Section 196 of the Bangladesh Code of Criminal Procedure, all complaints relating to offences under Chapter VI of the BPC (offences against the state) must be made by order, or under the authority of the government. As far as Amnesty International knows, the students did not obtain any compensation for having been illegally detained for over two months.

### **b.ii. Torture and deaths in custody of tribal people**

Cases of torture of tribal persons in military custody continued to be reported from the CHT. For instance a person whose name is known to Amnesty International reported that while in detention in an army camp in 1991 he was hung upside down and electric shocks were administered to his fingers, joints, chest, feet and other sensitive parts of his body. He stated that the torture was applied for two hours on each of five consecutive days and that he fainted repeatedly. He could identify his torturers by name.

In early 1992, Amnesty International received reports that a tribal person, Abiran Chakma, had died in the custody of the army. On 14 January 1992, during the campaign for local elections, some 15 tribal people were reportedly arrested by members of the military and taken to Baraitali Army Camp. On the following day Kina Chandra Chakma, the father of Abiran Chakma, was called to the camp, where he found that his son had died. He was not permitted to take the body home for burial; instead it was buried in the camp compound and was repeatedly shot at before being lowered into the ground. On 18 January Kina Chandra Chakma informed the District Commissioner, the Prime Minister and other government authorities that he believed his son had died as a result of torture. Two tribal Members of Parliament from the Chittagong Hill Tracts also made statements to the government about this event, but to Amnesty International's knowledge there has been no inquiry into the death in military custody of Abiran Chakma.

### **b.iii. Extrajudicial executions of tribal people**

Amnesty International received several reports that more than 100 tribal people were killed on 10 April 1992 in Logang, in Khagrachari district of the CHT. The deaths apparently occurred in reprisal for the killing of a Bengali boy, Kabir Hossain, allegedly by members of the Shanti Bahini or, according to other accounts, by a tribal woman whom he had assaulted. The paramilitary Ansars and the Village Defence Party (VDP), a civilian defence force with official status, reportedly set fire to the village and shot dead those attempting to escape. The paramilitary Bangladesh Rifles reportedly arrived later but did nothing to stop the killing. A group of human rights activists and lawyers, present in the vicinity at the time of the incident, questioned witnesses and concluded that "more than 400 houses were burned to ashes and more than 200 children, women and elders were killed".

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Amnesty International submitted a report Bangladesh: Reprisal killings in Logang, Chittagong Hill Tracts, in April 1992 (AI Index: ASA 13/04/92) to the government in early May, expressing its concern that some of those killed may have been victims of extrajudicial executions, deliberate and intentional killings of defenceless people by law enforcement personnel. Amnesty International urged the Government of Bangladesh promptly to initiate a full, independent and impartial inquiry into the reported killings which should seek to establish the circumstances in which the killings took place and whether any of the killings were the result of unlawful and unnecessary use of lethal force by the security forces. It also urged that the reported failure of the Bangladesh Rifles to take any preventive action should be investigated. Amnesty International said the result of such an inquiry should be made public at the earliest opportunity and those alleged to be responsible be brought to justice.

A one-man inquiry commission under retired Justice Sultan Hossain Khan was set up by the government in May 1992 to investigate the incident. Amnesty International repeatedly wrote to the government requesting to be informed of the terms of reference of the commission and to be informed of its findings. A brief report was made available to the public on 8 October 1992. The inquiry confirmed the government's earlier statement that 12 tribal villagers had been killed following the killing of the Bengali boy, Kabir Hossain, and that 13 others had been injured and two were missing. About 550 huts were burned in the incident. It said the VDP and the Ansars acting together with Bengali settlers were jointly responsible for the killings which were a "backlash" against the earlier killing which had caused "fear and panic". Some of those apparently responsible for the extrajudicial executions were said to be in custody and proceedings against them were reported to have begun. In a subsequent communication received by Amnesty International in January 1993, the Government of Bangladesh said the inquiry had "helped identify officials of the local civil and para-military authorities responsible for the tragic incident. The Government has already instituted legal and disciplinary proceedings against the offenders and steps have been taken to strengthen effective supervision of these local forces by their higher authorities to prevent repetition of any such incident in future."

While Amnesty International welcomes the prompt setting up of an inquiry commission, it continues to seek information about its terms of reference and the investigation procedures employed. As Amnesty International pointed out previously to the Government of Bangladesh, it believes the aims and methods of the inquiry should fulfil the standards set out in the Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions. Amnesty International is therefore not in a position to assess whether the procedures used by the commission satisfied internationally accepted standards for investigation.

Amnesty International believes that the summary report does not fully explain the killings reported in Logang. Even the summary description of the witness accounts reveals that these accounts contained many contradictions. For instance some witnesses stated that only Bengali settlers together with the VDP and Ansars shot at tribal villagers, while other witnesses also stated that members of the Bangladesh Rifles participated in the shooting. According to some accounts the huts of the tribal population were set on fire by the Shanti Bahini, while others claimed that the Bengalis together with the VDP and the Ansars were responsible for setting the huts on fire. Accounts of the initial killing of the Bengali boy also vary widely. Again while Ansars and the VDP stated that the Shanti Bahini fired at them for about half an hour, other witnesses denied that Shanti Bahini were present at all. The report does not indicate why some witnesses are considered "witnesses of truth" while the statements of others are considered less reliable.

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For instance the statement by several lawyers and human rights activists that they were told by Brigadier Sharif Aziz on the day after the killing that the number of dead was 138 is dismissed without explanation. The report only states that Brigadier Sharif Aziz told the inquiry commission that the total number of dead, tribal and Bengali, was 13.

Though the report does not name all the witnesses, it appears that important witnesses were not interviewed. For instance the Bengali boys injured at the time when Kabir Hossain was killed and the tribal woman allegedly assaulted by the boys were apparently not interviewed. Similarly though the medical officer who examined the bodies of the victims was interviewed, the nature of the lethal injuries is not reported. Again the report mentions that Kabir Hossain was killed by the Shanti Bahini but no post mortem of Kabir Hossain is reported to have taken place to clarify the question of the nature of the injuries that caused his death. Some accounts speak of his having died from injuries inflicted by a dao, a long curved knife, while others claim that he was shot by the Shanti Bahini.

The commission report states in its section on the causes of the killing that "the incident in Logang ... is the result of the planned objective of the insurgents. The armed Shanti Bahini killed a Bengalee boy ... and seriously injured two others ..., and it was aimed to create a tension between the Bengalees and tribals so that the Bengalees would retaliate and avenge the murder of Bengalees" (p.16), but the initial incident leading to the reprisal does not appear to have been investigated in any detail. The committee appears to have adopted the account given by the Bengali settlers without considering the tribal version of the initial killing. The report later rejects the allegation made by Bengali settlers, VDP, Ansar and BDR personnel that Shanti Bahini fired at security forces during the main incident from their positions on the other side of the village. It is not clear why the account of VDP, Ansar and BDR personnel is considered reliable in some areas but rejected in others.

In the section establishing responsibility for the killings, the report states that "some Ansars and members of VDP are responsible for the incident" and that they fired "out of fear and panic caused by the killing of Kabir Hossain by Shanti Bahini". The report cites but does not take into account statements by members of the VDP, Ansars and army officers regarding the involvement of the BDR in the incident. According to these witnesses the injured boy, Kabir Hossain, was brought by Bengali villagers to the BDR camp and the alarm bell was rung. "On hearing the alarm bell, all Ansars, members of VDP and BDR personnel came to the camp and they were given arms and ammunition. Ansars and VDP members were each given 303 rifles and 20 rounds of ammunition and the BDR personnel were given automatic or semi-automatic weapons with ammunition. ... members of the VDP, Ansars and BDR personnel fired towards the southwest, i.e. where the clustered villages of the tribals were situated ... the Shanti Bahini had started firing from their fire-arms from that direction." Members of the VDP and Ansars stated that they had fired altogether 300-350 rounds of ammunition on orders of a BDR officer present. They said that the target had not been civilians but the Shanti Bahini who had fired at them for about half an hour. The presence of Shanti Bahini firing at the Bangladesh security forces is rejected in the report as not credible. As the report does not deny the participation of the BDR in the shooting, it must be assumed that the BDR was actively involved in the shooting of tribal civilians together with members of the VDP and the Ansars. The report in its section on the responsibility for the event merely criticizes the BDR for having handed out arms to the Ansars and VDR personnel without first ascertaining that there was indeed an encounter with armed insurgents necessitating the use of fire-arms. Amnesty International believes it is necessary to clarify the role of the BDR in the incident.

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In its section of the prevention of recurrences of armed attacks on tribal civilians, the report recommends effective curbing of Shanti Bahini insurgency which it describes as "a major factor in perpetuating tension and enmity between the two communities". It then lists the deaths, injuries and kidnappings allegedly committed by Shanti Bahini between 1980 and 1991. It commends the army for having reduced the intensity of insurgency in the CHT and concludes that "not a single case of extra-judicial execution as done elsewhere in some countries in the name of the integrity of the country or suppression of terrorism, or extra-legal detention, has been brought to the notice of the commission". Amnesty International and other national and international human rights organizations have over the years documented a large number of human rights violations reportedly committed by security personnel in the CHT, including extrajudicial executions, and submitted these to the government.

The section of the inquiry report dealing with the prevention of recurrences of armed attacks on tribal civilians does not contain any reference to guidelines for the use of lethal force and for the need to instruct members of the law enforcing agencies about these guidelines in order to ensure that extrajudicial executions do not occur.

In its section on incidental matters the report recommends that tribal and Bengali "cluster villages" be gradually dismantled and that Bengali villagers should then "be given arms and training for protection of the village in case of an attack by Shanti Bahini". At present the VDP is unarmed and receives arms only from the army or BDR when there is seen to be a need for arms. In view of reports of unlawful and unnecessary use of fire-arms by the VDP such as in April 1992 leading to a high number of deaths, Amnesty International fears that the implementation of this recommendation could lead to a further increase in the unlawful and unnecessary use of lethal firearms.

Amnesty International is seriously concerned about the manner in which the inquiry was conducted. In a letter to the government in July 1992, Amnesty International raised its concern about reports that some persons who wished to appear before the commission had been harassed by the law enforcement personnel stationed outside the Khagrachari Circuit House, where the inquiry was taking place. This treatment reportedly deterred some potential witnesses from testifying. Amnesty International sought assurances from the government that anyone willing to present evidence to the commission would in fact be able to do so and that the government would take all possible measures to ensure that witnesses would be protected. The government did not respond to Amnesty International's expression of concern.

Amnesty International reiterates its request to the Government of Bangladesh to publish a detailed and comprehensive report on the events in Logang in April 1992. The organization also wishes to repeat its request to be informed of the terms of reference of the inquiry commission in order that it may assess if the inquiry was undertaken in conformity with international standards for such investigations. Amnesty International further requests the government to provide information on the specific charges brought against the alleged perpetrators of the killings in Logang and of the nature and current state of the legal proceedings against them.

#### **b.iv. Amnesty International's position on opposition abuses**

Amnesty International condemns as a matter of principle the deliberate and arbitrary killing and torture of civilians by any political groups, including the human rights abuses committed by armed opposition

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groups such as the Shanti Bahini. Human rights abuses, including killings and abductions, allegedly committed by Shanti Bahini continued to be reported in 1991 and 1992. Amnesty International has not been able to independently verify these reports.

#### **4.8. Ratification of international human rights instruments**

In late December 1990, Amnesty International wrote to the then acting President Shahabuddin Ahmed urging the interim government to consider accession to several international human rights instruments, including the International Covenant on Civil and Political Rights and its two Optional Protocols, the International Covenant on Economic, Social and Cultural Rights and the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. In reply, the Adviser on Foreign Affairs in the interim government, Fakhruddin Ahmed, said the government would soon consider the accession to or ratification of international human rights instruments. The government of Prime Minister Khaleda Zia has not so far taken any steps towards these goals. Ratification of these standards would demonstrate the government's resolve that human rights should be upheld and respected at all times and would provide an international human rights framework against which future national action to protect human rights could be measured. It would also ensure that each future national administration will be under an international obligation to guarantee fundamental human rights, no matter who is in power.

#### **4.9. Legal provisions for impunity**

To Amnesty International's knowledge there has only been one conviction of anyone responsible for human rights violations in Bangladesh. Criminal prosecution of law enforcement personnel for human rights violations is hampered by the fact that it depends on the political will of the authorities. The law enforcing agencies may not be prosecuted for actions performed "in good faith" unless the government grants permission. Section 132 of the Bangladesh Code of Criminal Procedure says that "no prosecution against any person for any act purporting to be done under this Chapter [Chapter X: Unlawful assembly] shall be instituted in any court, except with the sanction of the government"; and that no magistrate, police, civil or military officer or any "inferior officer, or soldier, or volunteer, doing any act in obedience to any order which he was bound to obey, shall be deemed to have thereby committed an offence".

In at least one instance in 1992, the government of Prime Minister Khaleda Zia in 1992 reportedly withheld sanction to prosecute law enforcement personnel allegedly responsible for human rights violations. A lawyer in Chittagong in June 1992 filed a criminal case against police officers who allegedly fired at a peaceful demonstration on 24 January 1988 in Chittagong, killing some 35 people. When the government did not give sanction to prosecute, he filed an appeal against the decision. To Amnesty International's knowledge the appeal is still pending.

Immunity from criminal prosecution was further extended by legislation passed in 1992. On 15 July the Presidential Security Force (Amendment) Act 1992 was passed by parliament. The ordinance extends the powers of police officers to search, seize and arrest to officers of the security force in the performance of their duties to protect the prime minister. The ordinance grants legal immunity to security personnel who may shoot to kill anyone whose presence or movement is believed to threaten the physical security of the



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prime minister and certain other VIPs. "No prosecution, suit, or other legal proceedings shall be instituted against any officer of the force in respect of anything done or purporting to be done in exercise of the powers conferred by the provisions of this Act, except with the previous sanction in writing of the government."

Prosecution of law enforcement personnel may also be restricted on the basis of a constitutional provision for establishing indemnity: Article 46 of the constitution of Bangladesh gives parliament the power to provide indemnity to certain persons: "Notwithstanding anything in the foregoing provisions of this Part [Part III, Fundamental Rights] Parliament may by law make provisions for indemnifying any person in the service of the Republic or any other person in respect of any act done by him in connection with ... the maintenance or restoration of order in any area in Bangladesh".

An act of legislation which established immunity from prosecution to a particular group of persons is at present under review by a parliamentary committee. In August 1991 the opposition Awami League tabled the Indemnity Ordinance 1975 (Repeal) Bill, which was referred to a special parliamentary committee for consideration. This committee has to date not submitted any report or recommendation. The Indemnity Ordinance that the repeal bill refers to was promulgated in 1975 following the assassination of then President Sheikh Mujibur Rahman and members of his family on 15 August 1975 by army officers. It indemnifies the perpetrators of the political murder from criminal prosecution. Later two lieutenant-colonels, Said Faruq Rahman and Khandakar Abdur Rashid, publicly assumed full responsibility for the killings. President Moshtaque Ahmed on 26 September 1975 promulgated the Indemnity Ordinance which prevents prosecution and other legal proceedings against anyone "in respect of any act, matter or things done .. in connection with or in preparation of any plan for or, as necessary steps towards the change of government of the People's Republic of Bangladesh and the proclamation of martial law on the 15th August 1975." The Indemnity Ordinance was confirmed and declared valid by the fifth amendment of the constitution which was passed by parliament in 1979.

## **5. Amnesty International's recommendations**

Amnesty International welcomes the positive steps towards increased protection of human rights taken by the government during the past two years. Several thousand prisoners held under the previous government have been amnestied and charges brought against political opponents under the previous government are under review. The government initiated investigations of a number of incidents in which human rights violations were committed, including the possible extrajudicial executions during jail riots in April 1991, the beating of journalists in the Dhaka Press Club in July 1992 and the extrajudicial executions of 10 April 1992 in Logang in the Chittagong Hill Tracts and of January 1993 in Chittagong. However, much remains to be done to effectively safeguard human rights in Bangladesh. Preventive detention continues to be widely used, torture, deaths in custody and extrajudicial executions continue to be reported both in the CHT and elsewhere in Bangladesh, and the death penalty was increasingly used in 1992. Investigations into human rights violations have not led to their results being made public in full and there are few instances of criminal proceedings being initiated against the alleged perpetrators.

Amnesty International submits the following recommendations for legal and other human rights

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safeguards to the Government of Bangladesh in the belief that their implementation will further improve the human rights situation in Bangladesh.

### **5.1. Recommendations regarding administrative detention**

Amnesty International has expressed concern to successive governments of Bangladesh about the broad powers of detention currently available under the SPA, and about their use to detain prisoners of conscience without charge or trial and to deny a fair trial to other political prisoners, in contravention of internationally recognized human rights standards.

Amnesty International urges the Government of Bangladesh to ensure that the legal requirements of the preventive detention legislation are strictly adhered to. The majority of detention orders considered illegal by the High Court of Bangladesh fail to fulfil even the requirements of the SPA. Amnesty International urges the government to review the case of each prisoner currently detained under the SPA and to release immediately any prisoner detained for the non-violent expression of conscientiously held beliefs. Any detainee against whom there is evidence of involvement in a recognizable criminal offence should be charged and tried promptly by a court that adheres to international standards for fair trial such as those laid down in Articles 9 and 14 of the International Covenant on Civil and Political Rights.

If powers of administrative detention are to be retained, the government should introduce strict limits to their use. In his report of 1990, the United Nations Special Rapporteur on Administrative Detention emphasized that administrative detention should only be used as an exceptional measure and should not be used to bypass the safeguards of the ordinary judicial framework. To protect against future abuse of administrative detention, the government should review the grounds on which administrative detention orders may be issued and formulate precise guidelines designed to ensure that an administrative procedure is not used to detain people who do not pose an extreme and immediate threat to national security, or who should be charged and tried according to normal criminal law. Such guidelines should explicitly prohibit administrative detention for the expression of non-violent political or other beliefs and for the peaceful exercise of the right of freedom of association.

Some of the provisions of the SPA do not meet international standards for fair trial. For instance the provision that a detainee held under the SPA must be given the grounds for his detention within 15 days conflicts with the right of every defendant as laid down in Article 14 (3)(a) of the ICCPR "to be informed promptly and in detail in a language which he understands of the nature and the cause of the charge against him". The government should ensure that any administrative detainees are entitled to all safeguards contained in internationally recognized human rights standards, including the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, adopted by the United Nations General Assembly on 9 December 1988, and the International Covenant on Civil and Political Rights (ICCPR).

### **5.2. Recommendations regarding the prevention of torture and deaths in custody**

Amnesty International is concerned about the widespread use of torture, including rape, of detainees in the custody of the law enforcing agencies in Bangladesh and about the reported cases of deaths in custody

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as a result of torture. The practice of torture violates Article 35(5) of the Constitution of Bangladesh which says "No person shall be subjected to torture or to cruel, inhuman or degrading punishment or treatment." The Bangladesh Penal Code identifies some forms of torture as criminal offences in Sections 330 and 331 it provides for the punishment of anyone "voluntarily causing hurt [respectively "grievous hurt", section 331], for the purpose of extorting from the sufferer or any person interested in the sufferer, any confession or any information, which may lead to the detection of an offence ...". Again the Bangladesh Code of Criminal Procedure in section 163 and the Evidence Act of 1872 in section 24 prohibit "the use of threat, promise or inducement" by any police officer or other person in authority during investigation.

Amnesty International recommends that the government identify torture as a specific offence in criminal law, making the attempt to commit torture, and complicity or participation in torture for whatever purpose a criminal offence. It recommends that torture be defined according to Article 1 of the UN Convention against Torture which prohibits a significantly wider range of practices than those recognized by the Bangladesh Penal Code.

Amnesty International also urges the Government of Bangladesh to consider repealing provisions of section 132 of the Code of Criminal Procedure that appear to indemnify anyone using torture on orders of a superior officer. It says that no magistrate, police, civil or military officer or any "inferior officer, or soldier, or volunteer, doing any act in obedience to any order which he is bound to obey, shall be deemed to have thereby committed an offence." This provision conflicts with Article 2(3) of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment which says: "No order from a superior officer or public authority may be invoked as a justification of torture."

Some legal safeguards against torture are available under Bangladesh law but they are too few and not always strictly enforced. As torture most frequently occurs during the first few hours or days of detention, Amnesty International recommends that incommunicado detention be strictly limited, and that prompt and regular access to detainees by a lawyer of the detainee's choice, doctor and family members be ensured. It is also important that all prisoners be brought before a judicial authority promptly after being taken into custody. The Code of Criminal Procedure requires that prisoners be brought before a magistrate within 24 hours of arrest to assess the necessity for further remand in police custody. This requirement seems not always strictly enforced at present. Detainees subjected to torture are usually held in custody and interrogated by the same agency. Magistrates can remand suspects in police custody for a total period of 15 days while investigations continue. Amnesty International recommends a review of this provision as it believes that the formal separation of authority of detention and interrogation allows some protection for detainees by providing a degree of supervision of their welfare by an agency not involved in their investigation. There should be a clear chain of command within the investigating agency which indicates who is responsible for supervising interrogation procedures and for disciplining officers who violate these procedures. At the moment of their arrest or very soon after, prisoners should be informed of their rights, including the right to lodge complaints about their treatment. These explanations should be made orally in language that the detainees understand and they should also be prominently displayed in writing in police stations. Those arrested should be offered a medical examination immediately after arrest and should be able to request further examinations regularly thereafter. Amnesty International further recommends that there should be a continued and regular supervision of detention by the judiciary or an independent and impartial body reporting to the judiciary in order to prevent torture or ill-treatment of detainees in custody.

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Given their particular vulnerability, special safeguards should be implemented to avoid abuse of women and children in custody. Amnesty International calls on the government to consider implementing measures to prevent the occurrence of rape in custody such as the requirement that a woman police officer should be present during interrogation of women detainees and that children should not be questioned other than in the presence of a parent or guardian.

Amnesty International also recommends to the Government of Bangladesh to set up independent and impartial institutions and mechanisms throughout the country to which victims of torture and ill-treatment can report their cases. These institutions should inform victims of their legal rights to life and security of the person and assist them in filing cases against perpetrators of human rights violations. The government should further ensure that wherever there are reasonable grounds to believe that an act of torture has been committed, and whenever complaints of torture are made, they are subject to thorough and impartial investigation with the results promptly made public. The government should also ensure that victims receive compensation and medical rehabilitation and that the perpetrators are brought to justice.

The government should also urgently consider the adoption of additional safeguards in accordance with internationally recognized human rights standards such as the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment.

### **5.3. Recommendations regarding the prevention of extrajudicial executions**

Amnesty International is deeply concerned about continuing reports of extrajudicial executions by law enforcement personnel in the Chittagong Hill Tracts and other parts of Bangladesh. The Constitution of Bangladesh in its section on fundamental rights lays down in Article 32 that "no person shall be deprived of life or personal liberty save in accordance with law". Extrajudicial executions are strictly prohibited by Article 6(1) of the International Covenant on Civil and Political Rights which states: "Every human being has the inherent right to life. This shall be protected by law. No one shall be arbitrarily deprived of his life." Principle 1 of the UN Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions, adopted by the United Nations Economic and Social Council on 24 May 1989 and endorsed by the UN General Assembly in December 1989, lays down: "Governments shall prohibit by law all extra-judicial, arbitrary and summary executions and shall ensure that any such executions are recognized as offences under their criminal laws, and are punishable by appropriate penalties which take into account the seriousness of the offences. Exceptional circumstances including a state of war, internal political instability or any other public emergency may not be invoked as a justification of such executions. Such executions shall not be carried out under any circumstances ...".

Amnesty International urges the Government of Bangladesh to initiate full, independent and impartial inquiries into every reported case of possible extrajudicial execution in order to establish the circumstances in which the deaths took place and if any of the injuries or deaths were the result of unlawful or unnecessary use of lethal force by members of the law enforcing agencies. The terms of reference, aims and methods of inquiry should strictly conform to the standards set out in the UN Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions. The findings of such inquiries should be made public promptly and any member of the

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security forces found to have been responsible for extrajudicial killings or attempted killings should be promptly charged and tried.

Amnesty International further calls on the Government of Bangladesh to ensure that all law enforcement personnel are clearly instructed that lethal force may not be used except in self-defence, in genuine life-threatening circumstances and only as a last resort when all other means of controlling a violent crowd are exhausted and after a proper warning has been given, in accordance with the Code of Conduct for Law Enforcement Officials, adopted by the UN General Assembly on 17 December 1979, and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders in September 1990. All law enforcement personnel should be instructed that extrajudicial executions are crimes and that they are obliged not only to refuse any orders to commit such crimes but also to report any such crimes to the authorities.

#### **5.4. Recommendations regarding the training of law enforcement personnel**

To Amnesty International's knowledge human rights education is not regularly included in the training curricula of law enforcing agencies. Amnesty International urgently recommends to the Government of Bangladesh to ensure that all law-enforcement personnel receive full training in the prohibition of torture and extrajudicial executions in international and national law and be instructed to refuse to obey orders to commit these crimes. In particular they should receive training on the requirements of the Code of Conduct for Law Enforcement Personnel. They should also be trained to understand, respect and abide by international human rights standards against unlawful or unnecessary use of lethal force and internationally recognized minimum rules for the treatment of detainees and prisoners.

#### **5.5. Recommendations regarding the abolition of the death penalty**

Amnesty International is deeply concerned about the resumption of the active use of the death penalty in Bangladesh and the recent extension of the death penalty to additional offences by the passing of the Curbing of Terrorist Activities Act. Amnesty International unconditionally opposes the death penalty on the grounds that it violates the right to life and the prohibition of cruel, inhuman or degrading punishment, as proclaimed in Articles 3 and 5 of the Universal Declaration of Human Rights and Articles 6.1 and 7 of the International Covenant on Civil and Political Rights (ICCPR). In Amnesty International's view the death penalty is inherently unjust and arbitrary. The risk of error is inescapable, yet the penalty is irrevocable. Studies on the topic show that there is no reliable evidence to support the view that the death penalty has a deterrent effect. Amnesty International therefore calls for a halt to all executions and reiterates its call for a total abolition of the death penalty. This corresponds with a world-wide trend as over 40% of all countries have now abolished the death penalty in law or in practice. Abolition would contribute to the respect for human rights in Bangladesh and help maintain respect for the right to life which the death penalty clearly violates.

As a first step towards the abolition of the death penalty, the Government of Bangladesh should gradually reduce the range of crimes for which the death penalty can be imposed. Such a movement towards the abolition of the death penalty would be consistent with the UN General Assembly Resolution of 8

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December 1977, "that ... the main objective to be pursued in the field of capital punishment is that of progressively restricting the number of offences for which the death penalty may be imposed with a view to the desirability of abolishing the punishment ...". Further while all national laws should meet international standards for fair trial, Amnesty International believes that this is especially important in cases where the death penalty may be imposed. The UN Economic and Social Council in its resolution on safeguards guaranteeing protection of the rights of those facing the death penalty (Resolution 1984/50) expressly requires that at least the fair trial guarantees set out in Article 14 of the International Covenant on Civil and Political Rights must be observed when the punishment may be death. The resolution also emphasizes that "capital punishment may be imposed only when the guilt of the person charged is based upon clear and convincing evidence leaving no room for an alternative explanation of the facts.". Further the resolution states that the death penalty should not be imposed except for the most serious crimes and "should not go beyond crimes with lethal or other extremely grave consequences" (Annex, Paragraph 1). Amnesty International urges the Government of Bangladesh to urgently consider bringing the provisions governing the proceedings of the newly established special tribunals into consonance with these fair trial standards and human rights safeguards.

The setting up of special tribunals whose procedures significantly differ from those of regular courts violates the right to be tried by the established legal procedures of one's country. Principle 5 of the United Nations Basic Principles on the Independence of the Judiciary states: "Everyone shall have the right to be tried by ordinary courts or tribunals using established legal procedures. Tribunals that do not use the duly established procedures of the legal process shall not be created to displace the jurisdiction belonging to the ordinary courts or judicial tribunals." Amnesty International is concerned that the recent setting up of special tribunals under the Curbing of Terrorist Activities Act violates this principle. It recognizes that the authorities in Bangladesh perceive an urgent need to reduce crime and to quickly and effectively restore law and order for its citizens. These circumstances do not, however, justify the suspension of basic human rights such as the right to a fair trial, particularly if these courts may impose the death penalty.

## **5.6 Recommendations regarding the abolition of impunity**

Amnesty International believes that the phenomenon of impunity is one of the main contributing factors to the continuing pattern of human rights violations the world over. Impunity, literally the exemption from punishment, has serious implication for the proper administration of justice. By bringing criminal charges against perpetrators of human rights violations, the government sends a clear message that such violation will not be tolerated and that those found responsible will be held fully accountable. When investigations are not pursued and the perpetrators are not held to account, a self-perpetuating cycle of violence is set in motion resulting in continuing violations of human rights.

If extrajudicial executions, torture and other grave human rights violations are to be brought to an end, Amnesty International believes that all governments must fulfil certain fundamental responsibilities. First, there should be thorough, impartial and independent investigations conducted according to international standards into all allegations of human rights violations in order to determine responsibility and the results of such inquiries should be made public. Secondly, those found responsible for human rights violation should be brought to justice. Thirdly, amnesty laws or indemnifying provisions which prevent the emergence of truth and accountability before the law should not be passed as the judicial process must be completed to secure the respect for human rights.

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Amnesty International further recommends the setting up of an easily accessible complaints procedure and an independent and impartial mechanism to enable prompt and impartial investigation of human rights violations. Specific criteria should be established for the composition, terms of reference and procedure of such commissions of enquiry.