Human Rights in Bangladesh 2007

Ain o Salish Kendra (ASK)
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Editors
Sara Hossain and Dina M Siddiqi

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## Glossary

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<th>Term</th>
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<tr>
<td>Adibashi</td>
<td>Indigenous people of Bangladesh</td>
</tr>
<tr>
<td>Alpin</td>
<td>Weekly supplement of <em>Prothom Alo</em></td>
</tr>
<tr>
<td>Bosti</td>
<td>Slum</td>
</tr>
<tr>
<td>Dakhil</td>
<td>Madrassah examination, equivalent to SSC</td>
</tr>
<tr>
<td>Durga Puja</td>
<td>Major Hindu religious festival</td>
</tr>
<tr>
<td>Fatwa</td>
<td>Opinion of an Islamic jurist (mufti). In Bangladesh, some Imams, madrassah superintendents or village elders have issued fatwas imposing punishments such as stoning and flogging.</td>
</tr>
<tr>
<td>Gherao</td>
<td>Siege/Blockade</td>
</tr>
<tr>
<td>Gonogreptar</td>
<td>Mass arrest</td>
</tr>
<tr>
<td>Hartal</td>
<td>A general strike which prevents movement of transport</td>
</tr>
<tr>
<td>Hilla</td>
<td>A requirement under Islamic <em>Sharia</em> law for an intervening marriage to enable a divorced woman to remarry her husband. <em>Hilla</em> is not officially allowed in Bangladesh, but is sometimes dictated by fatwas in villages</td>
</tr>
<tr>
<td>Jatiyo Sangsad</td>
<td>National Parliament</td>
</tr>
<tr>
<td>Jhum</td>
<td>Slash and burn cultivation method used by ethnic in the CHT communities</td>
</tr>
<tr>
<td>Kabinnama</td>
<td>Marriage registration document</td>
</tr>
<tr>
<td>Khas land</td>
<td>Government owned land</td>
</tr>
<tr>
<td>Khas</td>
<td>Public land</td>
</tr>
<tr>
<td>Langarkhana</td>
<td>Shelter providing free food to indigent</td>
</tr>
<tr>
<td>Longorkhana</td>
<td>Shelter providing free food during an emergency</td>
</tr>
<tr>
<td>Madrassah</td>
<td>Islamic religious school</td>
</tr>
<tr>
<td>Muktijoddha</td>
<td>Freedom fighter</td>
</tr>
<tr>
<td>Naraji petition</td>
<td>Petition of objection</td>
</tr>
<tr>
<td>Nikah</td>
<td>Marriage contract</td>
</tr>
<tr>
<td>Paharis</td>
<td>Hill peoples of the Chittagong Hill Tracts</td>
</tr>
<tr>
<td>Pourashabhas</td>
<td>Municipalities</td>
</tr>
<tr>
<td>Shalish</td>
<td>Traditional mode of dispute resolution</td>
</tr>
<tr>
<td>Shontrashis</td>
<td>Gangsters</td>
</tr>
<tr>
<td>Upazila</td>
<td>Second tier of local government</td>
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### Acronyms

<table>
<thead>
<tr>
<th>Acronym</th>
<th>Description</th>
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<tbody>
<tr>
<td>AC</td>
<td>Assistant Commissioner</td>
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<tr>
<td>ACC</td>
<td>Anti-Corruption Commission</td>
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<tr>
<td>ADAB</td>
<td>Association of Development Associations, Bangladesh</td>
</tr>
<tr>
<td>ADD</td>
<td>Action on Disability and Development</td>
</tr>
<tr>
<td>AL</td>
<td>Awami League</td>
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<tr>
<td>ASK</td>
<td>Ain o Salish Kendra</td>
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<tr>
<td>BCL</td>
<td>Bangladesh Chhatra League (AL’s Student Wing)</td>
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<tr>
<td>BDR</td>
<td>Bangladesh Rifles</td>
</tr>
<tr>
<td>BELA</td>
<td>Bangladesh Environmental Lawyers’ Association</td>
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<tr>
<td>BEPZA</td>
<td>Bangladesh Export Processing Zone Authority</td>
</tr>
<tr>
<td>BLAST</td>
<td>Bangladesh Legal Aid and Services Trust</td>
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<td>BNP</td>
<td>Bangladesh Nationalist Party</td>
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<tr>
<td>BNWLA</td>
<td>Bangladesh Women Lawyers’ Association</td>
</tr>
<tr>
<td>BSMMU</td>
<td>Bangabandhu Sheikh Mujib Medical University</td>
</tr>
<tr>
<td>BTRC</td>
<td>Bangladesh Telecommunications Regulatory Commission</td>
</tr>
<tr>
<td>CEDAW</td>
<td>Convention on the Elimination of all Forms of Discrimination against Women</td>
</tr>
<tr>
<td>CHT</td>
<td>Chittagong Hill Tracts</td>
</tr>
<tr>
<td>CID</td>
<td>Criminal Investigation Department</td>
</tr>
<tr>
<td>CMCH</td>
<td>Chittagong Medical College Hospital</td>
</tr>
<tr>
<td>CRC</td>
<td>Convention on the Rights of the Child</td>
</tr>
<tr>
<td>CRPD</td>
<td>Convention on the Rights of Persons with Disabilities</td>
</tr>
<tr>
<td>CTG</td>
<td>Caretaker Government</td>
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<tr>
<td>CUP</td>
<td>Coalition for Urban Poor</td>
</tr>
<tr>
<td>DANIDA</td>
<td>Danish International Development Agency</td>
</tr>
<tr>
<td>DB</td>
<td>Detective Branch</td>
</tr>
<tr>
<td>DC</td>
<td>Deputy Commissioner</td>
</tr>
<tr>
<td>DGFI</td>
<td>Directorate General of Forces Intelligence</td>
</tr>
<tr>
<td>EC</td>
<td>Election Commission</td>
</tr>
<tr>
<td>EPO</td>
<td>Emergency Powers Ordinance 2007</td>
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<td>EPR</td>
<td>Emergency Powers Rules 2007</td>
</tr>
<tr>
<td>ETV</td>
<td>Ekushey Television</td>
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<tr>
<td>FIR</td>
<td>First Information Report</td>
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<tr>
<td>GDP</td>
<td>Gross Domestic Product</td>
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<tr>
<td>HBRI</td>
<td>House Building Research Institute</td>
</tr>
<tr>
<td>ICS</td>
<td>Islami Chattro Shibir (JI’s Student Wing)</td>
</tr>
<tr>
<td>ILO</td>
<td>International Labour Organization</td>
</tr>
<tr>
<td>IMF</td>
<td>International Monetary Fund</td>
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</table>
JCD     Jatiyotabadi Chattro Dal (BNP’s Student Wing)
JI      Jamaat-i-Islami
JMB     Jamat-ul Mujahideen Bangladesh
MP      Member of Parliament
NGO     Non-Government Organisation
NHRC    National Human Rights Commission
NSDPL   North-South Property Development Ltd
OC      Officer in Charge
PCJSS   Parbatty Chattagram Jana Sanghati Samity
PCJSS   Parbatty Chattagram Jana Sanghati Samity
PIL     Public Interest Litigation
PRSP    Poverty Reduction Strategy Paper
PSC     Public Service Commission
RAB     Rapid Action Battalion
RAJUK   Rajdhani Unnayan Kortripokkha
RMG     Readymade Garments
RU      Rajshahi University
SoE     State of Emergency
SPA     Special Powers Act 1974
UN      United Nations
UNDP    United Nations Development Fund
UP      Union Parishad
UPDF    United Peoples’ Democratic Front
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Acknowledgments

Ain o Salish Kendra (ASK), a national human rights and legal services organisation, has been working consistently for 20 years to monitor the human rights situation and to provide support to survivors of human rights abuses, in particular those from vulnerable groups or marginalised communities, through legal aid, investigation, documentation, research and advocacy. ASK has drawn on its own interventions and its work with lawyers and human rights activists across the country in framing this report.

This report has been compiled and edited by Sara Hossain and Dina M Siddiqi from contributions by a team of authors, namely ATM Morshed Alam (the right to life and to freedom of religion), Shahida Begum (children’s rights), Jhon Asit Das (prisoner’s rights), Manzoor Hasan (institutional developments), Mosharraf Hossain (rights of persons with disabilities), Tanim Hossain (rights to liberty and fair trial), Soma Islam (right to shelter), Nazrana Imaan (judgments on human rights), Naeem Mohaiemen (rights of Adibashis), Jenefa Jabbar (workers’ rights), Faustina Pereira (women’s rights), Md. Obaidur Rahman (children’s rights) and Md. Shahiduzzaman (rights to freedom from torture and freedom of expression).

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Sultana Kamal
Executive Director
OVERVIEW
Contradictions and Continuities, Challenges and Concerns

Summary
This report lays out key developments related to human rights and citizens’ security – most particularly the State of Emergency – as they unfolded in 2007. It outlines legislative and institutional developments and judgments relevant to the enforcement of human rights. It focuses in particular on the rights to life, liberty, freedom from torture, freedom of expression and the right to freedom of religion, as well as the right to shelter, and on specific concerns arising in relation to the rights of prisoners, workers, women, religious minorities, Adibashis (indigenous people), children and persons with disabilities.

Overview
The year was full of contradictions and paradoxes. In January 2007, the newly installed interim caretaker government (CTG), backed by the military, imposed a state of emergency (SoE) and declared as its goal the holding of elections as soon as conditions were conducive. This Report therefore focuses its analysis on this new political regime and its relationship to the establishment of a democratic rights framework. However, rather than assume a complete break in modes of governance after 11 January 2007, the report charts continuities as well as departures from past state practices and modes of citizens’ resistance as they relate to human rights concerns. It also provides a brief assessment of the steps initiated by the Government to restore the democratic process and to undertake institutional reforms. In other words, the report looks both at and beyond the State of Emergency.
In this backdrop, the Government’s record with respect to human rights has been inconsistent and contradictory. The review below indicates that in 2007 some spaces opened up – for example on issues of institutional reform in certain areas and with respect to increased personal security for many with the receding of political violence -- while others receded. Important steps were taken to seek accountability through law for wide-spread corruption and abuse of power, but these became mired in concerns about the process undertaken and allegations of abuses of safeguards on arrest, detention and trial. This context also triggered broader demands for ending impunity, particularly in relation to crimes against humanity and war crimes committed during the war of liberation of 1971, which gathered momentum, but had not elicited a clear response either from mainstream political forces or the Government by year end. In some instances, initiatives were taken to erode the edifice of impunity by re-activating long dormant investigations, whether of corruption or murder, where the alleged involvement of powerful persons had prevented any effective scrutiny. At the same time, new instances of arbitrary application of law were witnessed, and new concerns arose regarding the limits on judicial remedy. The army and intelligence agency’s role under the interim CTG, while more extensive and overt, remained opaque and officially undocumented as before. Indeed, many state structures and practices from the past remain embedded in the system, ensuring continuing impunity for perpetrators of human rights violations and those responsible for abuse of power, and preventing effective redress for violations and blocking possible reforms.

Background to January 2007
Before assessing the human rights record in 2007, it is necessary to review the conditions under which the current interim CTG emerged. This sought to legitimate its existence and the decision to impose a SoE in the wake of spiralling anarchy in the political arena in late 2006. Its stated intention was to resolve a long-standing and violent deadlock between the two main political alliances, the Awami League (AL)-led Fourteen Party Alliance and the recently incumbent Bangladesh Nationalist Party (BNP)-led
Four Party Alliance (and its principal ally the Jamaat-i-Islami). The immediate cause of the political impasse concerned the terms under which parliamentary elections scheduled for 22 January, 2007 would be held. The BNP-led Four Party Alliance’s five year tenure had been marked by rampant corruption, overt politicisation of the judiciary, the bureaucracy and all public institutions, and had left the electoral process deeply compromised. Symptomatic of the broader political culture, the leading opposition parties had largely responded with confrontation and intransigence.

This instability and insecurity, to which there seemed to be no end, escalated as the election date drew nearer, and caused acute hardship to ordinary citizens whose lives and livelihoods were affected by repeated blockades, shutdowns and violent street battles. By the end of 2006, the country appeared to many observers to be on the brink of collapse. In the process, the credibility of the institution of the Caretaker Government, itself designed to bypass partisan politicians and to enable smoother democratic transition, had eroded sharply by the end of the year. Things came to a head following the resignation in mid-December 2006 of four Advisors to the then CTG, who said that they were unable to work towards fair and free elections due to political pressures and who protested the BNP-appointed President Iajuddin Ahmed’s unilateral decision to call the military in aid of the civilian authority. President Iajuddin hastily reconstituted a new set of Advisors with little or no public credibility. His purported appointment of himself in the position of Chief Advisor, and thus the executive head of the CTG in October 2006 was by then under serious legal challenge before the Supreme Court. The crisis continued until 11 January 2007 when -- reportedly under military and international pressure¹ -- President Iajuddin declared an SoE and appointed a new set of advisors to the CTG, headed by Dr. Fakhruddin Ahmed, a technocrat, as Chief Advisor.

**11 January 2007 and after**

Ordinary citizens as well as many members of civil society greeted the initial formation of the interim CTG on 11 January 2007 with a sense of relief and even of optimism. The paradox of emergency rule being welcomed –

at least initially – by the population points to the tremendous disenchantment with politics as usual that had built up in the previous few years. The arrest and trial of ‘high-profile’ politicians for corruption also appeared for the first time to create a dent in the culture of impunity. However, this welcome wore off considerably over the year, as apparent from reports in the media of the CTG’s plummeting popularity among sections of the populace. Issues such as the handling of student protests at Dhaka University, an inability to prevent sharp rises in food prices and other essentials, highly publicized cases of over-reach by intelligence agencies, and the manner and mode of holding the corruption trials, including allegations of selectivity, among other things, have eroded the interim CTG’s standing.

From the outset, the CTG’s stated political agenda was to create conditions that would enable the holding of free and fair elections, and its end goal to hand over power to a democratically elected government regime. In this connection, the Government announced a highly publicized ‘anti-corruption and anti-crime drive’ during which many previously ‘untouchable’ political and business figures were arrested. The Government also initiated a series of institutional reforms: these included the preparation of a more comprehensive and inclusive voter list, re-constituting and then reforming three institutions which had largely lost all credibility due to their incapacity and incompetence in discharging their mandate in accordance with law and their overt bias to the earlier ruling regime, namely the Election Commission (EC), the Public Service Commission, and the Anti Corruption Commission (ACC). The heads of the Election Commission and ACC, respectively Justice MA Aziz and Justice Sultan Hossain Khan, after months of public demands for their resignation, finally attended at Bangabhaban and tendered their resignations. Late in the year, the High Court declared that the appointment of Justice MA Aziz as Chief Election Commissioner while simultaneously holding the post of a sitting judge of the Appellate Division had been illegal and unconstitutional. Significan changes were also made to the Attorney General’s Office, with many of

those who had benefitted from partisan appointments, most particularly the former Attorney General himself, resigning after serious criticisms of their roles while in office. Despite continuing demands from the Bar and civil society to take action with respect to ensuring the integrity of the Supreme Court, and to address the impact of the Court on the partisan removal and appointment of judges, no major steps were taken in this regard till year end; however, one High Court Judge, against whom proceedings had been initiated before the Supreme Judicial Council regarding allegations related to his qualifications for the post, resigned while the proceedings were pending.\(^3\) Citizens’ groups and the media greeted such moves with enthusiasm.

Important legislative developments included the adoption of rules enabling the separation of the lower judiciary from the executive – a process that had been mired in continuing delays under previous governments; reform of the legal framework for corruption prosecutions; revision of the electoral roll, and proposals for electoral reform; and promulgation of the National Human Rights Commission Ordinance, as well as preparation of a draft Right to Information Ordinance and a draft Police Ordinances.

By year end, concerns arose about the substance of these changes, and whether they represented actual structural reforms and could or would be effectively implemented. Concerns about the militarization of institutions were also raised as they were more generally (in relation to the implementation of the Emergency Rules) about the involvement of military in civilian functions such as criminal investigations (in relation to the anti-corruption drive). Other concerns related to the commitment of the political parties once returned to power post-election to continue some of the ongoing reforms including with regard to new legislation on reform of political parties or strengthening institutions and safeguarding them from partisan interference. From a human rights perspective, the most serious concern arose from the blurring of means and ends that took place in 2007 in several critical areas. The approach toward and process of attaining the stated goals of the Government frequently left much to be desired.

\(^3\) Later, the High Court held that the action of the University in cancelling the results of this judge and others candidates on grounds of tampering with marksheets etc after a delay of many years was without lawful authority and should be cancelled: 12 BLC (2007) 679.
The Rule of Law and Due Process under Emergency Rule
The Emergency Powers Ordinance and Rules introduced extensive restrictions on safeguards on arrest and detention as well as providing a speedier trial procedure in special court, with major incursions on due process rights in practice. Notably, the EPR initially precluded the option of bail for anyone arrested under emergency provisions (even following later amendments, any person directly accused of an offence under the EPR could not seek bail directly). Restrictions on the right to seek bail – which effectively ousted the powers of the lower courts to even consider applications for bail in any case falling within the EPR – were unprecedented and resulted in greatly increasing the pressure on the Supreme Court to grant relief. Further, orders given in the exercise of powers vested under the Ordinance were purportedly made immune to review by any court. This prevented the lower courts from giving relief, particularly bail, in such cases, and also limited the Supreme Court’s powers in its criminal jurisdiction. However, the Supreme Court continued – albeit unevenly – to exercise its powers of judicial review, including over such orders. Under the Emergency Powers Orders, the Supreme Court’s powers to hear any matters directly seeking enforcement of fundamental rights was also suspended.

The EPR, used in combination with the Special Powers Act of 1974, vested inordinately wide powers of preventive detention in law enforcement authorities. Under Rule 16(2) of the EPR, individuals could be taken into custody, without the right to seek bail, on suspicion of committing or being likely to commit “prejudicial” acts. There were also reports of individuals being detained by security forces and taken to undisclosed locations for indefinite periods of time, without producing them before a magistrate or even showing them as arrested. In a number of cases, preventive detention orders were issued and then specific charges of corruption or other offences were instituted. Significantly, in most cases, the High Court declared the preventive detention orders illegal, despite the Government’s claim that the High Court’s powers to review such orders had been ousted by the Emergency Rules. However, the Supreme Court stayed such judgments in respect of habeas corpus petitions brought within the Court’s criminal jurisdiction (see section on liberty).
The increased powers given to security forces under the EPR encouraged indiscriminate arrests without warrants. According to some press reports, the number of people arrested in 2007 was estimated to be around 230,074. In moments of crisis such as the August student protests at Dhaka University (see below for details), the state resorted to indiscriminate mass arrests. In this instance, police arrested 200 people but filed 35 cases against an extraordinary number of 82,300 individuals, only 18 of whom were named. Even the general pattern of repeated arrests, already familiar from previous regimes, now occurred on a more frequent basis – first preventive detention without charges, then one or more specific cases. Another familiar form of abuse of process was the immediate re-arrest of a person from the jail-gate, or even earlier, following their release on bail.

The right to a fair trial became another early casualty of the Emergency. The suspension of fundamental rights translated into an enhanced lack of recognition or respect for due process rights, already rarely observed in practice. Under the new legal framework, the investigation and trial of EPR cases were procedurally differentiated from other cases. Emergency provisions were applied retroactively to certain pending cases regarding corruption, financial crimes or other offences brought under the EPR to enable speedier processes of investigation and trial.

**Freedom of Expression, Dissent and Censorship**

The EPO and the Emergency Powers Rules (EPR) both contain wide-ranging provisions that restrict freedom of expression. The interim CTG insisted such provisions would not be applied, although in practice, it invoked these draconian laws on critical occasions to rein in dissent and criticism of the regime. It also employed indirect modes of censorship, by invoking the threat of application of these laws.

In addition to arrests of persons on allegations of corruption, security forces and intelligence agencies used their considerable powers of detention and investigation under the EPR to intimidate dissenters and critics of the regime. These issues are highlighted by the cases of journalists Tasnim

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Khalil, a freelance journalist and stringer for CNN, who was arrested without a warrant and severely ill-treated before being released following intense lobbying on his behalf and seeking asylum abroad, and of Jahangir Alam Akash, who faced several extortion cases (see Box VIII.1 and Box VI.1).

Events surrounding the arrest of Arifur Rahman in September, 2007 further undermined the interim CTG’s record in respecting due process, the right to freedom of expression and stated neutrality toward all political parties. The publication of Rahman’s cartoon, already in circulation, resulted in demonstrations by these groups on the streets openly inciting violence against the publisher, printer and cartoonist (demonstrations being expressly forbidden under the EPR but curiously enough allowed in this instance), and ultimately to his detention and then prosecution on charges of hurting the religious sentiments of a community (see Box IX.1).\(^5\) Demonstrators also demanded the resignation of the publisher and editor of the newspaper which owned the supplement in which the cartoon was published. The editor was obliged to apologise publicly to religious authorities. The trajectory of this case raised troubling questions about who is allowed to speak and which groups are heard under this regime. The public apology of the editor of the newspaper in question points to the general environment of fear and the particular forces to be feared in contemporary Bangladesh.

The Government reacted to the August disturbances not only with a show of force but also by placing explicit curbs on the media. It asked two private television stations, Ekushey TV and CSB News which provided extensive coverage of the campus incident, to refrain from broadcasting any news that was “provocative,” or airing any programs that were critical of the regime. In this case, “provocative” apparently meant critical of the regime. The government eventually cancelled CSB’s broadcasting license on technical grounds.

In general, a climate of fear and self-censorship prevailed in the media. Several newspaper editors and individual journalists reported receiv-

\(^5\) [Ed Note: Arifur Rahman was released following his acquittal, in 2008].
ing phone calls from intelligence agencies asking them not to publish or discuss “provocative” news. Paradoxically, daily talk shows on private television channels, which often included trenchant criticism of the government, proliferated. However, these were at times targeted for censorship whenever the state has felt threatened or vulnerable, and many self-censored themselves and their participants. Security forces and intelligence agencies also used their considerable powers of arrest and detention to silence/intimidate dissenters and critics of the regime. Moreover, as seen in the events surrounding the arrest of cartoonist Arifur Rahman, uncomfortable questions arose about the stated neutrality of the CTG, or sections of it, in relation to Islamist groups. Right wing religious groups were able to organize numerous street protests with impunity in the face of Emergency Rules clearly prohibiting such actions. Meanwhile groups such as garment workers and farmers received very different treatment from the police. Thus, the “cartoon controversy,” along with other incidents, raised troubling questions about who would be allowed to speak and which groups could be heard without threat or obstruction under this regime.

**Freedom of Assembly**

On August 20, an altercation between several students of Dhaka University and army personnel stationed at the university turned violent. Police responded with disproportionate force. Unpredictably and rapidly, the violence spiralled beyond university premises and attracted many non-students. From an original demand to remove army camps from all public educational institutions, the thrust of the protests shifted to calls for the immediate removal of the SoE. When the demonstrations appeared to veer out of control, the Government imposed a curfew on major cities. Whether the protests signalled general disaffection with the regime, as its critics claimed, or was a “conspiracy” to destabilise the country as the gov-

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6 Media outlets owned by members of the previous regime, such as NTV and RTV, have continued to function, although under new management. Questions remain regarding the manner of acquisition by powerful political actors or businessmen close to the past BNP-led Alliance of the proprietorship of some of these broadcasters, such as Channel One or CSB for example.
ernment insisted, is a matter of interpretation. Certainly the manner of ar-
rest of teachers and students of both Dhaka University and Rajshahi Uni-
versity, in particular the treatment in custody of Professor Anwar Hossain,
General Secretary of the Dhaka University Teachers Union, and the ultimate manner of their release, highlighted all too clearly the abuse of proc-
ess endemic under the emergency regime. The response to the event and
its aftermath dramatized the militarist logic underlying the Government’s
law and order agenda.

Continued Marginalisation of the Disenfranchised/Shrinking
Spaces to Voice Concerns
As in other years, 2007 saw numerous instances of the suppression of
workers’ and peasants’ rights, frequently in a coercive and violent manner.
Protesting garment workers were arrested and charged with violating
Emergency Rules prohibiting public demonstrations. In one case police
shot at and killed several jute mill workers in Chittagong. In Khalishpur,
too, the police brutally suppressed workers demonstrating against the clo-
sure of jute mills and their dismissal without payment of arrears. In July,
after protesting farmers attacked an Upazila Parishad office when it ran
out of supplies of desperately needed fertilizer, the state addressed the is-
 sue as one simply of law and order and, instead of addressing their griev-
ances, it filed criminal cases against 5,000 unnamed farmers.

In early January, immediately after the promulgation of Emergency, the
Government launched a highly visible and coordinated series of forced
evictions across the country. The indiscriminate clearance of hawkers from
sidewalks and inhabitants of slums from their homes took place without
any prior notification (as required by law) and without any plans for reha-
 bilitation or compensation. The consequences were devastating for those
who were displaced and whose livelihoods were destroyed overnight. The
evictions were part of the authorities’ campaign to remove illegal structures
and to eliminate “terrorists” from operating in slums. Ironically, in its
drive to establish law and order, the Government violated a host of fund-
damental rights guaranteed in the constitution, including those to life, shel-
ter and livelihood. As in earlier years, Public Interest Litigation (PIL) was critical in protecting the rights of those evicted or in danger of eviction. Notwithstanding, forced evictions by the state occurred throughout the year, even where Supreme Court orders had directed a stay on eviction.\footnote{Ain o Salish Kendra (ASK), \textit{Human Rights in Bangladesh 2006}, ASK, Dhaka, 2007, p23.}

In all these instances, this non-elected government generally acted no differently from its elected democratic counterparts in the past. Some examples pointed to a more responsive approach where clear wrongs were pointed out, for example in the establishment of a high-level \textit{Bosti} Rehabilitation Committee, but the implementation of such initiatives appeared slow and cumbersome. The problem lay in the political and economic structure, and in a state which favours capital against labour. Moreover, a confrontational political culture and the polarisation of civil society have closed off spaces for citizens to express their grievances meaningfully. The practice of citizenship (for those outside the purview of middle class civil society) has been intermittent, unpredictable and mostly muted. The most effective way for marginalized citizens – even within a formal democracy - to be heard is through violent protest. The SoE did not create such conditions or practices, although it may have muted them at least for more marginalized or vulnerable citizens, even more. Ironically, the voices demanding their rights which were heard most insistently in 2007 were those of the sections of the elite – the so-called ‘VIP’ politicians and businessmen -- who had previously been ‘untouchable’ by the law.

Developments throughout the year tended to be negative both for \textit{Pa\-haris} in the Chittagong Hill Tracts (CHT) as well as for \textit{Adibashis} living in the plains. The death in custody of the prominent Garo\footnote{An indigenous community primarily based in the Mymensingh District.} rights activist, Cholesh Richil, was by far the most notable single incident of custodial violence of the year. The gruesome nature of his death, including signs of extensive torture, catalysed national protests, and propelled the case to the international level. Despite this, the findings of the report of the one man Judicial Inquiry Commission ultimately appointed, and any action taken, are not public to date (see Box V.1).\footnote{The suppression of impoverished groups, including ethnic minority populations, who resist mainstream “development” imperatives that threaten their lives and livelihoods is nothing new. Indeed, Cholesh Richil was not the first to have lost his life resisting the ill-conceived Eco Park project; earlier Piren Snal} Press and human rights reports indi-
cate that Richil was targeted for his strident opposition to the Eco-Park project in Madhupur (Tangail District), thereby threatening the interests of powerful business and political lobbies, as well as certain Forest Department officials. In the CHT, the situation deteriorated further. As in earlier years, the expropriation of Pahari land by Bengali settlers continued, apparently with the tacit support of the Army. Targeted arrests of Pahari activists both within political parties, and civil society, was notable, with the well-known environmentalist and community leader, Rang Lai Mro, allegedly subjected to torture following arrest and convicted and sentenced in what has been reported to be highly unfair trial. The extent to which these negative developments were due to the actions and policies of the Government and the degree to which they are the outcome of longer-term policies and measures is difficult to determine. Either way, meaningful demilitarisation in the region or a re-assertion of civil forces in the area would be difficult to achieve under the SoE.

However, developments on the human rights front were not uniformly negative for vulnerable and marginalised groups. The CTG convened the first meeting of the CHT Advisory Committee in seven years and made commitments to proceeding with implementation of the Peace Accord (though few clear steps were taken in this regard). Questions of the cultural and linguistic rights of ethnic minorities also came to the fore.

The situation of religious minorities remained relatively stable. However continuing concerns remained regarding the failure to amend the Vested Property (Return) Act 2001, or to effectively implement it address the issue of systematic expropriation of lands belonging to ethnic and religious minorities.

In contrast to the above, notable progress was made on specific policy issues related to the rights of persons with disabilities. The adoption of the Convention on Rights of Persons with Disabilities (CRPD) by the UN had died in police firing in 2004 while demonstrating against the same development. The case highlights a larger and longer term problem relevant to all regimes, elected or not, about the nature and direction of development.

10 [Ed Note: During 2008, the Government announced that it would activate the Land Dispute Resolutions Commission in the CHT, and also withdrew restrictions on the use of mobile phones in the area].
General Assembly on 13 December 2006 was quickly followed by the Government’s signature and then ratification of the treaty on 30 November 2007 and a number of public commitments were made by the Government to ensure the rights of persons with disabilities.

Unfortunately, the concerns of the more ‘invisible’ minorities remained unaddressed. For instance, *bijra* demands for constitutional recognition as a separate category remain unheard, although they were for the first time enrolled in the electoral roll by the Election Commission (though not in a separate category, as demanded). ¹¹

The Ministry of Women and Children’s Affairs initiated dialogue with activists to further ongoing efforts to frame a law on domestic violence. The Government also undertook a review of the PRSP guidelines on gender. Women’s groups lobbied hard for the government to restore the original version of the National Policy on the Advancement of Women 1997, which had been changed surreptitiously in 2004 under the Four Party Alliance Government to omit many clauses which secured women’s rights, in particular those expressly mandating equality.¹² However, there was little progress in other long-standing demands for legal reforms such as the withdrawal of reservations to CEDAW or amendments to the Citizenship Act of 1951.

Given problems of classification and categorisation, as well as of under reporting, and the absence of reliable statistics, it is difficult to assess progress in the investigation and prosecution of cases of violence against women by the State. Despite such problems, existing statistics allow us to extrapolate overall trends and directions. Trends in violence against women remained relatively unchanged in 2007, although there was a decrease in most categories of violence.¹³ The number of reported rapes and gang-rapes remained troublingly high, although both fell from the previous

¹² [Ed Note: Their efforts came to fruition in March 2008, when the Chief Advisor announced a revised version of the National Policy on the Advancement of Women].
¹³ This corresponds to the results of a survey carried out the BRAC Development Institute which found that a majority of respondents felt crimes against women had decreased in 2007 and attributed this decrease to the existence of the state of emergency: see National Dissemination Seminar on Deepening Democracy, Building Citizenship and Promoting Participation, BRAC Development Institute, 16 July, 2008.
year. Acid attacks went down dramatically. However, a significant proportion of acid-related violence continued to be related to “vengeance” or intimidation attacks and could be traced to disputes over land. The routinisation of violence as a means of dispute resolution, a generalized environment of impunity, especially with respect to crimes against women, and the symbolic use of women’s bodies in larger power struggles, have all contributed in the last decade to keep this kind of violence at shockingly high levels.

Further, these statistics did not reflect important social transformations within ethnic minority communities. Reports suggest that Adibashi and Pa-bari women increasingly faced dowry related violence, a phenomenon unknown in these communities until recently. The incidence of child marriages, also relatively new, is reported to have gone up. One reason for the relative neglect of indigenous women’s issues is their continued marginalisation in the mainstream women’s movement.

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LEGISLATIVE AND INSTITUTIONAL DEVELOPMENTS

On 12 January, the Emergency Powers Ordinance and the accompanying Rules were promulgated, extending the state’s powers to arrest, detain and try persons accused of certain crimes with a focus on corruption and financial crimes, restricting the safeguards on arrest and detention in these cases, and providing for speedier processes of investigation and trial, as and disqualifications on participation in elections for those convicted of such offences. The two Emergency Powers Orders passed on 12 January 2007 prohibited seeking judicial remedies for enforcement of constitutionally guaranteed fundamental rights or the hearing of any such pending petitions. The Emergency Powers Rules imposed extensive restrictions on certain rights, (particularly the right to liberty, safeguards on arrest and detention, freedom of movement, assembly, association, expression and property as well as the right to home and correspondence) with the Orders specifically limiting the right to a constitutional remedy in cases of violations.

Subsequently, the Government also undertook legislation aimed at institutional reform, focused on the separation of the lower judiciary, rehauling electoral laws and procedures, and providing for the establishment of a national human rights mechanism. Other laws passed during the year provided for the establishment of the National Acid Control Council, to monitor the implementation of the Acid Control Act, 2002, 15 and for Mobile Courts, which empower Executive Magistrates and other officers to ‘preserve law and order’ and take timely action to prevent crime.16

15 Section 2 of the Acid Control (Amendment) Ordinance, 2007.
Criminal Justice System and Emergency Rules

The EPRs included an unprecedented and absolute prohibition on the right to seek bail in respect of any offences brought within it (which includes offences under the EPR as well as those under certain other laws). Following public criticism of over-reach, the Emergency Rules were amended on several occasions, first to limit the category of cases in which the EPR special procedures for investigation and trial would apply, and then expressly to allow family members of the principal accused under the EPR to obtain bail.

The Emergency Power Orders No. 1 and 2 prohibit respectively the filing of any new petitions or the hearing of any pending petitions related to the enforcement of fundamental rights. Rule 19E of the EPR provides that no person who is accused or faces investigation in relation to any EPR-related offence may seek a remedy from a higher court in relation to any action taken in the course of the investigation and trial until after the trial process has been completed.

After some initial confusion, the High Court on 22 April, 2007 also gave a judgment holding that it could in exercise of its criminal jurisdiction continue to provide relief, including bail, on a case by case basis, depending on the facts and circumstances involved. Following a Government petition for permission to appeal against this judgment, the Appellate Division on 24 May 2007 stayed the judgment pending hearing of the appeal. As a consequence, it was not possible, with respect to EPR-related cases, to invoke the High Court’s powers to grant bail or to quash of proceedings on the ground of abuse of process (under Sections 439, 497, 498 and 561A of the Code of Criminal Procedure) in its criminal jurisdiction, except on very limited grounds. However, the Supreme Court continued to exercise its powers of judicial review (as distinct from its powers to enforce fundamental rights) to provide such remedies during the year.

17 ASK Bulletin, June 2007, at p.12. [Ed Note: The Appellate Division in State v Moyezuddin Sikder, judgment dated 23 April 2008, held that the High Court has no jurisdiction to grant bail in the case of any case filed under Rule 19(Gha) of the EPR unless the case is filed mala fide, or not by the proper authority, but may do so in respect of cases filed under Rule 16(2)].
The EPRs also established specific time-limits for trials to be held in Speedy Trial Courts, or Special Tribunals, and provided for special rules of evidence to be applied, as well as limiting rights to bail pending appeal.\textsuperscript{18} Notably, Emergency Rules could be applied retroactively. In other words, offences committed before promulgation of the EPR could be brought within their ambit.\textsuperscript{19}

**Anti-Corruption Commission Act**

The Anti-Corruption Act 2004 was amended twice during the year. The first amendment on 18 April 2007\textsuperscript{20} introduced several new sections, of which section 18(2) empowered the commission to give ex post facto approval of any action taken by any officer of the commission between 7 February and 24 February, 2007 without its prior approval, and section 21 empowered any officer of the commission to arrest anyone on suspicion of corruption without any warrant and even before filing of a case against the person. Further, the new section 28(ka) declared any offence under the act to be cognisable and non-bailable.\textsuperscript{21}

The second amendment on 22 November 2007 which was given effect from 9 May 2004\textsuperscript{21} replaced section 3(2) stating “the Commission will be an independent, autonomous and neutral commission.”

In earlier years, the lack of independence of the ACC had been a cause of widespread criticism in the media and within civil society, and early steps

\textsuperscript{18} Section 2 of the Ain-Srinkhola Bighnokari Oporadh (Druto Bichar) (Amendment) Ordinance, 2007 [Law and Order Disruptive Offences Act (Speedy Trial) (Amendment) Ordinance] establishes a 30 day time limit for trial of offences (to be calculated from the date of lodging a complaint at the court). Section 3 of the Criminal Law (Amendment) Ordinance, 2007 provides that the Special Judge shall conclude the trial of an offence within forty-five days from the date of taking of cognizance, and if this is not possible shall do so within a further fifteen days, after recording appropriate reasons in writing, conclude the trial within the fifteen days thereafter.

\textsuperscript{19} Section 3(4) of the Emergency Powers Ordinance, 2007.


\textsuperscript{21} [Ed. Note: A Division Bench of the High Court Division (comprising Justice Khaledul Islam Chowdhury and Justice Mashuque Hosain Ahmed) on 4 August 2008 issued a rule to explain in two weeks why the Anti-Corruption Commission (Amendment) Ordinance 2007 promulgated on April 18, 2007 should not be declared unconstitutional. The High Court passed the order after hearing a public interest litigation writ petition filed by Supreme Court lawyer Ahsanul Karim challenging the legality of the Anti-Corruption Commission (Amendment) Ordinance 2007. (See Prothom Alo, The Daily Star, Shamshad and New Age, 5 August 2008).]

\textsuperscript{22} The Anti-Corruption Commission (Second Amendment) Ordinance 2007, Ordinance 34 of 2007, dated 22 November 2007.
were taken in 22 February 2007 to make new appointments to the ACC of the former adviser to the caretaker government and ex-army chief Lt General (retired) Hasan Mashhud Chowdhury as the chairman, and former district judge M Habibur Rahman and former National Board of Revenue (NBR) member Abul Hasan Manjur Mannan as the commissioners.

Separation of the Judiciary
A decade after the landmark Appellate Division judgment in Masdar Hossain’s case, and after both previous elected Governments had failed to take such action, the Government finally promulgated laws to put in place the long standing demand for establishing a legal and administrative framework for separation of the lower judiciary from the executive. On 10 January, a full bench of the Appellate Division had directed the then Attorney General AJ Mohammad Ali to publish notifications within a week in the official gazette with respect to the remaining sets of Rules earlier framed for effecting separation of the judiciary. Curiously, the then Attorney General more or less openly conferred with the former Four Party Alliance law minister, Moudud Ahmed, before deciding to seek, and obtain, a further adjournment in the case. However, after the change of personnel in the CTG, and the appointment of Dr. Fakhruddin as Chief Advisor, the Government in a landmark move on 16 January, 2007 published the gazette notifications of the four sets of Rules. These four rules were the Judicial Service Commission Rule 2002, Bangladesh Judicial Service Pay Commission Rule 2002, the Bangladesh Judicial Service (Service Constitution, Composition, Recruitment Suspension, Dismissal and Removal) Rules 2002 and the Bangladesh Judicial Service

23 In 1999, the Supreme Court had issued its 12-point directives in the Masdar Hossain case to ensure separation of judiciary from the executive. Notable points included: (a) the establishment of the Judicial Service Commission with a majority of members to be recruited on merit from senior judges of higher and lower judiciary; (b) Rules to be made to comply with the requirements of Article 115 of the Constitution for the control and discipline of the judicial officers giving primacy of the Supreme Court over the Executive; and (c) the establishment of a Judicial Pay Commission to ensure the financial independence of the judiciary. Secretary, Ministry of Finance v. Masdar Hossain, 2000 BLD (AD) 104; Secretary, Ministry of Finance v Masdar Hossain (1999) 52 DLR (AD) 82; Masdar Hossain v Secretary Ministry of Finance (2000) 52 DLR, 94-108.
(Posting, Promotion, Leave, Control, Discipline and other Service Condition) Rules 2001.\textsuperscript{27} Amendment of the over one century old Code of Criminal Procedure provided for the establishment of a separate executive and judicial magistracy and also for the respective magistrates’ appointments, duties and hierarchies.\textsuperscript{28} With the institutional structure in place, and with some reports of an increase in disposal of cases,\textsuperscript{29} there nevertheless remains much to be done in terms of ensuring a truly separate judiciary in terms of ensuring that the lower judiciary are protected from all ‘extraneous influences’, and in terms of changing attitudes and mindsets to foster a culture of independence, as well as to provide mechanisms to ensure the integrity and efficiency of the system in delivering justice.

**National Human Rights Commission Ordinance**

Two years after its initial commitment to the UN Human Right Council, the Government finally promulgated the National Human Rights Commission Ordinance, 2007. The proposed Commission is to consist of one chairperson and two members, including a current or retired judge of the Supreme Court. The President, with the advice of the Selection Committee, will appoint the members of the Commission. The Commission’s powers include investigation of human rights abuses, mediation in specific cases, recommendations to the appropriate authority to take legal action, and in very limited cases referrals to the Supreme Court, as well as more general powers to disseminate information and create awareness of human rights. ASK and other human rights organisations and activists have raised a number of questions regarding the capacity of the proposed NHRC to function as an effective human rights watchdog.\textsuperscript{30} Two main concerns include the composition of the six member selection committee, which is executive-heavy;\textsuperscript{31} and the

\textsuperscript{29} See report of 33,104 cases disposed of in November alone: *Ittefaq*, 03 December, 2007.
\textsuperscript{30} Press statement by ASK and Transparency International Bangladesh (TIB), Reporter’s Unity Conference Room, 30 December, 2007. Also see http://askbd.org/web/.
\textsuperscript{31} The six member selection committee is to be constituted by a Supreme Court judge, the Cabinet Secretary, the Attorney General, the Accountant General, the Chairman of the Public Service Commission (PSC) and the Secretary of the Ministry of Law, Justice and Parliamentary Affairs. There is no Member of Parliament Member included in the Selection Committee (Section 6 of the Ordinance).
fact that the NHRC has no jurisdiction to investigate cases which are already pending in a Court or Ombudsman or Administrative Tribunal.  

**Voter List**

Regarding electoral reform, the Electoral Rolls Ordinance, 2007 repealed the Electoral Rolls Ordinance, 1982 and created provisions to facilitate the current voter registration process.  

Major steps were taken to proceed with the voter listing process throughout the year, with progress being made in including communities who had earlier been excluded, and special facilities being provided for among others persons with disabilities. As noted in the overview, early in 2007, the Election Commission which had been the centre of controversy during the political crisis of 2006, was re-constituted with new appointments to all three positions, with Dr. ATM Shamsul Huda, a retired senior civil servant being appointed as Chairperson and Muhammed Sohul Hussain and Brigadier General Muhammad Sakawat Hussain (Retd) as Commissioners.

**Local Government**

Several changes were made to laws concerning local government. Powers to suspend or remove local government officials, pending proceedings against them, were also provided to prescribed authorities, with the previous approval of the Government, and provisions made for their handing over powers to Commissioners to be appointed in their stead. These laws contained ouster clauses purporting to restrict any judicial scrutiny of orders made under them. Provisions were made for panels to be appointed within each City Corporation, to include one woman elected to a reserved seat, and to function in place of the Mayor in case of his/her absence.

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32 Section 11(2) of the National Human Rights Commission Ordinance 2007.
33 Ordinance 18 of 2007.
34 See the *Paurashava (Amendment) Ordinance*, 2007, Ordinance 21 of 2007.
35 See Chittagong City Corporation (Amendment) Ordinance, the Dhaka City Corporation (Amendment) Ordinance, the Khulna City Corporation (Amendment) Ordinance, the Rajshahi City Corporation (Amendment) Ordinance, the Sylhet City Corporation (Amendment) Ordinance, the Barishal City Corporation (Amendment) Ordinance, 2007.
JUDGMENTS ON FUNDAMENTAL RIGHTS

This report usually reviews judgments of the Supreme Court on human rights protection. Given the operation of the Emergency Powers Orders Nos. 1 and 2 from 12 January, which suspended filing or hearing of petitions for enforcement of fundamental rights, the Supreme Court gave no new judgments during the year on enforcement of human rights (although it considered human rights issues indirectly by way of judicial review). This chapter is therefore limited to judgments decided earlier but reported in 2007, along with orders in public interest petitions issued during the year.

**Equal protection of the law:** The High Court held that Rule 8 of the Police Officers Ordinance 1976 Regulation 861 was unconstitutional, on the ground that it allowed for arbitrary imposition of punishment, either under the Ordinance or the more lenient Police Regulations of Bengal, resulting in violations of the equal protection of law.\(^{36}\)

**Religious discrimination:** The High Court held that Muslim law of pre-emption regarding urban property is discriminatory inasmuch as it places a Muslim citizen at a higher plain than non-Muslim citizens and this also affects the secular nature of the Republic. Specifically, it held that the Muslim law of pre-emption insofar as it relates to urban property is void on the ground that it discriminates between citizens on the ground of religion and faith, as under section 24 of the Non-Agricultural and Tenancy Act 1949 a non-

Muslim contiguous land holder cannot maintain an action for pre-emption but a Muslim can.\textsuperscript{37}

**Right to life**: The Court built on its earlier case law holding that the right to life includes the right to livelihood and requires the state to provide alternative resettlement to slum dwellers prior to eviction. It also opened a new dimension in its right to life jurisprudence holding that the failure of state authorities, including local authorities to ensure access to safe and portable water constituted a violation of the right to life as guaranteed by Articles 31 and 32 read together with Articles 15 and 18 of the Constitution.\textsuperscript{38}

**Right to liberty**: The High Court held that detention in safe custody against the will of a detained person was illegal.\textsuperscript{39}

**Safeguards on arrest, legal aid**: The failure to ensure legal aid for a prisoner facing a death penalty until after closure of evidence of the first witness violated not only the relevant provisions of criminal procedure, but also Article 33 guaranteeing safeguards on arrest and detention, in particular the right to legal counsel.

**Fair trial**: The Appellate Division held that after a conviction under martial law, directing a fresh trial would infringe the right under Art 35(2) of the Constitution, and would not be in interests of justice.\textsuperscript{40} The High Court also held that the sanction issued by the Government required to prosecute certain cases must be based on the materials on record, or would otherwise constitute an incurable defect preventing the trial from proceeding.\textsuperscript{41}

A series of judgments were reported on the issue of juveniles in detention, the most important holding that young offenders have the right to be tried in juvenile court,\textsuperscript{42} and that a child above nine and below fourteen

\textsuperscript{38} Rabia Bhiyoon MP v Ministry of LGRD and others, 59 DLR (207) (AD) 176, judgment dated 27 August, 2005, para 7 at p. 448.
\textsuperscript{40} Mohammad Ullah v Sessions Judge, Noakhali and others, 12 MLR (2007) (AD) 351, judgment dated 22 November, 2005.
\textsuperscript{42} State vs Md. Roushan Mondal @ Hashem (Criminal), 59 DLR (2007) 72, judgment dated 9 July, 2006.
years of age who has not attained sufficient maturity of understanding to judge the nature and consequences of his conduct would be exempted from criminal liability. Another judgment held in any case where the accused claims to be below 16 years at the time of trial, there is a duty placed on the court to investigate his/her age to determine the appropriate forum, and that this duty is pursuant to the mandate under Article 28(4) of the Constitution to take special measures for the protection of children.\textsuperscript{43}

\textbf{Public interest litigation}: New public interest cases were filed seeking accountability of state actors for their failure to implement their legal obligations, among others in relation to workplace deaths, resettlement of slum dwellers prior to eviction, and continued imprisonment of foreign prisoners who had served out their sentences, as well as children in prisons. The orders issued by the High Court in such cases are discussed in the relevant chapters below.

\textsuperscript{43} Rahmatullah (Md) v State (Criminal), 59 DLR (2007) 520, judgement dated 5 April, 2007, para 12 at p. 522. See however, Masud Rana (Md) alias Babu v State, 59 DLR (2007) 196, in a case under s561A of the Code of Criminal Procedure, where it was held that any objection regarding the age of a child should be raised at trial, and would not be available if the child’s age exceeds the age limit during continuation of trial, as s/he would then be a misfit if ordered to be sent to a reformatory school along with other offenders instead of a jail.
IMPUNITY

The culture of impunity, having grown consistently over four decades and been reinforced periodically, following the initial failure to prosecute effectively those responsible for war crimes and crimes against humanity during the Liberation War, appeared to be briefly questioned in the first stages of the Anti-Corruption and Crime Drive, as persons known to be wholly beyond the reach of the law were finally arrested and put on trial. However, the manner in which these cases continued, with frequent challenges on due process grounds, and selectivity in prosecutions, as well as the failure to launch a similar drive on accountability for human rights abuses, indicated that this drive could not be seen in itself as addressing the problem at its roots. At the same time the failure to hold any investigations or prosecutions for past or ongoing allegations of human rights violations - most notably in the case of reports of extra-judicial executions, further embedded and reinforced impunity in practice.

While progress was made in a few cases, for example in concluding the trials of those found responsible for the extensive bomb attacks across the country in 2005, many other long-running cases remained in the court dockets. Public campaigns on the issue of accountability for war crimes also gathered momentum, with the Sector Commanders Forum spearheading demands for establishing a Special Tribunal for this purpose.

The section below highlights developments in a few key cases regarding the assassinations of national leaders, and killings of politicians and academics and journalists and of human rights defenders in which proceedings have remained pending for years, and in some cases decades.

Bangabandhu Murder Case: After a lapse of over six years since the appeal against conviction and sentence by those responsible for the assassination of
former President Sheikh Mujibur Rahman and the murder of his family members in August 1975, the new Chief Justice, Md Ruhul Amin, convened a bench of three judges to begin hearing the appeals. On 7 August, the hearings began, and on 23 September, leave was granted to appeal against the High Court’s judgment. One of the appellants, Major (retd) Mohiuddin, was extradited from the USA on 17 June to stand trial, and on 16 September 2007, after condoning the delay, the Appellate Division granted his petition to file a petition for leave to appeal against conviction and sentence, and stayed the death penalty awarded against him in the meantime. Regular appeals were filed by October 2007.

**Killing of Shah AMS Kibria:** On 27 March 2005, Awami League leader and former Foreign Minister, Mr Kibria was murdered following a grenade attack on a public meeting in Habiganj. On 12 December, in the presence of the Home Secretary, the Committee on Monitoring of Sensational Murder Cases directed re-investigation of the case. However Mr Kibria’s widow, Asma Kibria, expressed serious concerns that re-focusing the investigation process on the involvement of the Islamist militant group Harkat-ul-Jihad’s possible involvement in the murder was meant to obscure the involvement of senior officials of the former ruling BNP-Jamaat Coalition.

**Killing of Professor Taher:** Prof. Taher, of the Geography and Minerals Department of Rajshahi University (RU), was murdered on 1 February 2006; his body was found on 3 February in a manhole on campus. His son, Sanjid Tanvir Ahmed Alvi, filed a murder case on 3 February 2006, but charges were finally framed against the accused in the Special Tribunal only on 18 June 2007 against Assistant Professor Miah Md Mohiuddin of the Geography and Minerals Department, the former Secretary of Islamic Chattro Shibir of RU, Mahbub Alam Salehi, and the caretaker of Prof. Taher’s home, among others. The Court heard 19 witnesses in July. At this point the Trial Court Judge expressed his ‘embarrassment’ to continue further hearings and the record was forwarded to the Sessions Court in Rajshahi. On 17 October, the case was transferred by government order to the Speedy Trial Tribunal in Rajshahi, but due to some errors on the record the Speedy Trial Tribunal refused to accept the case into its dockets. The Sessions Court gave an order on 7 October holding that this error on the

44 Lt Col (retd) Syed Faruk Rahman, Lt Col (retd) Sultan Shahriar Rashid Khan, Lt Col (retd) Mohiuddin Ahmed, Major (retd) Bazlul Huda and Major (retd) AKM Mohiuddin all obtained leave to appeal.


record should be corrected from a higher court, and the entire process was suspended for a further three months.  

Killing of Manik Saha: Manik Saha, a well known journalist, was killed on 15 January 2004 in a bomb attack near the Khulna Press Club. Two separate cases were filed by SI Ranjit Kumar on 17 January in Khulna Police Station, Khulna. On 20 June 2004, the police submitted a charge-sheet against 14 persons. On 22 December 2004, the case was sent to the Speedy Trial Tribunal, Khulna. On 4 January, the Court started hearing evidence, and on 11 April 2005, after hearing evidence from fourteen witnesses, the Judge ordered re-investigation. On 11 November the next year, the intelligence branch of the Khulna Metropolitan Police was given responsibility in this matter. According to news reports, the officer concerned has stated that the terms of reference of this investigation were not specified by the Court.  

The Detective Branch filed an additional charge sheet in November 2007.

17 August 2005 Grenade Attack on Courts: On 17 August 2005, about 500 bomb explosions took place in courts across the country, for which the heretofore unknown underground Islamist organisation, the Jamatul Mujahideen Bangladesh (JMB) claimed responsibility. The headlines of leaflets left at the site of all the blasts, declared ‘We demand Allah’s Law’. A total of 154 cases were filed in relation to these incidents, and the investigation in 27 of these has not yet concluded. Trials have begun in only 16 of the cases. A source from the Police Intelligence Unit, Criminal Investigation Department (CID) was quoted in the press as stating that out of 45 cases relating to the bomb attacks in or around Dhaka, the trial has concluded in only one, with no charge sheets having been submitted in 14 cases, and 30 cases remaining under-trial.

21 August 2004 Grenade Attack on AL Rally, Killing of Ivy Rahman and others: Three years into the August 21 grenade attack on an Awami League (AL) rally which killed AL Women’s Secretary Ivy Rahman, the investigation has barely progressed. Reportedly the current investigations are focused on a group of Afghan war veterans led by Mufti Abdul Hannan of the Harkat-ul Jihad, and their

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47 Noya Digonto, 8 January, 2008. [Ed Note: In May, 2008, the Rajshahi Speedy Trial Tribunal convicted four persons of the killing of Prof. Taher, namely, Rajshahi University (RU) teacher Dr Mia Mohammad Mohiuddin, the caretaker at Taher’s residence Jahangir Alam, his brother Abdus Salam and brother-in-law Nazmul. The Tribunal acquitted two of the accused, former RU Islami Chhatra Shibir president Mahbubul Alam Salehi, and Jahangir’s father Azimuddin Munshi, see Prothom Alo, 23 May 2008.]
confessional statements admitting involvement in other grenade attacks (for example on the British High Commissioner, Sylhet City Corporation Mayor Badruddin Ahmed Kamran, and an AL rally led by Suranjit Sengupta). Investigators claim that they were not able to obtain evidence corroborating the confessional statements earlier made by Joj Miah and the other two accused, and made new claims implicating the Harkat-ul-Jihad. However, there were real concerns about whether the investigation would be completed successfully.

**Piren Slan murder case:** The three-year old murder case of Piren Slan, an Adibashi leader, resumed on 13 July. A Magistrate’s court in Tangail ordered the Officer-in-Charge (OC) of Modhupur Police to record the case. Slan was killed when police opened fire on a procession of Adibashi people protesting against a proposed eco-park which would have adversely affected the habitation and livelihood of the indigenous communities in that area. Earlier, when a judicial enquiry report had concluded that the police or the forest-guards were not responsible for his death, Piren’s father filed a ‘naraji’ petition [petition of objection], which was ultimately accepted by the Magistrate.

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51 “Aug 21 Grenade Attack: No headway in probe for last government’s insincerity”, *The Daily Star*, 21 August, 2007. [Ed Note: On 11 June 2008, the police submitted a supplementary charge sheet before the Dhaka Chief Metropolitan Magistrate’s Court against 22 persons including Mufi Hannan of the Harkatul Jihad, former State Minister of the BNP Government, Abdus Salam Pintu and his brother Moulana Tajuddin. The names of twenty persons were not sent up in the charge sheet including Joj Miah and Saibal Saha Partho – earlier falsely accused and ill treated (see on Partha, ASK, *Human Rights in Bangladesh 2005* at p53. Partho was was discharged from the case on 18 June 2008 following a petition on his behalf by ASK).]
53 An application declining to accept the conclusion of the report discharging the accused persons of criminal liability.
The constitutional guarantee of the right to life, that is the right not to be deprived of life save in accordance with the law, cannot be suspended or derogated from under any circumstances. However as in earlier years, state security forces reportedly continued to be responsible for extra-judicial killings in the form of “cross-fire deaths”, and for custodial killings, and also to be responsible for the loss of lives of among others, women and workers through failure to enforce existing laws, and for loss of livelihood of slum dwellers.

Extra-Judicial Executions
Both before and after the Emergency, extra-judicial killings by the joint security forces continued unabated. There were reportedly 180 alleged extra-judicial executions by security forces, including the killing of 155 persons in what were deemed by both newspapers and the authorities to be incidents of ‘cross-fire’. As Table No. V.1 below shows, the number of ‘cross-fire’ deaths while in custody fell dramatically, from 196 in 2006 to 34 in 2007. However, ‘cross-fire’ deaths before arrest went up somewhat from 62 in 2006 to 81 in 2007. In the first six months of 2008, 54 deaths through “cross-fire” were reported. Only four such deaths in custody took place. The rise in ‘cross-fire’ deaths occurring before a person is taken into custody provoked uncomfortable questions as to whether this shift in patterns reflected an attempt to reduce the responsibility of the concerned agencies for such killings.
Table V.1: Extra Judicial Killings from 2004 to June 2008\textsuperscript{54}

<table>
<thead>
<tr>
<th>Year</th>
<th>2004</th>
<th>2005</th>
<th>2006</th>
<th>2007</th>
<th>2008 (till June)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Crossfire (without arrest)</td>
<td>46</td>
<td>94</td>
<td>62</td>
<td>81</td>
<td>54</td>
</tr>
<tr>
<td>Crossfire (in custody)</td>
<td>88</td>
<td>260</td>
<td>196</td>
<td>34</td>
<td>4</td>
</tr>
<tr>
<td>Physical torture (without arrest)</td>
<td>3</td>
<td>1</td>
<td>7</td>
<td>9</td>
<td>2</td>
</tr>
<tr>
<td>Physical torture (in custody)</td>
<td>23</td>
<td>11</td>
<td>26</td>
<td>18</td>
<td>7</td>
</tr>
<tr>
<td>Shot (without arrest)</td>
<td>33</td>
<td>11</td>
<td>61</td>
<td>24</td>
<td>5</td>
</tr>
<tr>
<td>Shot (in custody)</td>
<td>12</td>
<td>-</td>
<td>-</td>
<td>14</td>
<td>1</td>
</tr>
<tr>
<td>Suicide (as claimed by the police after arrest)</td>
<td>2</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>1</td>
</tr>
<tr>
<td>Total</td>
<td>207</td>
<td>377</td>
<td>352</td>
<td>180</td>
<td>74</td>
</tr>
</tbody>
</table>

Table V.2: Extra Judicial Killings by Law Enforcing Agencies in 2007\textsuperscript{55}

<table>
<thead>
<tr>
<th>Force/Agency</th>
<th>RAB</th>
<th>RAB &amp; Police</th>
<th>Police</th>
<th>Joint Forces/Army</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>&quot;Crossfire&quot; (not arrested)</td>
<td>59</td>
<td>2</td>
<td>20</td>
<td></td>
<td>81</td>
</tr>
<tr>
<td>&quot;Crossfire&quot; (in custody)</td>
<td>19</td>
<td>1</td>
<td>14</td>
<td></td>
<td>34</td>
</tr>
<tr>
<td>Physical Torture (not arrested)</td>
<td>2</td>
<td></td>
<td>5</td>
<td>2</td>
<td>9</td>
</tr>
<tr>
<td>Physical Torture (in custody)</td>
<td>2</td>
<td>11</td>
<td>5</td>
<td></td>
<td>18</td>
</tr>
<tr>
<td>Shot (before arrest)</td>
<td>9</td>
<td></td>
<td>15</td>
<td></td>
<td>24</td>
</tr>
<tr>
<td>Sick (in custody)</td>
<td>9</td>
<td></td>
<td>5</td>
<td></td>
<td>14</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>91</td>
<td>3</td>
<td>74</td>
<td>12</td>
<td>180</td>
</tr>
</tbody>
</table>

In one case, Saju, a member of the Awami Jubo League, died on 3 March, 2007 reportedly after being detained at the Narayanganj Fatullah Army Camp for around 30 hours. He had been not produced before the Court within the stipulated 24 hours after arrest. Nor had his family members been informed of the reasons for his arrest. During his detention he was not allowed to meet anyone. Camp officials stated that he had died of heart failure, but family members insisted that this was not the case. ASK wrote to the authorities seeking an investigation into the incident and demanding legal action against any person found responsible for Saju’s death. It has not received any response to date.\textsuperscript{56}

\begin{footnotesize}
\begin{itemize}
\item \textsuperscript{54} ASK Documentation Unit, Statistics compiled from 13 national dailies.
\item \textsuperscript{55} ASK Documentation Unit.
\item \textsuperscript{56} ASK Investigation Report, 5 March, 2007.
\end{itemize}
\end{footnotesize}
In another case, on 14 June, 2007 Taushid Ali, 26 years, and Raju, sons of the late Taleb Ali, were arrested from their grocery store by the Joint Forces\(^57\) and were produced in Kulaura Police Station Moulavibazaar. On 16 June they were sent to court and from there to jail custody. Later they were sent in a critically ill condition first to Moulvibazar Sadar Hospital and then to Osmani Medical College Hospital. On 23 June, Touhid died. Eyewitnesses to his arrest and detention stated that they believed that he had been severely beaten in custody.\(^58\)

ASK investigated several alleged extra-judicial killings during the year.

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**BOX V.1: Cholesh Richil, age 40, Modhupur:** On 17 March 2007, Cholesh Richil, a noted environmental activist and Garo community leader was returning home with three other persons from a wedding when he and his companions were arrested at Kalibari in Muktagacha and taken to an army camp in Kakrail. At about 5 pm, the three persons travelling with Richil were released from custody. Both Richil and Pratap Jambil were allegedly tortured brutally. Later that night Richil’s family was informed by the authorities that he had died. When they received his body the next day they found it covered in bruises and cuts and other signs of violence.\(^59\) Richil’s wife tried to lodge a First Information Report (FIR) at the Madhupur Police station. The official on duty refused to record the FIR, instead recording an entry of an unnatural death case.\(^60\) ASK’s repeated demands, along with those of others, led to the Chief Advisor’s announcing establishment of a Judicial Inquiry Commission, but further demands to publish the Report of the Commission and to bring to justice those responsible for Cholesh’s killing have gone unheeded.

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\(^57\) Comprising the Armed Forces, Bangladesh Rifles and the police.
\(^58\) ASK Investigation Unit.
\(^60\) UD Case No. 02 of 2007, dated 18 March 2007.
Deaths in Prison

News reports suggested that a total of 106 persons died in prisons across the country, of whom 67 were under-trial prisoners, and 39 were convicts. There was no official information available regarding the causes of their deaths, or the holding of any related inquiries by the authorities.

Table V.3: Deaths of Prisoners in Jail in 2007

<table>
<thead>
<tr>
<th>Division</th>
<th>Under trial Prisoners</th>
<th>Convicted Prisoners</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dhaka</td>
<td>22</td>
<td>12</td>
</tr>
<tr>
<td>Chittagong</td>
<td>12</td>
<td>3</td>
</tr>
<tr>
<td>Rajshahi</td>
<td>13</td>
<td>8</td>
</tr>
<tr>
<td>Khulna</td>
<td>12</td>
<td>12</td>
</tr>
<tr>
<td>Barisal</td>
<td>4</td>
<td>1</td>
</tr>
<tr>
<td>Sylhet</td>
<td>4</td>
<td>3</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>67</strong></td>
<td><strong>39</strong></td>
</tr>
</tbody>
</table>

Death Penalty

According to ASK sources, in the last seven years a total of 30 death sentences were carried out.  

In the absence of published official information, news reports suggest that 188 death sentences were awarded by courts across the country during 2007, and that some 953 prisoners were sentenced to death during the year, as opposed to some 900 prisoners in 2006; amongst them were the 27 JMB members convicted of the August 2005 bomb attacks in courts across the country. On 29 March, seven members of the JMB convicted of murder for carrying out the bomb attacks in courts all across the country as well as the November 2005 bomb attack which killed two judges in Jhalakathi, were hanged. The refusal to allow the convicts an opportunity

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61 ASK Documentation Unit.
62 The death penalty remains on the statute books, in relation to offences under, for example, the Penal Code 1860, the Special Powers Act 1974, the Nari-O-Shishu Nirjaton Domon Ain 2000, the Narcotics Control Act 1990, the Official Secrets, Act 1923, the Arms Act 1878 and the Explosives Act 1884. [Ed Note: The death penalty has also been provided for terrorism related offences under the Anti-Terrorism Ordinance 2008].
to make a last statement gave rise to media speculation that they were precluded from disclosing sensitive information regarding their sources of financing, access to explosives and, significantly, their links with existing powerful interest groups.64

**Violence between Political Party Cadres**

In a dramatic contrast to previous years, there was a significant reduction in deaths and injuries resulting from internecine political conflict among the major parties. This was not perhaps unexpected given the restrictions on political activities under the SoE. According to news reports, there were 38 incidents of such conflict, some seven persons were killed, and another 1,153 injured. Most of these incidents occurred in less than a fortnight, before 11 January 2007, when tensions were running especially high and when political activities were still ongoing.

<table>
<thead>
<tr>
<th>Political Parties</th>
<th>Incidents</th>
<th>Injured</th>
<th>Killed</th>
</tr>
</thead>
<tbody>
<tr>
<td>AL – BNP</td>
<td>21</td>
<td>325</td>
<td>6</td>
</tr>
<tr>
<td>AL - Shibir</td>
<td>1</td>
<td>10</td>
<td>-</td>
</tr>
<tr>
<td>AL - Jamaat</td>
<td>2</td>
<td>23</td>
<td>-</td>
</tr>
<tr>
<td>BNP – LDP</td>
<td>1</td>
<td>6</td>
<td>-</td>
</tr>
<tr>
<td>Jamaat - LDP</td>
<td>1</td>
<td>1</td>
<td>-</td>
</tr>
<tr>
<td>Mohajot (AL Allaince) - 4 Party Alaince</td>
<td>1</td>
<td>40</td>
<td>-</td>
</tr>
<tr>
<td>Oborodh (Blockade)</td>
<td>3</td>
<td>650</td>
<td>-</td>
</tr>
<tr>
<td><strong>Sub Total</strong></td>
<td><strong>30</strong></td>
<td><strong>1055</strong></td>
<td><strong>6</strong></td>
</tr>
</tbody>
</table>

**Intra-party Clashes in 2007**

<table>
<thead>
<tr>
<th></th>
<th>Incidents</th>
<th>Injured</th>
<th>Killed</th>
</tr>
</thead>
<tbody>
<tr>
<td>BNP- BNP</td>
<td>7</td>
<td>78</td>
<td>1</td>
</tr>
<tr>
<td>AL- AL</td>
<td>1</td>
<td>20</td>
<td>-</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>38</strong></td>
<td><strong>1153</strong></td>
<td><strong>7</strong></td>
</tr>
</tbody>
</table>

**Workplace Deaths**

Reports of 229 workplace deaths were noted, with the vast majority in the construction industry; other high risk industries include ship breaking and manufacturing. While these deaths went largely unnoticed, the death of fifteen

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65 ASK Documentation Unit.
workers during the demolition by RAJUK of the multi-storied Rangs Bhaban, caused widespread shock. The demolition started the day after the Appellate Division had held that the floors above the sixth story of the building had been constructed illegally without obtaining the necessary permission from RAJUK. The apex court hearing took place in the context of widespread media criticism of the state’s failure to act against illegal constructions by powerful companies, given that it had been only too quick to demolish the huts of slum dwellers. Ironically, RAJUK’s failure to act in compliance with its legal obligations, was first demonstrated by its failure to act against RANGS for so many years, and second horrifyingly by its failure to observe construction safety laws. The grim result was that on 5 August, one worker fell to his death from the seventh floor of the building, while trying to demolish it manually with hammers and other instruments. On 8 December, another fourteen workers were killed when the building’s roof collapsed.66

Medical Negligence
According to news reports, some 126 persons including 34 children died as a result of medical negligence. Reportedly some 18 cases were started in relation to these incidents, but their outcome by year end was not known.67

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67 ASK Documentation Unit.
Threats to Livelihood

**Hawkers:** The forcible evictions of hawkers from footpaths across the country -- without any notice, or offer of compensation or alternative spaces -- caused severe disruptions to the livelihoods and basic survival. The Government’s logic in carrying out the evictions appeared to be that the hawkers were illegally occupying these spaces and obstructing traffic or pedestrian movements. Following widespread protests from the media and human rights defenders, the Government eventually established five holiday markets in Dhaka city, where hawkers were permitted to trade on specified days of the week. This step was grossly inadequate to meeting the needs of the thousands who had been affected by the evictions. Hawkers competed to secure the few available spaces, sometimes with appalling consequences: in one incident, two hawkers were reportedly run over and killed by a pick-up while they were lying on a footpath in order to occupy the space for their trading.68

**Jute Mill Workers:** In the name of saving the jute industry, the Government embarked on a programme of closures and lay-offs, with severe consequences for thousands of workers. On 1 August, a lay-off was declared in relation to four nationalised jute mills. When a lay-off was declared earlier on 15 April, workers immediately held protests demanding arrears in wages and benefits due to them from Platinum, then Crescent, Star and People’s Jute Mills. On 21 April, Abdur Rahman Munshi, 54, a worker of Platinum Jute Mills was killed, allegedly following police assault. Another ten workers reportedly died of hunger and lack of medical care.69 A national relief committee was established by the workers to start a *langarkhana* (soup kitchen), but this was not able to function after the third day of food distribution, due to threats by the police on duty to arrest those responsible.70 In other words, the state did not support workers even in their legitimate claims to collect past wages and benefits. Rather, it punished them.

69 *ASK Documentation Unit*.
RIGHT TO LIBERTY

The beginning of the year was marked by widespread violence, political instability and a total lack of direction in terms of democratic succession in the country. Violent confrontations between the two leading political alliances leading to national shut-downs on the one hand and public protests on the other, combined with draconian actions by the President Iajuddin headed CTG, resulted in large sections of the urban population being confined to their homes, facing restrictions on their rights to liberty and movement.

As the President Iajuddin led CTG appeared to lose control over the increasingly politically turbulent situation the law enforcing authorities carried out mass arrests against several thousand people, including people sleeping in the streets in urban areas, on the eve of the 14 Party Alliance’s planned three-day siege of Dhaka City, scheduled from 5-7 January. The then CTG gave the Armed Forces the power to arrest without warrant from dusk to dusk between 10 to 29 January. Over 30,000 people were arrested during this time. It was becoming increasingly transparent that the members of the then CTG and the Four Party Alliance were both intent on holding elections, originally scheduled for 22 January at any cost and that elections held in this situation would trigger violent conflict.

During the SoE

In this context, the stepping down of Dr. Iajuddin as the Chief Adviser and the swearing in of new Advisors to the CTG was welcomed by many political leaders and others in civil society. For the first few days the

71 ASK Documentation Unit.
Promulgation of Emergency was accompanied by relative peace and quiet. However, increasing disquiet was soon expressed at the imposition of sweeping powers to the Government and the law enforcing agencies under the EPO and the EPR. Extensive powers were given to law enforcement agencies to arrest and detain persons, particularly for financial crimes and on corruption allegations. Section 5 of the EPO provided that orders made in the exercise of powers vested under the Ordinance were immune from review by any court. By Emergency Powers Orders the right to move the courts for enforcement of fundamental rights was suspended. The EPR itself barred the right to bail for under trial prisoners and pending appeal. These provisions and their applications are outlined below.

**Emergency Powers Rules**

**Preventive Detention:** Under Rule 16(2), read with Rule 19Gha of the EPR, a person can be arrested and held in custody on suspicion of committing a ‘prejudicial act’ for an indefinite period without any right to bail. Rule 21 further provides that the provisions for issuance of orders of preventive detention under the Special Powers Act 1974 (SPA) would be applicable against persons suspected of having committed or about to commit any offence under any law mentioned in the EPR. The combined application of orders of detention under the SPA and arrests under Rule 16(2) by the joint forces resulted in alarming instances of curtailment of liberty with very limited recourse to legal redress. In the absence of official statistics, the number of persons held in custody was estimated in news reports to stand at about 230,074. On 3 April 2007, the Appellate Division stayed a series of judgments by the High Court which had declared illegal orders of preventive detention, including those given to many ‘VIP’ detainees, on a petition for leave to appeal filed by the Government challenging the High Court’s jurisdiction to review such orders under Section 491(3) of Code of Criminal Procedure. However, the High Court contin-

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72 ASK Documentation Unit on the basis of press-reports. It is unclear whether these figures include the ‘mass FIR’ cases which referred to thousands of un-named persons, but did not necessarily result in arrests, and also whether they accounted for persons arrested, but subsequently released.
ued to exercise its powers of habeas corpus, reviewing such detention orders under its constitutional jurisdiction (under Art. 102(2)).

**Restrictions on Bail:** The EPR provisions which appeared to deny all courts’ jurisdiction to grant bail to those accused under any law mentioned in the Rules was challenged in *Moyezuddin Sikder v DC Khulna.*\(^{73}\) The High Court in its judgment on 22 April stated that it was competent notwithstanding the EPR provisions, which could not be applicable to the Supreme Court, to entertain applications for bail in the exercise of its jurisdiction under Section 498 of the Code of Criminal Procedure. On a petition by the Government, the Appellate Division stayed the operation of this judgment on 20 September.\(^{74}\)

<table>
<thead>
<tr>
<th>BOX VI.1 Jahangir Alam Akash</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jahangir Alam Akash, a Rajshahi-based journalist who worked for the <em>Daily Sangbad</em>, news channel CSB(^{75}) and Deutsch Welle news agency, faced arrest and torture. He was charged with extortion and obtained anticipatory bail from the High Court on 16 October. While on bail, he was arrested by RAB on 23 October under Rule 16(2) EPR. He then obtained bail from the Rajshahi Sessions Judge’s Court on 19 November and came to Dhaka for treatment, but again faced a fresh case of extortion on 25 November. This time an order of sanction was issued by the authorities, bringing the case within the EPR. He was able to challenge the legality of the sanction before the High Court and again obtained bail. Akash appeared to have been targeted and victimised for his reports on alleged corruption and human rights violations by certain influential people within the administration and within the security forces, as well as powerful local political leaders.(^{76})</td>
</tr>
</tbody>
</table>

**Bail to family members:** An issue of particular concern arose as a result of the practice of arresting close relatives of those accused of corruption. Even in cases where there were no specific allegations against such persons, their

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\(^{73}\) 59 DLR (2007) 287.

\(^{74}\) *Sangbad*, 21 September, 2007. [Ed Note: The AD later reversed the judgment with some exceptions being made, see footnote 17].

\(^{75}\) This channel had also been shutdown allegedly (according to media reports) in connection with their reporting of the August incidents.

applications for bail were not entertained by the courts since the cases were being conducted under the EPR. Following increasing criticism of this over-reach, the EPR was amended on 10 September expressly allowing courts to consider granting bail to a co-accused if such person is wife, a child aged 18 years or below, unmarried daughter, mother, mother-in-law or sister of the main accused.

Corruption Related Arrests
Many of the arrests and detentions following the Emergency related to the anti-corruption drive. Initially publicly welcomed, since this appeared an unprecedented move in the history of the country and urgently needed, the process was fraught with confusions and excesses. An issue of particular concern was the method by which persons, including some ‘high profile’ figures, were taken into custody. In some cases, they were first arrested without a warrant, then they received orders of preventive detention, and only then faced specific cases of corruption under the Anti Corruption Commission Act of 2004 or other specific allegations under special or ordinary criminal laws. Particularly disturbing reports related to the alleged taking into custody of persons by the joint forces to unknown locations and their interrogation, without their production before any Court and without any information on the grounds of arrest or their whereabouts being provided.

Arrests of Human Rights Defenders
Several noted human rights defenders were taken into custody in the first weeks following the Emergency. Another wave of arrests affected NGO personnel in the CHT following the abduction of a DANIDA Official (See Chapter 15).

In the early hours of 12 January, within hours of the Proclamation of Emergency, two senior officials of the Association of Development Associations, Bangladesh (ADAB), Md. Abul Kashem Palash, Coordinator, Dhaka Division, and Md. Aminul Islam, Director, were arrested by RAB from their homes. They were taken to Dhaka Central Jail and served with orders of preventive detention, on allegations that they were involved in ‘organising slum
dwellers’ and thereby causing a threat to national security. They were not produced before any court nor allowed access to their lawyers for two months into their arrest. The High Court declared their detention illegal and improper on 26 February 2007. Although the Government filed appeals, the Advisory Board recommended that the detention orders should not be extended, and they were ultimately released after obtaining bail in several criminal cases that had been filed against them on amongst others, allegations of rioting, unlawful assembly, voluntarily causing hurt, etc.

On 17 January, Shahidul Islam, Director of Uttaran, an NGO based in Satkhira, was arrested by the joint forces and taken to the local army camp where he was allegedly tortured, before being handed over to the police. He reportedly required urgent medical attention within hours of his detention and remained hospitalized for a prolonged period. After the High Court directed the Government to show cause as to why his detention should not be declared unlawful, he was implicated in three separate criminal cases, on charges of murder, and non-payment of arrears of wages to former employees. One of the latter cases was brought within the EPR by way of issuance of an order of sanction. Ultimately, the sanction order was withdrawn, and Islam was released on bail by the High Court.

Incident at Dhaka University on 22 August, 2007

August Protests

In early 2007, the practice of mass arrests, carried out to obstruct political meetings or processions, common in previous years, decreased in number, possibly precluded by the wholesale ban on public assembly put in place under the SoE. However, this practice recurred in the aftermath of the August protests which began on the Dhaka University Campus and spiralled beyond. The violence began after an incident in which an army officer from the camp established in the University playing fields reportedly slapped a student for ‘bad manners’ while they were watching a football match. In protest, students first demanded immediate withdrawal of army camps from the campus. After failed attempts at mediation involving senior officers and university teachers, the protests and ensuing violence spread out in the city, with some reports pointing to the involvement of those beyond the campus, including political parties. The police resorted to mass arrests, including of students, in the aftermath of the incident and a curfew was imposed sine die. Students who were being treated for wounds caused by police action left the hospital, or refused to seek medical care, out of fear of arrest.

The police filed 35 cases in Dhaka against 82,300 un-named members of public, naming only 18 of them, accusing them of involvement with the violence and destruction that followed the incident. They also arrested about 200 people, including students, in connection with these cases. There were four cases in which three thousand un-named students from Dhaka and Jahangirnagar Universities were implicated. Eventually, the Dhaka Metropolitan Police Commissioner clarified that in fact these figures related to multiple cases against the same individual, so the actual number of persons accused in these cases would be around 10,000.

Arrests of University Teachers and Students

On 24 August, the joint forces arrested five teachers from Dhaka and Rajshahi Universities for their alleged involvement with the 22 August
incident at Dhaka University and its aftermath. They were not informed of
the allegations against them, and were taken to unknown locations for
questioning. The families of these teachers only came to learn about their
whereabouts 36 hours after their arrest. Family members of Professor
Anwar Hossain, General Secretary of the Dhaka University Teachers As-
sociation, and Professor Harun-ur Rashid alleged that both men were
physically and mentally tortured during interrogation. In a separate case,
in December, at the trial of six teachers of Rajshahi University, two of the
teachers were acquitted and four were convicted on charges of violating
emergency provisions by participating in a silent procession to show sup-
port for those arrested at Dhaka University. However, in the face of in-
creasing student-led protest, in particular focused within Dhaka and Ra-
jshahi Universities, presidential pardons were granted to the four convicted
teachers of Rajshahi University Moloy Kumar Bhowmik, Syed Selim Reza
Newton, Dulal Chandra Biswas and Md. Abdullah al Mamun - and they
were released on 10 December. On 22 January 2008, three of the arrested
Dhaka University teachers, Dr. Sadrul Amin, Dr Anwar Hossain and Dr
Harun-ur Rashid, were convicted of breaching the Emergency Powers
Rules, but were released on the same day following the issuance of Presi-
dential pardons. Professor Nimchandra Bhowmik was acquitted.

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Threatened Arrest of Farmers

Farmers who demonstrated against state failure to ensure the adequate supply and distribution of fertiliser also found themselves the victims of mass arrests. On 4 July 2007, the police filed a criminal case against five thousand un-named farmers in Chapai Nowabganj District, after farmers queuing up for fertiliser in front of the Nachole Upazilla Parishad office had protested violently against the refusal of concerned officers to deliver fertiliser. Again, on 20 August, in Pabna, after a group of frustrated farmers had barricaded the highway and brought out processions demanding access to fertiliser, the police filed a case against 400 farmers, accusing them of unlawful assembly and destructive activities.
RIGHT TO FAIR TRIAL

Emergency Rules and fair trial: The Emergency Powers Ordinance and Rules established a legal framework that provided for special procedures to be applied regarding the investigation and trial in Special Courts of certain offences (mostly related to financial crimes and corruption) to enable them to be fast-tracked and prioritised. The Rules also provided for offences relating to ordinary crimes - under the Penal Code for example - in cases where a sanction was given by the Government to be brought within their purview.

Concerns were raised regarding the manner of issuance of sanctions in a number of cases, and writs were filed before the Supreme Court challenging the basis for their issuance. However, only limited remedies were initially available from the higher courts given suspension of the right to seek judicial enforcement of fundamental rights by Emergency Orders Nos. 1 and 2.

In several cases of high profile or ‘VIP’ corruption suspects, specific criminal charges were also accompanied by orders of preventive detention. Rule 21 of the EPR specifically provided that the provisions of the Special Powers Act 1974 could be applied in respect of persons who were suspected of having committed any offences mentioned in Rule 14 or 15.

88 Rules 14 and 15 declared the offences in respect of which the emergency provisions would be applicable. They include possession of illegal arms and explosives, sabotage, hoarding, adulteration of food and medicine, counterfeiting currency and government stamps, black-marketing, smuggling, possession of narcotics, and offences under the Anti Corruption Commission Act 2004, the Prevention of Money Laundering Act 2002 and the Income Tax Ordinance 1984.

89 Rule 19 (Nio) of the EPR provided for the requirement of prior sanction of the government if the provisions of the EPR were sought to be applied in the investigation, trial, appeal, bail, and other relevant matters in relation to a case.
A number of high-profile cases of alleged corruption occurring under previous regimes were brought within the Emergency Powers Rules. About 77 former Ministers, MPs and business persons, as well as the two former Prime Ministers, were arrested in relation to offences triable under the emergency provisions.

**Bail:** Rule 19Gha of the EPR states that an application for bail cannot be entertained by any court if a case is being tried under the emergency provisions. Although the High Court gave a judgment holding\(^90\) that this Rule could not preclude the Supreme Court from entertaining applications for bail, the judgment was stayed pending appeal by the Appellate Division and at year end awaited a final determination on the issue. \(^91\)

**Investigation:** In several ‘high-profile’ cases, interrogation tapes were leaked, and the contents of ‘confessions’ by the accused person were widely reported and broadcast, effectively leading to a trial by media.

**Torture and Ill-Treatment in Custody:** Reports of torture in custody were made in relation to several cases involving human rights defenders and ‘VIPs’ (see Chapter 8).

**Trial by special courts:** Rule 19Ka of the EPR has laid down a strict limit of 60 days for the disposal of cases under Rule 14 or 15 by any court or tribunal. As a result of this, the rate of disposal of cases by the Anti-Corruption Tribunals have been faster than in the past. However, reportedly proceedings of 150 corruption cases have been stayed by the higher court following writ petitions by defendants.\(^92\)

**Penalties:** The excessive length of the sentences delivered in cases tried under the EPR provoked concern. Media commentaries commented that the Tribunals in passing these sentences failed to apply their discretion in a judicious manner.

**Death sentences:** The conviction of seven members of the Jama'atul Mujahideen Bangladesh (JMB) for the November 2005 assassination by bomb attack of two judges at Jhalakathi, was followed by their execution by

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91 [Ed Note: See footnote 17 re Appellate Division reversing this judgment in 2008].
hanging in the late hours of 29 March at different jails across the country.\textsuperscript{93} All the death sentences were examined and confirmed by the High Court in an extraordinarily expeditious manner and their appeals for clemency were also turned down by the President of the country. Despite the consensus amongst major human rights organisations against capital punishment, these executions attracted little or no comment other than speculation about why the sentences were executed in such haste.\textsuperscript{94}

\textbf{Juvenile justice:} The right of juveniles to a fair trial was recognised by the Supreme Court in its landmark judgment in \textit{State v Md. Ronsban Mondal alias Hashem},\textsuperscript{95} which re-emphasised the requirement under the Children Act 1974 of ascertaining the age of the child accused and the need to keep them out of confinement either by releasing them to the custody of their parents or guardians or by considering their discharge under Section 53 of the 1974 Act.

\textsuperscript{93} \textit{The Daily Star}, 31 March, 2007.
\textsuperscript{94} See \textit{Bangladeshijyong Toshpurna o Tar Bichar}, ASK, 2007.
\textsuperscript{95} 59 DLR (2007) 72. See section on judgments.
RIGHT TO FREEDOM FROM TORTURE

Allegations of torture and cruel, inhuman and degrading treatment and punishment continued to be of concern in 2007. Reportedly, out of 180 extra-judicial executions during the course of the year, 27 occurred following torture. A case which catalysed national and international attention outrage was that of Cholesh Richil, a Garo community leader and environmental activist, who died on 18 March, following his arrest by the joint forces (see Box V.1). Allegations of torture on other prominent human rights defenders were also made during the year. For example, on 27 January, Shohidul Islam, the Director of the NGO Uttaran, Tala, Satkhira, was reportedly tortured in custody after his initial arrest by the Joint Forces as a result of which he spent weeks in the Jail Hospital. In February, Rang Lai Mrô, a leader of the Mro community, prominent environmental activist, and elected local Union Parishad Chairman of Sualak, Bandarban in the Chittagong Hill Tracts, was arrested and reportedly tortured by army personnel. He too was hospitalised for weeks in a serious condition. Tasnim Khalil, a freelance

96 See Table V.1: Extra Judicial Killing in 2007.
97 “Adibashi meta Cholesh Rítchil er mrittur ghatonai gotito bichar bibhagio tadanto sammitter proshobdo prokash kora bor” (Publish the report of Judicial Inquiry Committee constituted on Indigenous leader Cholesh Richil’s death), written statement by Ain o Salish Kendra (ASK), Association for Land Reform and Development (ALRD), Nijera Kori, Bangladesh Legal Aid and Services Trust (BLAST) and Bangladesh Environmental Lawyer’s Association (BELA), National Press Club, 28 February, 2008. See http://askbd.org/web/.
journalist who also worked on projects for Human Rights Watch and was CNN’s local news representative was arrested on 11 May, 2007, by the Directorate General of Forces Intelligence (DGFI) and tortured for 22 hours following his arrest [See Box VIII.1].

Jahangir Alam Akash, a journalist and human rights activist, was arrested and beaten by RAB in Rajshahi on 23 October, 2007 [see Box VI.1]. No action as been taken to investigate any of these allegations of torture.

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**BOX VIII.1: Tasnim Khalil**

Disquiet grew in cases where the law enforcing agencies were seen to extend their targets beyond the allegedly corrupt to dissenting voices within civil society. The journalist Tasnim Khalil was arrested by the joint forces on 10 May without any warrant or any specific charge. He was not informed of any specific allegation against him, instead being told that they could arrest anyone without warrant under the emergency powers. Khalil was later on released without any charge on 11 May at 11 p.m. He has since confirmed in an interview with Human Rights Watch that he was arrested at gunpoint for his reports criticising the activities of RAB and the excesses of the joint forces. During the interrogation he was physically abused and tortured by the joint forces who repeatedly accused him of anti-state activities, and lowering the image of the country in the eyes of foreigners. Following extensive advocacy on his behalf nationally and internationally, Khalil was able to leave Bangladesh with his family and sought asylum in Sweden.

There were no reports available as to whether any action had been taken against those responsible. Following the August incidents on Dhaka University Campus and beyond, several of the teachers and students arrested.

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were also reportedly tortured. A Judicial Inquiry Commission established following this incident took evidence but by the time this report went to press it had not yet been published, although the Government had stated that this would be done.

Other than human rights defenders, several of the 127 so-called “VIP” prisoners – including former Ministers and business persons -- facing serious corruption charges alleged that they had been subjected to torture including threats of being killed in 'crossfire'.

While Emergency Rules prohibited seeking any judicial remedies for enforcing fundamental rights, the High Court and, in an important new development, the lower courts, began to issue directions that police interrogation be carried out at the jail gate in pursuance of earlier High Court guidelines which had previously only rarely been applied. Media reports indicated that such directions had largely been given in cases involving ‘VIP’ prisoners. For example, the Chief Metropolitan Magistrate passed an order on 16 October to interrogate Md. Nurul Islam, Chairman of Jamuna Group, at Dhaka Central Jail Gate.

An initiative was taken by the Ministry of Home Affairs during the year for reform of the century old Police Act 1861, with proposals drafted for establishing an independent Police Complaints Commission and for incorporating in the new law the High Court’s guidelines on arrest without warrant and on remand. However, as of the end of the year, the Government had yet to initiate any public consultations on the draft law. The

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105 Ed Note: On 15 November, 2007, the Judicial Inquiry Commission headed by Justice Habibur Rahman handed over the report which reportedly identified 24 primary causes for the incident and also contained a finding that the teachers had not provoked the situation to the Chief Advisor, but it has not yet been published. Somokal, 12 March, 2008, Jugantor, 3 April, 2008.

106 These guidelines are set out in Bangladesh Legal Aid Trust and Others v Bangladesh, 55 DLR (2003) 363.


proposed National Human Rights Commission\textsuperscript{110} if set up and given effective powers could at least have met the demand to provide for independent investigations of allegations of torture, but till the date of printing the NHRC had not been established.\textsuperscript{111}

\begin{footnotesize}
\begin{itemize}
\item \textsuperscript{110} “Jatio Manobadhikar Commission Oddhadesh 2007” (National Human Rights Commission Ordinance 2007), Ordinance 40 of 2007.
\item \textsuperscript{111} [Ed. note: The National Human Rights Commission Ordinance 2007 came into force from 1 September 2008, but the NHRC itself had not been constituted at the date of publication of this report].
\end{itemize}
\end{footnotesize}
RIGHT TO FREEDOM OF EXPRESSION

The right to freedom of press and information faced an immediate threat with the promulgation of the SoE, as the Emergency Powers Order and Rules both contained wide-ranging provisions for restricting freedom of expression. In the face of widespread media criticism, the Government declared that these legal provisions would not be applied. In practice, however, the media remained under pressure, receiving frequent telephone directives, which in turn induced chronic self-censorship.

Immediately after the August demonstrations on the Dhaka University campus and beyond, the Government specifically asked two private broadcasters, Ekushey Television (ETV) and CSB News, to refrain from broadcasting any ‘provocative’ news, documentaries, talk shows and discussions critical of the government.

A number of journalists faced torture, threats or harassment from law enforcement agencies, (gangsters), government officials, or the student wings of various major political parties as noted in Table IX.1. Cases were brought against 63 journalists and three newspapers in connection with published reports, and two legal notices were served on newspapers.

Reports of journalists facing threats and harassment from security forces raised particular concern. Two journalists who had published investigative reports critical of the military were Tasnim Khalil and Jahangir Alam Akash. Khalil, a freelance journalist was arrested on 10 May from his home and reportedly taken to an army camp and tortured [See Box VIII.1 and VI.1 respectively].

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Table IX.1: Violence against journalists in 2007

<table>
<thead>
<tr>
<th>Nature of Violence and Alleged Perpetrators</th>
<th>Number/Person</th>
</tr>
</thead>
<tbody>
<tr>
<td>Murdered</td>
<td>3</td>
</tr>
<tr>
<td>Threat to Murder</td>
<td>56</td>
</tr>
<tr>
<td>Newspaper/TV Channel banned</td>
<td>2</td>
</tr>
<tr>
<td><strong>Intimidation/threats/harassment by</strong></td>
<td></td>
</tr>
<tr>
<td>Law enforcing agencies</td>
<td>97</td>
</tr>
<tr>
<td>Local “terrorists”</td>
<td>72</td>
</tr>
<tr>
<td>Militants, including underground leftwing groups</td>
<td>37</td>
</tr>
<tr>
<td>BNP Cadres</td>
<td>8</td>
</tr>
<tr>
<td>Awami League Cadres</td>
<td>7</td>
</tr>
<tr>
<td>Islami Chattro Shibir</td>
<td>3</td>
</tr>
<tr>
<td>BNP and AL jointly</td>
<td>10</td>
</tr>
<tr>
<td>Government employees</td>
<td>5</td>
</tr>
<tr>
<td>Others</td>
<td>8</td>
</tr>
</tbody>
</table>

Besides the government, the media have also faced intimidation from other quarters. Editors of national newspapers tendered an apology through a statement in the national press, and in a meeting before the Khatib of the National Mosque, for any ‘inadvertent hurt to religious sentiment’. These apologies were made in the wake of repeated protests, processions and threats by certain extremist organisations following the publication of a cartoon in Prothom Alo’s satirical supplement, Alpin, on 17 September. The cartoonist, Arifur Rahman, faced arrest and detention for over six months (see box). Saptahik 2000 (Weekly 2007), a weekly magazine (belonging to the same group of newspapers as Prothom Alo), was also compelled to withdraw its 21 September issue and its editor, publisher and writer, noted poet Daud Haidar, were accused in a separate criminal case of ‘causing hurt to religious sentiment’ for printing certain comments by Daud Haidar.115

112 Statistics compiled from 13 national dailies.
113 Prothom Alo, Special weekly publication Alpin issue no. 431, 17 September, 2007.
114 The specific case against him was C R Case No. 2298 of 2007 dated 20 September, 2007 under section 295A of Penal Code. [Ed note: He was acquitted in 2008].
BOX IX.1: The case of Md. Arifur Rahman

The harassment of Md Arifur Rahman, a freelance cartoonist, for the reproduction of a cartoon already in circulation was a classic example of the abuse of executive power and abuse of the legal process. Arif was taken into custody by the Detective Branch of the police after a cartoon drawn by him was published in a weekly supplement of the daily Prothom Alo on 17 September. He was kept in the Tejgaon Police Station lock-up without being told why he was being detained, refused permission to contact friends and family and denied access to a lawyer. Despite the fact that he was never produced in court, as required after any arrest, the Magistrate sent him to jail custody. Two days later, a criminal case was filed against him under Section 295A of the Penal Code, charging him with hurting religious sentiments.

Arif was not given any opportunity to consult a lawyer, either while he was in police custody or after he was charged of a criminal offence and sent to jail in that connection. Weeks after confinement in Dhaka Central Jail, Arif was suddenly informed that an order of detention had been passed against him on 19 September, even though there was already a criminal case against him on the same matter. This detention order was subsequently extended, on two occasions, at each time for a period of ninety days, before finally being declared to be without lawful authority by the High Court. Arif was ultimately acquitted in 2008 by the trial court and released from custody.

Besides intimidation, the media, both print and electronic, have also experienced severe crises financial and otherwise resulting from some of their owners being implicated in cases of corruption. The declaration and media enlistment of more than 160 newspapers and periodicals were cancelled on allegations of irregular publications while one daily newspaper, Ajker Kagoj, announced that it was closing down due to fund shortages. The first 24-hour news channel in the country, CSB, was taken off air on 7 September, 2007, after being formally charged with forgery media commentary however referred to CSB’s sympathetic broadcast of the August student protests as the unstated reason for its closure.

116 Appeal to the Chief Advisor by 25 prominent citizen on 24 January, 2008.
117 Arif’s detention was declared illegal by the High Court on 4 February, 2008.
119 Rajshahi based journalist Jahangir Alam Akash, who was a regional correspondent for CSB, and was arrested shortly after the closing of the television station, has noted that while he was in custody, RAB
Journalists and other staff members in several media organisations, including the daily newspapers Janakantha, Amar Desh, Khabarpatra and Khabarer Antaraley, and the television channels Channel 1, RTV, Baishakhi and Bijoy TV were deprived of regular wages and other financial benefits for months on end after their respective editors and owners failed to arrange payment for them, after being arrested on charges of corruption, many of them being former Ministers or businessmen or persons close to the previous ruling parties whose means of acquisition of the media houses were not always transparent. The Government declared a wage board award for the media industry, but the award became uncertain due to various concerns raised, and no review committee was established by year end to re-examine and eradicate the flaws.

The only major positive development involved the Government’s announcement that it would promulgate a law on the Right to Information Bill, and a draft Bill was finally made available for public discussion in 2008, a long-cherished demand of the media people and citizens’ group. Several features limiting the right for information were widely criticized by human rights groups and in the media.

Several persons who were subsequently convicted on corruption charges instituted criminal cases for defamation against newspapers which had printed such allegations. For example, a former Minister of the Four Party Alliance filed a defamation case on 16 January, 2007 against editor Golam Sarwar, publisher Salma Islam and the owner Md. Nurul Islam Babul of Jugantor for publishing a report namely “Durnitite first Najmul Huda” (Najmul officials specifically mentioned CSB among other news outlets for which he had turned in critical reports: see Box VI.I See also “CSB News silenced: Given 7 days to explain why permission won’t be cancelled permanently”, The Daily Star, 7 September, 2007.

Janakantha editor and publisher Atiqullah Khan Masud; Amar Desh, NTV and RTV chairman Mosaddak Ali Fali MP(BNP); NTV managing director Farayetur Rahman Bappi; Channel 1 chairman MAH Selim and managing director Giasuddin Al Mamun, close associate of the former Prime Minister Khaleda Zia’s son Tareq Rahman; CSB director Salahuddin Quader Chowdhury, Advisor to former Prime Minister Khaled Zia; The Independent’s owner, Beximco’s Vice-chairman Salman F Rahman; Jugantor owner Nurul Islam Babul; Khabarpatra owner Hafiz Ibrahim; Khabarer Antaraley publisher Sigma Huda, Advocate and Bijoy TV chairman ABM Mohiuddin Chowdhury, Mayor of Chittagong were arrested and detained during the anti-corruption drive. Shamakal owner Abul Kalam Azad reportedly went into hiding after being asked by the Anti-Corruption Commission to submit his wealth statements.

Huda is the first in Corruption) on 13 January, 2007. In another case, the Metropolitan Magistrate on 18 January, 2007 asked the editor, publisher and the chief reporter of Jugantor to appear before the court after former State Minister for Home Affairs, Lutfozzaman Babar, filed a defamation case with respect to a report titled “Iman Ali of Savar fell victim to Babar” on 9 November, 2006 and another report “Babar: Mr. Ten Percent” on 15 January, 2007. Other defamation cases were filed by Khamba Limited against Jugantor on 21 January, by the former Mayor of Rajshahi City Corporation and BNP leader, Mayor Mizanur Rahman Minu, against Prothom Alo on 31 January, by the former head of the Board of Investment Mahmudur Rahman against The Daily Star on 6 February and on 12 March. Despite some progress, none of the trials of the persons accused of killing leading journalists had concluded by year end. In the case regarding the 2004 murder of Manik Saha, which had remained pending under investigation for many years, the Detective Branch of the Police finally submitted an additional charge sheet on 21 November, 2007.
RIGHT TO FREEDOM OF RELIGION

While there were few reports of interference with the practice of religion, there were incidents of discrimination against certain religious groups in terms of denial of equal protection of the law with respect to enjoyment of property as well as in respect of acts of violence by private parties and little evidence of action to effectively investigate and prosecute in such cases. The year saw continuing reports of expropriation of land, both through use, or rather abuse, of law and through forced evictions and occupations, as well as sporadic reports of attacks on individuals within certain religious communities.

‘Vested’ Property
The year saw continuing reports of powerful interests forcibly dispossessing members of religious and ethnic minorities of their lands, with little evidence of state action to intervene or provide redress. Six years after the enactment of the Vested Properties (Return) Act 2001, it was apparent that many properties illegally declared as vested properties had still not been restored to their original owners. The extent of such dispossession was underscored in a new study by Professor Abul Barakat, claiming that some 1.2 million Hindu families out of a total population of 2.7 million Hindu families nationwide had been affected directly by this law, and that within the last six years from 2001-2007, about 200,000 Hindu families had lost 1,22,000 bighas of land in this way.131 This study further suggested that the

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majority of those who had benefited from abuse of the law included persons with close connections to the Government of the time, and to political parties.\footnote{Ibid. The report claimed that during the tenure of the Awami League government, in 1997, 44% and 32% of those responsible for taking over vested property were involved with the Awami League and the BNP respectively, while during the BNP’s tenure, in 2006, some 45% of those responsible were involved with the BNP, 31% with Awami League, 8% with Jamaat-e-Islami, and 6% with the Jatiya Party.}

In many land-grabbing cases, minority-owned lands continue to be forcibly expropriated through illegal occupation and forced eviction. In some cases, government authorities were directly implicated. For example, on 5 June 2007, the authorities in the Mirpur Cantonment, Dhaka tried to evict a largely Hindu community of about 8,000 persons, and to remove a temple from the settlement at Chakuli, following public announcements in the area. News reports stated that there are several pending lawsuits relating to the area, and even an order of the High Court for maintaining the status quo with respect to occupation of the land. Following a news-report published on 6 June 2007,\footnote{“An effort to evict houses and temple in Pallabi”, Prothom Alo.} ASK’s investigation team visited the site, called on the concerned authorities to address the rights of the inhabitants, and drew attention to the destruction of their homes and the threat to a place of worship, and the need to follow appropriate legal procedures, and in particular to respect any pending High Court orders.\footnote{“Effort to evict dwelling houses including temple in Pallabi, ASK’s concerns”, Press Release, Dated 7 June, 2007.}

In other cases, the persons responsible for such dispossession were local gangs or powerful persons. It was unclear from the information available whether there had been any intervention by the police in any of these cases. For example, in Gobindopur village, Union Sripur, Jamalpur, a group of share-croppers allegedly took forcible possession of some five acres of land owned by Sachinda Mohan Dev, after threatening him and his family, who appealed to the Government for redress.\footnote{“Jamalpure Songkha loghu poribarer 5 acre jomi jobor dokhol: proshashoner dare dare ghureo protikar meleno” (Five acres of land of minority family of Jamalpur were grabbed: no remedy from the administration), Sangbad, 22 February, 2007.} Again, in Bara Andhormanik village, Upazilla Kachua, Bagherhat, freedom fighter Balahari
Mridha and his wife Shantirani Mridha were reportedly beaten up and forcefully evicted from their ancestral homestead on 3 July 2007, by an armed gang reportedly with the help of the police. Following an earlier threat of eviction on 14 June 2007, Mridha had sought the intervention of the Executive Officer of the Upazilla, who asked the concerned Officer in Charge to take action, but no action was taken thereafter.

Other incidents of eviction were reported in relation to attacks by local gangsters on vulnerable communities, and the landless. A news report alleged that the police had failed to take any action after an arson attack on 7 January 2007 by an armed gang on 50 landless households mainly from the Santal and Hindu communities who had been living for eight months on government owned land at Amui’r village, No 2 Sundarban Union, Sadar Dinajpur Upazilla. Reportedly, the attackers threw a five year old child into the fire and threatened to kill the 150 people living in those dwellings, and injured some 22 persons. Shammilito Shamajik Andolon and ASK conducted a joint investigation into these allegations. They found that the attackers had held the child hostage, while they forced other inhabitants to leave the houses before setting it alight. The authorities, including the District Administrator, the Executive Officer of the Sadar Upazilla and AC (Land) had denied that these families were landless and claimed that they had occupied land owned by a private party with the backing of ‘some NGOs’. At the time of investigation, the affected families remained on the land and most appeared, on initial inquiry, to be landless.

Attacks on Temples, Festivals
As in earlier years, sporadic incidents of destruction of idols and attacks on Hindu temples were noted in the media. Relatively prompt police responses were also reported, though the final outcomes of these incidents were not known. In one report, it was alleged that an attack by some local shontrasis [gangsters] resulted in injuries to some fifteen persons including women in Chandpur village, Union Kadra, Upazilla Shenbag, Noakhali, on

137 Ibid.
28 January 2007, with the police arresting six people that day.\textsuperscript{139} In another incident, some eight persons were hurt, and a temple and its deities destroyed in Naogaon fishing village in Upazilla Bajitpur in Kishoregonj, on 24 March 2007, with the police then arresting five people.\textsuperscript{140}

<table>
<thead>
<tr>
<th>BOX X.1: Ending Impunity? Arson Attack and Murder in Shil Family, Bashkhali</th>
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<tbody>
<tr>
<td>On 18 November 2003, an arson attack on the home of Tejendra Shil, in Shilpara village, Shandganpur, Bashkhali Upazilla, Chittagong resulted in the deaths of a family of eleven, including a child aged 4 days and a man aged 75 years. Despite repeated claims by the victims that an influential elected local government official and political leader were involved the police submitted a charge sheet to the Bashkhali Magistrate’s Court on 14 December 2005 which did not include them. The Magistrate accepted the charge sheet and on 15 October 2006 sent the case to the Chittagong Sessions Court for trial. Rana Das Gupta, the prosecuting lawyer, alleged that the police had deliberately submitted the charge sheet more than two years after the incident, and omitted any reference to the killings and without any substantial and proper investigation, without even taking into consideration the statements made by the accused to RAB, police and journalists regarding the involvement of certain people in the commission of the offence.\textsuperscript{141} On 17 October, the complainant challenged the charge sheet and applied for re-investigation.\textsuperscript{142} On the application of the complainant, Bimol Shil, the Sessions Court, Chittagong, finally ordered re-investigation of the incident.\textsuperscript{143}</td>
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In another incident, it was reported that a group led by a Jubodal leader of Upazilla Dumuria, District Khulna, threw a Durga idol in the pond on 30 September and that the police visited the place and promised to take action.\textsuperscript{144} Again, on 8 October 2007 a Durga idol under construction was


\textsuperscript{141} Ibid.


\textsuperscript{143} Ibid.

\textsuperscript{144} “Dumuria-e jubodal noto-e nitrette protima pakare poole deha holo”Janakantha, 3 October, 2007.
destroyed in village Nauripara, Upazilla Kalmakanda of District Netrokona. When the Police Superintendent of Netrokona was informed about this incident, he reportedly asked the Kalmakanda police station to take necessary action after investigation. In Dargacha Dakkhin Para, Union Kharna, Upazilla Shahjahanpur, Bogra, a group of persons destroyed four idols under construction on 7 October 2007. When the local Puja Celebration Committee informed the police, the response they initially received was that the incident had occurred due to a dispute regarding a private pond. The matter was ultimately settled by mediation between the communities.

**Attacks on Individuals**

**Attack on Ahmadiyas:** The Khatme Nabuwat Movement (KNM) Bangladesh, which has spearheaded the campaign against Ahmadiya Muslim Jamaat, and also been implicated in attacks and threats on individual Ahmadiyas, was not able to hold any public events during the SoE. However, there were several serious threats to the life and property of members of the Ahmadiya community, allegedly led by the KNM and by other Islamist groups. For example, the house of Abdus Sattar, President of the Ahmadiya Muslim Jamaat, Shorishabari Upazilla branch, was burnt down on 14 February 2007.

On 1 May 2007, the “Jadid-Al-Quaida Bangladesh”, a hitherto unknown organisation, claimed responsibility for planting bombs in Dhaka, Chittagong and Sylhet and circulated leaflets threatening to kill the members of Ahmadiya Muslim Jamaat unless they accepted the Holy Prophet Mohammed (PBUH) as the last prophet by 10 May 2007. The police

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146 Bogura-r Shahjanpur durga protima bhangchur”, Bhorer Kagoj, 10 October, 2007.


filed a criminal case, but its outcome was not known.\textsuperscript{150} Reportedly, the Jongi Domon [Anti-Terrorism] Cell within the police began investigations into Jadid-Al-Qaeda. The Ahmadiya community reported that there was no regular police deployment at any of their mosques and that they had not been informed of any arrests or other action taken to bring those responsible to account.

**Voter Registration**

While official statistics regarding religion were not compiled during the voter registration process, some organisations expressed concern at reports that such information had been sought from some voters. Clarifications were obtained by the Election Commission that this had occurred due to an error, and that such data would not be officially recorded.\textsuperscript{151}

\textsuperscript{150} *Ibid*. SI Sayed Farukh Ahmad of Kotwali station filed a criminal case on 30th April 2007 under the Explosives Act 1884, sections 3, 4 and 5, against four to five un-named persons. The Home Ministry ordered heightened security in every district.

\textsuperscript{151} ASK Memorandum, Communication of PIL Unit with Election Commissioner’s Office, 13 January, 2008.
11

RIGHT TO SHELTER

This year saw a repetition of the familiar scenario in which urban slum dwellers faced violations of the right to shelter and to adequate housing due to forcible eviction and displacement, often by government agencies. As in previous years, securing the right to shelter remained a huge challenge, not only because Bangladesh is resource-scarce and densely populated, but also because of the lack of prioritisation in policy formulation. These problems were further and severely exacerbated this year by the sudden spate of forcible evictions of slum dwellers and street hawkers which took place across the country following the promulgation of the SoE, without any provision for their alternative relocation or rehabilitation, or even an opportunity to shift their belongings. Such evictions resulted in gross violations of basic human rights, including the rights to life, shelter, water, sanitation and livelihood.

Major incidents of forced evictions were met by protests from organisations working on housing rights, with varied responses from the State. For example, concerned government authorities including, ironically enough, the House Building Research Institute (HBRI), forcibly evicted slum dwellers in Kallyanpur Basti on 21 January 2007 with less than 24 hours prior notice, in the name of a clean up operation against ‘shontrashis’ [gangsters]. ASK protested against this eviction being carried out in the face of a pending order of stay by the High Court, and called for urgent rehabilitation of the evicted persons. On 15 July 2007 the High Court extended the stay order till disposal of the Rule.152 Similarly, following news reports published on 7 June 2007 of the threatened eviction by Army per-

sonnel of existing residents and the destruction of a temple\textsuperscript{153} at Chakuli under Pallabi Police Station, an area falling within the Dhaka Cantonment, ASK drew the attention of the authorities to pending stay orders of the High Court relating to specific plots within the area, and expressed its concern on the issue; the eviction was ultimately suspended on humanitarian grounds. On 12 September 2007, ASK again expressed its concern regarding the threatened eviction of Mohakhali Shat Tala Basti, Dhaka and sought urgent rehabilitative measures. However, a part of the basti was later dismantled and the inhabitants evicted.\textsuperscript{154}

Human rights groups and sections of the press publicly criticized the evictions under the SoE. Four organisations (ASK, BLAST, BELA and CUP) met the Advisor, Ministry of Housing and Public Works on 24 January

\textsuperscript{153} ASK Investigation Unit, 7 June, 2007.
\textsuperscript{154} ASK Legal Reform and Court Advocacy Unit.
2007 to submit a memorandum expressing their concern and demanding immediate action. On 1 March 2007, this Ministry\textsuperscript{155} formed a high-level eight-member committee, headed by Prof. Nazrul Islam, a leading expert on urban planning, to identify government owned land (\textit{khas} land) on the outskirts of the capital to rehabilitate evicted slum dwellers. BLAST, ASK and CUP then submitted a rehabilitation plan to the Committee for Dhaka only. The Committee submitted a report to the Ministry of Housing and Public Works on 24 March 2007 and identified 6.69 acres of land in and around Dhaka of which three acres were selected to rehabilitate evicted slum dwellers.\textsuperscript{156} The Ministry of Housing and Public Works also allocated funds for this purpose. However, by year end the Government was yet to translate this plan into reality.

Concerns were also raised regarding continued non-implementation of the first public-private partnership for a low-cost housing scheme for rehabilitation of slum-dwellers at Bhashantek, Agargaon, Dhaka. Under this scheme, a private company, the North-South Property Development Ltd (NSDPL) was to invest in the development, while the Government was responsible for among others, supervising and monitoring the project implementing and construction activities and confirming the final allocation of the flats. According to news-reports, the prices of flats for slum dwellers and low income groups were fixed at Taka 200,000, and 355,000 respectively, with no slum dwellers having been allocated any flats to date.

In addition to advocacy with Government bodies, concerned NGOs sought legal protection from the High Court in urgent cases of threatened evictions, with varied levels of success. In one case, despite allegations regarding the threatened eviction of some 496 families in Charbanda, near the Kirtonkhola River in Barisal District, the High Court refused to intervene, observing that administrative relief could be sought.\textsuperscript{157} However, in another case the High Court directed the Mirpur Housing Authorities to show cause.
why the threatened eviction of 400 persons (80 families) who had been living in Mirpur Kachukhet Basti, Dhaka since 1996, after their village homes were destroyed through river erosion, should not be declared to be without lawful authority and also directed them to allow the inhabitants to remain there for a further period of two months.158

In a landmark judgment, the High Court held that the 2005 threatened eviction without any alternative rehabilitation of 153 families from the New Bhasantek (“Gudaraghat”) Bosti at Mirpur, Dhaka was without lawful authority and directed the Government to make arrangements for the rehabilitation of all slum dwellers there within two years.159

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158 BLAST v Bangladesh, Writ Petition No. 10380 of 2007, filed on 2 December, 2007, challenging the Mirpur Housing Authority’s notice upon the slum dwellers to vacate the land.
PRISONERS’ RIGHTS

The year saw continuing concerns regarding prison conditions and prison overcrowding. These concerns failed in large measure to be translated into any clear actions, as the wide-ranging recommendations of the Munim Commission on Jail Reform 1980 continued to gather dust.

The number of deaths in prison was recorded as 106 persons (including three women), forty of them in Dhaka Division alone. Among them, sixty seven (including one woman) were under trial. Except for one case, reportedly resulting from a clash among inmates, the cause of these deaths was not known, and there was no information regarding whether any inquiry had been held in this connection.

The usual over-crowding was exacerbated by the sudden jump in the numbers of under-trial prisoners resulting from the restrictions of bail in cases under the Emergency Powers Rules which left the police and courts with no option for some time but to remand to custody any person accused of such offences. Chronic over-crowding, with the current total prison population standing at about 78,000, almost three times its capacity of 26,000, resulted in intolerable conditions for most prisoners.160 About three times in excess of the national capacity of 1,128 for female prisoners,

160 Of the 81 jails across the country, including eleven central jails, 56 district jails, and sixteen thana jails, the central jails hold both under-trial and convicted prisoners, while the others hold only under-trial prisoners. See Sangbad, 23 April 2007, referring to comments of former Adviser Azizul Haque that in 81 jails across the country there are more than 78,000 prisoners although the capacity is 26,198. See also Ittefaq, 20 March 2007, citing figures given by the Jail Authorities of there being about 78,000 prisoners in jails across the country with a maximum capacity of 26,000.
some 3,256 women were in prison as of 11 July 2007. While the Jail Code allocates a space of 36 square foot for each prisoner, this level of overcrowding in theory allowed no more than one square feet of standing space in some jails.

Persistent complaints were made about the low quality and hygiene of food, inadequate water supply, unhygienic toilets and damp environment with consequent health complications for prisoners, including diarrhoea, dysentery, TB and skin disease. These issues did not in general affect ‘VIP’ prisoners, who were able to obtain ‘Division’ entitling them to better accommodation, and the right to wear their own clothing and obtain food from outside the prison. The two former Prime Ministers, Begum Khaleda Zia and Sheikh Hasina, were not held in any existing prison but in separate houses within the Jatiyo Sangsad (National Parliament) Compound designated as ‘sub-jails’. Following reports of such special facilities for ‘VIP’ prisoners, a retired school-teacher filed public interest litigation seeking similar facilities for Muktijoddhas, and the High Court directed the Government to show cause why this should not be done.161

Limited facilities inside the jails deprived many prisoners of basic access to health care and medical treatment. Special beds or wards for prisoners while available in hospitals outside the jail premises usually remained occupied by those with money or political influence.162 Reportedly, till 14 July 2007 there were twelve “VIP” prisoners (and no ‘ordinary’ prisoners) assigned to the beds available in the BSMMU Hospital’s prison cell.163 After reports that women ‘VIPs’ with serious medical conditions remained without specialised treatment for a considerable period, on 11 July 2007, six women’s rights activists appealed to the Chief Advisor to transfer them from jail to hospital.164

164 "Haspatale sthanantar 6 nari netree'aebedon" [6 Women Leaders’ Appeal for Hospital Transfer], Ittefaq, 12 July, 2007.
The most vulnerable of the prison population included children, juveniles and foreign nationals. Despite existing laws and judgments requiring the transfer of juveniles to correction centres and other approved safe homes, more than 1,712 children including 258 girls were sent to prison over the year in 2007. These juveniles found themselves cramped in jails with convicted adult criminals, while many seats in the three state-run Juvenile Correction Centres and six Safe Homes remained deserted, with, for example, only 292 inmates against a capacity of 700 in October 2007. More than 400 children were living in prisons with their mothers.

About 740 foreign prisoners, of whom 241 had served out their sentences, continued to languish in jails across the country, and were unable to return to their countries of origin, lacking any passport/travel documents. Efforts at ensuring compliance with earlier High Court Directions continued, with legal services organisations, including ASK, BLAST, BNWLA and Save the Children, working closely with concerned Government departments to obtain relevant information and provide legal aid to release foreign prisoners, women and children as well as indigent prisoners.

Some positive developments occurred during the year, including the opening of the first women-only prison on 16 July, with a capacity of 200, and with a day-care centre for children with mothers, and initiatives by the Inspector General of Prisons to hold vocational training and literacy programmes for prisoners, and by the Ministry of Home Affairs to undertake reform of the Jail Code.

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165 Sections 48 and 49, Children Act 1974 provide that any child arrested for non-bailable offences should be released on bail or detained in a remand home or a place of safety. See Suo Moto Rule 248 of 2003; *Bangladesh Legal Aid and Services Trust (BLAST) v. Bangladesh and others*, 57 DLR (2005) 11; *State v. Md. Rezwan Mondal alias Hafiz*, 59 DLR (2007) 72; *Bangladesh Legal Aid and Services Trust (BLAST) v. Bangladesh and others*, 4 BLC 600 and *Bangladesh Legal Aid and Services Trust (BLAST) & another v. Bangladesh and others*, 7 BLC 85. The High Court has also given orders in pending cases during the year, directing the Ministry of Home Affairs and the Inspector General of Prisons to comply with these provisions, and to take immediate steps to remove children and juveniles from prisons.

166 Information received from Save the Children UK, Bangladesh.


### Table XII.1: Number of Children Admitted in 57 Jails in 2007

<table>
<thead>
<tr>
<th>Month</th>
<th>Dhaka</th>
<th>Chittagong</th>
<th>Rajshahi</th>
<th>Khulna</th>
<th>Sylhet</th>
<th>Barisal</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>B</td>
<td>G</td>
<td>T</td>
<td>B</td>
<td>G</td>
<td>T</td>
<td>B</td>
</tr>
<tr>
<td>January</td>
<td>37</td>
<td>5</td>
<td>42</td>
<td>49</td>
<td>3</td>
<td>52</td>
<td>18</td>
</tr>
<tr>
<td>February</td>
<td>37</td>
<td>12</td>
<td>49</td>
<td>33</td>
<td>3</td>
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<td>March</td>
<td>73</td>
<td>9</td>
<td>82</td>
<td>60</td>
<td>0</td>
<td>60</td>
<td>21</td>
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<td>42</td>
<td>39</td>
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<td>May</td>
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<td>80</td>
<td>29</td>
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<td>June</td>
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<td>50</td>
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<td>July</td>
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<td>59</td>
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<td>46</td>
<td>15</td>
</tr>
<tr>
<td>August</td>
<td>39</td>
<td>12</td>
<td>51</td>
<td>19</td>
<td>6</td>
<td>25</td>
<td>11</td>
</tr>
<tr>
<td>September</td>
<td>47</td>
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<td>29</td>
<td>17</td>
</tr>
<tr>
<td>October</td>
<td>37</td>
<td>5</td>
<td>42</td>
<td>15</td>
<td>4</td>
<td>19</td>
<td>5</td>
</tr>
<tr>
<td>November</td>
<td>43</td>
<td>5</td>
<td>48</td>
<td>37</td>
<td>8</td>
<td>45</td>
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<td>December</td>
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<td>59</td>
<td>26</td>
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<td>Total</td>
<td>549</td>
<td>109</td>
<td>658</td>
<td>402</td>
<td>58</td>
<td>460</td>
<td>174</td>
</tr>
</tbody>
</table>
WORKERS’ RIGHTS

The year 2007 saw the beginning of implementation of the Bangladesh Labour Act 2006, as well as of the National Minimum Wage and the Sectoral Minimum Wage for the garment sector, both fixed in 2006. The Government’s continuing engagement with civil society on drafting the Labour Law Welfare Foundation Bill, pending since 2006, laid the ground for new opportunities for protection of workers’ rights, both in the formal and informal economy. During the year, the World Health Organisation assisted in drafting a National Occupational Health and Safety Strategy for Bangladesh.¹⁷¹

However, the lack of compliance with existing laws and policies, and with Bangladesh’s own constitutional and international treaty obligations, combined with flagrant and continuing violations of the right to association and assembly, continued to severely hamper the scope for enforcement of workers’ rights. Under the SoE, the express prohibition on public meetings, demonstrations and trade union activities further hampered an already repressive climate for enforcement of labour rights. The space for dialogue and collective bargaining for settlement of labour disputes between employers, workers and government shrank even more.

As in earlier years, the discourse on labour rights was focused largely on the situation of garment workers, and, to a degree, on migrant workers. The situation of the majority of workers, most within the informal econ-

¹⁷² See Article 14, Constitution of Bangladesh, which provides that one of the fundamental principles of state policy is to emancipate workers from any sort of exploitation. See also ILO Conventions Nos. 87 and 98 on freedom of association and the right to collective bargaining.
omy and outside the industrial sector, failed to draw the attention of media or civil society (with some exceptions), let alone of state authorities.

Within this narrow focus, some advances could be seen during the year, for example in increasing payment of minimum wages in the garment sector. However, even in this respect, a report by the Directorate of Labour noted that at least 145 garment manufacturers, up to the end of 2007, had not implemented the Taka 1,662.50 minimum wage, while 262 factories were found not to have paid regular salaries to workers. More positive developments included reports of increasingly regular consultations between employers and unions, as well as greater awareness and implementation of participation committees, and trainings by the Ministry of Labour of employers’ representatives on workers’ rights.

Formal sector workers – particularly in the garments sector – endured low wages, failure of employers to pay arrears, unsafe and unhealthy working conditions, and unjust termination and dismissal. In the absence of effective trade union activity, there was little opportunity for collective articulation of these grievances or their redress. Even where trade union representatives continued to operate informally, they had limited impact, given the existing divisions amongst them, and more importantly, their failure to represent more than a small percentage of the labour force. As in previous years, the scope for litigation to enforce individual claims remained limited, despite the availability of some specialized services by legal aid groups. Thus, delays in adjudication of labour disputes, the lack of free collective bargaining, and the existence of ineffective institutions hampered the protection of workers’ rights.

There were several intense confrontations between employers and workers, both in the garments sector and in the jute mills, and repressive intervention by the state on such occasions against workers’ protests. ASK and

\[\text{References:}\]

173 Jamshed Rahman, Chief Inspector of Department of Inspection of Factories and Other Establishments (in Charge), referred to this report and to the cause for unrest being the failure of employers to meet their legal obligations: *The Daily Star*, 6 February, 2008.

174 Ibid.

others conducted on-site investigations into a number of these incidents and issued statements demanding full settlement of workers’ dues, and investigation into the incidents of police violence as well as withdrawal of cases against workers.

**Khalishpur:** For five days from 17 April, protesting workers demanding arrears of wages clashed with police at the Khalishpur Industrial Area in Khulna.

On 17 April, following the beginning of the protests and police *lathi* charges and tear-gassing, the police filed cases against some 2,000 workers at Khalishpur Police Station and injured about 50 workers. On 18 April, in further clashes, another 70 workers were injured. The police also entered the workers’ colonies and *lathi*-charged them, along with their families. A second case was filed against 2,500 workers at Daulatpur Police Station. On 19 April, a BJMC representative and the Khulna Police Commissioner separately met with the workers, who said they would not return to work unless the arrears were paid. That day, the Government announced layoffs for 45 days at Platinum Jute Mills and of 21 days at Star, Peoples and Crescent Jute Mills. On 20 April, protests against layoffs continued. On 21 April, a procession by school students within the mill premises was *lathi*-charged by police and 20 students were injured. About 100 workers and about 20 police officers were reportedly injured in clashes. The police filed a third case against some 2,000 workers. On 26 April, the BJMC finally issued a cheque for Taka 197.7 million in settlement of the workers’ demands, the outstanding arrears in all jute mills being about Taka 700 million at the time.

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**Amin Jute Mill, Chittagong:** On 9 August, clashes occurred after the police baton-charged some 600 workers who had been demanding arrears for over three weeks at Amin Jute Mills in Chittagong, leaving one worker dead and at least 80, including 30 police-officers, injured. The police reportedly assaulted ten workers, and arrested 18 persons, including five of the injured workers. Many of the injured stayed away from Chittagong Medical College Hospital (CMCH) for fear of arrest. As noted earlier, much of this unrest was fuelled by the retrenchment and closure of mills and factories, as part of broader government policies for privatisation under World Bank and IMF directives.

**Nasirabad Industrial Area, Chittagong:** In the RMG Sector, at least 20 garment workers were injured, three of them shot, during a clash with the Police and Ansars at Nasirabad industrial area in Chittagong on 27 March 2007. The clash broke out after the Ansars opened fire on a protest by workers of the Sunman Group demanding payment of their basic wages, festival bonus and cash instead of breakfast and wage payment on a piece rate basis. Of the injured, five were admitted to Chittagong Medical College Hospital in a critical condition.

<table>
<thead>
<tr>
<th>Table XIII.1: Workplace Deaths in 2007</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Sector</strong></td>
</tr>
<tr>
<td>Construction</td>
</tr>
<tr>
<td>Manufacturing</td>
</tr>
<tr>
<td>Service</td>
</tr>
<tr>
<td>Ship-breaking</td>
</tr>
<tr>
<td>Other Miscellaneous (including port, inland shipping)</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
</tr>
</tbody>
</table>

180 This is the result of monitoring of national newspapers by the Occupational Safety Health and Environment Foundation and the Bangladesh Institute for Labour Studies.
**Gazipur.** On 20 May 2007, another garment worker, Asma Akhtar, age 25 years, from Patuakhali, of Fortuna Apparels Limited, was killed when police opened fire on workers demonstrating for overtime arrears and monthly salaries in front of their factory in Gazipur. Twelve other workers and four policemen were reportedly injured. Reportedly the Joint Forces were also deployed in the area.181 The Government formed a three-member enquiry committee but its findings had not been published by year end.

The Government and the private sector both continued, as in previous years, to demonstrate a disturbing and callous disregard for existing laws on workplace safety. There were 229 industrial workplace deaths reported in the national newspapers (not including work-related road traffic deaths and deaths at sea).182 As far as is known the Factory Inspectorate had not investigated any of these deaths nor taken any legal action for breach of health and safety law in relation to any death. Most of these deaths (see Table XIII.1) were in the construction sector where the ‘Code Enforcement Agency’ mandated under the Bangladesh National Building Code, 2006 had still not been set up by year end.183 The need for such an agency was clearly demonstrated by the deaths of 15 workers during the demolition of Rangs Bhaban in Dhaka carried out following a court decision that the building had been erected illegally.184 Following a public interest petition, the High Court directed the Government to show cause why the failure to remove the bodies and to bury the dead up to five days after the incident should not be declared to be without lawful authority and further directed the establishing of an inde-


183 [Ed Note: Following public interest litigation, the Bangladesh Legal Aid and Services Trust (BLAST) and the Occupational Safety Health and Environment Foundation (OSHE) obtained an order in February 2008 from the High Court directing the Government to show cause why the failure to establish a body to implement the National Building Construction Code 2006 should not be held to be without lawful authority. See A T M Morshed Alam, ASK Bulletin, March 2008, p. 14. See also “HC asked government to submit report on steps for safety of construction workers”, The Daily Star, 31 January, 2008].

The Committee was established, but including RAJUK representatives, and submitted its report on 30 December 2007. Following a criminal case alleging that the contractors, Six Star, and the owners of Rangs Bhaban had been responsible for the deaths due to their failure to observe safety laws, the Chief Metropolitan Magistrate directed the Officer in Charge of Tejgaon Police Station to submit an investigation report by 13 March 2008.

185 Human Rights and Peace for Bangladesh (HRPB) filed the PIL, and a Division Bench comprising Justice ABM Khairul Haque and Justice Abdul Awal issued the Rule Nisi on 12 December 2007. [Ed Note: HRPB filed another PIL challenging the constitution of the Committee, whereupon a Division Bench of the High Court comprising Justice Najmunara Sultana and Justice Ashfaqul Islam stayed the operations of the Committee including a RAJUK representative for a period of three months, and directed that no steps be taken in pursuance of the report. See A T M Morshed Alam, ASK Bulletin, March 2008, p. 14].

WOMEN’S RIGHTS

The year was marked by alternation between raised hopes and dashed expectations for definitive, progressive change in areas critical to women’s advancement. Early assurances by the Government in general, and the Chief Advisor in particular, of protection of vulnerable and marginalised groups including women, and transparency in systems of redress, raised hopes of a higher standard of engagement between citizens and the State. However, reviewing state actions over the year, it seems that more could have been achieved and more avenues could have been explored to reach goals shared by the Government and the women’s human rights movement.

In terms of positive gains, the Chief Advisor’s public recognition of the need for a Domestic Violence Bill, was followed by a welcome dialogue initiated by the Ministry of Women and Children’s Affairs with women’s and human rights advocates on framing a law on domestic violence which helped to accelerate drafting of the Bill and establish a commitment to working jointly to this end. The Government (General Economic Division–Planning Commission) also undertook a review of the PRSP Guidelines on Gender in consultation with women’s rights organisations. Following their persevering advocacy, the Government eventually in March 2008 adopted the National Policy on Advancement of Women effectively incorporating amendments to the original Policy 1997 (which had been significantly watered down in the interim by the Four Party Alliance Government in 2004 without the knowledge of women’s groups or indeed

concerned officials, by omitting clauses expressly guaranteeing gender equality). Concerns remained, however, both regarding the failure of sections of the Government to respond effectively to criticism of the Policy by Islamist parties, and even to respond to protests by such groups which involved the use of arms and intimidation. In contrast to the Policy, other long-standing demands of women’s organisations for legal reform were not met: for example regarding withdrawal of reservations to the CEDAW relating to the state’s obligations to eliminate discrimination against women within the family or amendment of the Citizenship Act of 1951 to ensure women’s right to transmit nationality.

Further, despite a clear articulation of demand and even a pending direction from the High Court, the Government failed during the year to take steps to establish *Nari o Shishu Nirjaton Domon* [Suppression of Violence against Women and Children] Tribunals in the three Hill Districts of Rangamati, Bandarban and Khagrachari thus denying the rights of women living in the Chittagong Hill Tracts to equal access to legal remedies in cases of violence.\(^{188}\)

The Election Commission’s proposal for a minimum 33 percent representation of women as part of the eligibility criteria for registration of political parties remained uncertain, in the face of opposition by contending parties, particularly the Jamaat i Islami.\(^{189}\) Concerns persisted regarding the relative marginalisation of women holding elected offices, in particular women ward commissioners elected through reserved seats.\(^{190}\)

\(^{188}\) [Ed. Note: In *Bangladesh Legal Aid and Services Trust (BLAST) v Bangladesh*, Writ Petition No. 606 of 2006, judgment dated 24 February 2008, the High Court issued a direction upon the Government (Ministry of Law, Ministry of Home Affairs, Ministry of Hill Tracts Affairs and Registrar of the Supreme Court of Bangladesh) to give immediate effect to section 26 of the *Nari O Shishu Nirjaton Daman Ain* 2000 and to set up such Tribunals in the three hill districts. The Tribunals were established in June 2008.]

\(^{189}\) “Rajnoitic ake slob committee tey 33 shota nari protimidhi rakha shokbo nei” (To keep 33 per cent reserved seats for women in all committees of political parties is not possible), *Prothom Alo*, 23 November 2007. *Shamakal*, 23 February 2008.

\(^{190}\) “DCC’r shongrakkhito aisone r mobila commissionera ral obolchito, porab commissionerera tader patta denna, shoujanno dekhanno DCC kormokortar” [Women commissioners in DCC reserved seats are neglected, the male commissioners give them no importance, DCC officials show no courtesy], *Janakantha*, 13 January 2007.
An upward trend could be seen in women’s representation in public services such as the police and armed forces, the posts of first and second class gazetted officers, the judiciary and diplomatic service with reservations for women being made at 15 per cent for senior grades’ and 10 per cent for junior grades; however, these quotas were not filled. Women’s participation in the labour sector also increased, including in silk, fish and shrimp processing and brick making. Notably, the proportion of women, compared to men, employed in the garments export sector was on the decrease, partly because of changes in the structure of the industry. Wage discrimination and workplace harassment remained pervasive. Rural women’s access to personal security, healthcare, education and nutrition continued to remain relatively low.

Reports of violence against women, at least based on NGO investigations and press reports, did not indicate a significant shift in numbers or any clear trends in terms of state response from previous years. So for example, while there appeared to be some decrease in allegations of rape - including of children and people with disabilities - and of acid attacks, dowry deaths, domestic violence and violence suffered by girl children in school and as domestic workers, it was unclear if these figures represented the entirety of the landscape of violence against women. Further in the absence of any official information on the nature or number of such violations it remained unclear what steps had been taken by the authorities to investigate or prosecute these allegations. According to newspaper reports, there was a fifteen per cent decrease in the number of rape cases - from 741 reported cases of rape in 2006 to 634 in 2007. Among these, six cases of rape allegedly occurred in police custody as compared to five in 2006.

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192 “Shob khetrei narir unokhrodhon barshhey, pichhe rujnitity” [Women’s participation increases at all levels, regresses in politics], Prothom Alo, 4 November 2007.
194 See Table XIV.1 , “Comparative Data on Violence Against Women, 2003 – 2007”.
195 ASK Documentation Unit.
196 “Karimganj thanai kishori dhorshito: borkhasto SI” [Young girl raped in Karimganj Police Station: SI Suspended], Sangbad, 21 April 2007; see also cases in Brahmanbaria, reported in Shamokal, 1 June, 2007; Mirpur Police Station, Dhaka, reported in Prothom Alo, 19 August, 2007 and Manda Police Station, Naogaon, reported in Sangbad, 5 October, 2007.
Table XIV.1: Comparative Data on Violence against Women

<table>
<thead>
<tr>
<th>Category of Violence</th>
<th>2003</th>
<th>2004</th>
<th>2005</th>
<th>2006</th>
<th>2007</th>
</tr>
</thead>
<tbody>
<tr>
<td>Acid Attacks</td>
<td>249</td>
<td>228</td>
<td>130</td>
<td>142</td>
<td>95</td>
</tr>
<tr>
<td>Domestic Violence</td>
<td>705</td>
<td>616</td>
<td>689</td>
<td>635</td>
<td>577</td>
</tr>
<tr>
<td>(Dowry Related Violence)</td>
<td>(374)</td>
<td>(352)</td>
<td>(356)</td>
<td>(334)</td>
<td>(294)</td>
</tr>
<tr>
<td>Rape</td>
<td>948</td>
<td>618</td>
<td>585</td>
<td>515</td>
<td>436</td>
</tr>
<tr>
<td>Gang Rape</td>
<td>433</td>
<td>359</td>
<td>250</td>
<td>226</td>
<td>198</td>
</tr>
<tr>
<td>Fatwa instigated Violence</td>
<td>46</td>
<td>35</td>
<td>46</td>
<td>39</td>
<td>35</td>
</tr>
</tbody>
</table>

Taking into account the spurt in reported cases of fatwa instigated violence during the middle of the year, there was a total of 39 such reported cases in 2006 as against 35 in 2007. In May, following PIL by HRPB, the High Court directed the Government to explain why legal steps should not be taken against persons including local government elected leaders responsible for issuing such fatwas and enforcing hilla marriages on villagers in Bogra. Disturbing reports of young women or their family members resorting to suicide following rape or retaliatory threats for taking legal action against perpetrators also continued to be made.

Table XIV.2: Fatwa-instigated Violence in 2007

<table>
<thead>
<tr>
<th>Alleged Cause</th>
<th>Hilla</th>
<th>Lashes</th>
<th>Social Boycott</th>
<th>Physical /Mental Violence</th>
<th>Total Case filed</th>
<th>Death</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rape</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>2</td>
<td></td>
<td></td>
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<tr>
<td>‘Affair’</td>
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<td>Oral Divorce</td>
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<td>1</td>
<td>22</td>
<td>3</td>
<td>1</td>
</tr>
<tr>
<td>Allegation of extra marital relationship</td>
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<td>2</td>
<td>1</td>
<td>22</td>
<td>3</td>
<td>1</td>
</tr>
<tr>
<td>Allegation of sexual relationship</td>
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<td>1</td>
<td></td>
<td>1</td>
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</tr>
<tr>
<td>Total</td>
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<td>7</td>
<td>14</td>
<td>4</td>
<td>35</td>
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In several cases brought under the Emergency Powers Rules, women fam...
ily members related to the principal accused were denied bail without any opportunity for the Court to consider their specific circumstances. For example, on 3 July 2007 the Dhaka Metropolitan Sessions Judge directed that former State Minister Iqbal Hassan Mahmood (Tuku)’s wife, son and daughter, be sent to jail custody, rejecting their bail petitions after they appeared before the Court. Following amendment of these Rules in the face of widespread public concern on this issue, the Courts granted bail to the mother, daughter, wife, minor son and unmarried daughter of the principal accused in such cases.

202 “Tuku’s wife, son, daughter sent to jail”, The Daily Star, 4 July 2007. The Investigating Officer had pressed charges against Tuku and three family members on 28 June 2007 and the Court issued arrest warrants against them on 2 July 2007, following which Mohammadpur police on 3 July arrested Romana and Farah from their residence and forwarded them to the Court. A Deputy Director (DD) of the ACC had filed the case against Tuku and the three family members on 21 March, 2007, as their statement of wealth valued at Tk. 35.95 crore did not match with the source of their income.
This year marked the tenth anniversary of the Chittagong Hill Tracts (CHT) Peace Accord, as well as the first year of the current Caretaker Government. Overall, there were major negative developments for the Adibashis both in the Chittagong Hill Tracts as well as in the plains. There was a crackdown on political dissidents, which included not only members of indigenous political parties (JSS and UPDF in CHT), but also civil society representatives without political affiliation who had been vocal on the rights of the indigenous peoples. The crackdown resulted in serious human rights violations, arbitrary arrests under false or at least barely credible charges and summary trials under dubious conditions. The year saw a continuation of the long-term unstated policy of ethnic displacement in the CHT, a trend that dramatically accelerated during the previous five years of BNP-Jamaat Government. At the same time, a few positive trends emerged: the High Court’s judgment in 2008 regarding establishment of Sessions Courts and Nari Nirjaton Tribunals, the first meeting of the CHT advisory committee in seven years, the emergence of more reporting and editorials on both Adibashi and Pahari issues in the media, and the appointment in January 2008 of Raja Devasish Roy to the Ministry of CHT Affairs as Special Assistant to the

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Chief Advisor (followed by announcements regarding the re-activation of the Land Commission and the withdrawal of the ‘mobile ban’).

Deaths in Custody: Eco-Park activist Cholesh Richil

The case of Cholesh Richil was the first major case of custodial death reported under the CTG (See Box V.1).²⁰⁵ Coming in the third month of the CTG’s tenure, it was seen as a litmus test of how the Army would handle allegations of human rights abuse; the judicial inquiry commission formed to inquire into this death had not made public its findings as of the writing of this report.

Racial Profiling

Army Operations, Ranglai Mro, DANIDA kidnapping

In light of a three decade long military “pacification” programme in the region, a series of arrests, beginning immediately after the declaration of the emergency in 2007 spread panic among Pahari activists. Various ‘operations’ were launched in this regard with names like “Operation Dabanol” (forest fire), “Operation Uttoron” (the rising) and “Alor Shondhane” (in search of light).²⁰⁶ While the Army officially stated that these operations were necessary to disarm miscreants in the area, others alleged that these operations were used to selectively target activists. Some key examples are: Satyabir Dewan (General Secretary of PCJSS), Ranglai Mro (Chairman of Sualok Union Parishad) and Bikram Marma (President of PCJSS, Kaptai upazila branch) -- all of whom were sentenced to 17 years for alleged possession of arms. Sai Mong Marma (Organizing Secretary, PCJSS Kaptai) was sentenced to ten years. All targeted arrestees were vocal opponents of the army presence in CHT, and Ranglai Mro was the leader of protests against the eviction of 750 Mro families to make way for an army training centre in Bandarban. Reportedly at least 50 arrests were made in 2007, including 20 members of PCJSS and ten members of UPDF²⁰⁷ - both Pahari political groups that

²⁰⁷ http://www.buddhistchannel.tv/index.php?id=70,4782,0,0,1,0
oppose the army presence and Bengali settlers. Among the high profile arrested activists were Santoshito Chakma (General Secretary of Chittagong Hill Tracts Jumma Refugee Welfare Association), Milton Chakma (Assistant Coordinator of Hill Watch Human Rights Forum), and Tatindra Lal Chakma (Central Member of PCJSS).

Prompt action by the security forces in dealing with the kidnapping of DANIDA official Hossain Shahid Shumon by an allegedly Myanmarese insurgent outfit, was nevertheless followed by disproportionate and unjustified action in relation to Adibashi individuals traveling with Shumon in the same group. The Joint Forces arrested a number of local villagers and Pahari NGO officials on allegations of their connection with the kidnapping. No formal charges were ever lodged against any of these officials but the hapless individuals had to pass six months in Bandarban prison before being released. The case highlights how even extremely well-established senior officials of NGOs who have been working peacefully with Bengali groups for many years, may be subject to arbitrary treatment due to their ethnic background.

Right to Property: Bengali settlers and land grabbing
A three decade long policy of resettlement and pacification, in which heavy military presence was an explicit deciding force, has made it possible for Bengali settlers to occupy land in the CHT - reducing the Pahari population from a one-time majority to roughly 50-60 per cent of the population. This trend continued in 2007, with cases of Bengali settlers reportedly displacing Paharis and grabbing lands - particularly in Kha-grachari district, but also elsewhere. In the case of Sadhana Tila, Buddhist monks of a Meditation Centre were allegedly ordered to leave on 13 August 2007 by the local Army Zone Commander in order for the area to be used for rehabilitation of 800 Bengali families. Ultimately, Bengali families were not resettled there. Throughout the year 2007, reports of

208 [Ed Note: He was released in 2008].
similar cases continued, some in the national media but the majority as ‘word of mouth’ from local eyewitness. While these incidents need to be independently verified, what is undeniably clear is the sheer number of such allegations and the overall trend of dispossession of and eviction from land of the indigenous ethnic communities, with the government machinery – most prominently the security forces – being constantly alleged to be implicated. One prominent example was the Ruma army cantonment which announced plans to expand the garrison by 7,570 acres, and reportedly ordered more than 4,000 Mro indigenous families to vacate the land.\footnote{Qurrat-ul-Ain Tahmina “7,500 acres of land to be taken for Ruma Cantonment”, Prothom Alo, 13 July, 2007.}

Right to Information: Continuing ban on mobile phones
limited reporting on CHT

The mobile phone revolution is one of the huge success stories of Bangladeshi business sector, growing from less than one million phones in 1996 to 30 million subscribers today. Yet in the midst of this huge growth, all three districts of CHT—Bandarban, Khagrachari, Rangamati—remained almost completely outside the mobile phone coverage grid, due to a de facto ban. The basis of the ban was not clear, though the justification apparently given by the local authorities was that any other situation would help the "insurgent guerilla forces." This in spite of the fact that the majority of such forces had, since 1997, put down arms and joined civilian life. The mobile phone blackout had caused a huge negative impact to the development of business and commerce in the area. In an interview, Raja Devasish Roy expressed his hope that the Government would lift the ban on mobile phones in the region.\footnote{“Seeing everything through security eyeglasses would be a mistake”, Raja Devasish Roy interview in Prothom Alo, 17 June, 2007. [Ed Note: The mobile phone network was ultimately made operational in the CHT from 28 March, 2008]}

Late in the year, the Government sought to impose restrictions on events relating to Adibashi rights. One report\footnote{“Govt plans curbs on indigenous people's rights”, 26 January, 2008, http://www.ipnutk.org.uk/news/jan2008/26jan08.html} alleged that the Home Min-

\footnote{}
istry had issued an instruction asking authorities to "prevent intellectuals and eminent personalities from attending functions organised by ethnic minorities." This was in line with a report allegedly submitted to the offices of the President, Chief Adviser, Home Ministry, Inspector General of Police and Dhaka Metropolitan Police Commissioner which said: “Necessary measures should be taken so that the editors, left-leaning politicians and eminent personalities do not participate in the programmes.” The Home Ministry allegedly sent a note to this effect to the Information Ministry on 11 October, 2007 as well as to Bangladesh Television and Bangladesh Betar. The instructions would arguably make it impossible to hold, in the future, events such as International Day of the World's Indigenous Peoples, events by Bangladesh Adibashi Forum and Bangladesh Adibashi Odhikar Andolan.

1997 Peace Accord: Continuing Non-implementation
The landmark 1997 Peace Accord that ended the twenty year insurgency led by the Shanti Bahini entered its tenth year with few signs of implementation. Vital clauses that had not been acted upon by the last two political governments, continued to remain paper promises under the current regime. However some important announcements were made, include activating the Land Commission, withdrawal of all “temporary camps” of Army, BDR, Armed Police Battalions, and handing over of full control of local civil and police administration to three Hill District Councils. An important step towards enforcement of one provision of the Accord was taken with the High Court decision to set up District Judges’ Courts in the three hill districts, a much needed measure to clear a backlog of over 25,000 cases.

Another positive development this year was the CTG’s decision to call a meeting of the CHT Affairs Ministry Advisory Committee, the first such


214 Each year there are reports of unresolved cases of murder, kidnapping, land grabbing, and rape in the region. In 2007, such reports appeared in Jugantar (11 July), Sangbad (20 May, 5 August), Janakantha (30 Jan, 20 May), Bhoron Kagoj (17 July), Shamshakal (7 November), and other newspapers.
meeting after a five year gap during the BNP-Jamaat Government. The arrest and prosecution on corruption charges of BNP MP Abdul Wadud Bhuiyan, who had been largely seen as being beyond the reach of the law, was seen as a positive development by many. Foreign Affairs Advisor Iftekhar Chowdhury’s positive remarks about implementation of the Peace Accord also advanced the issue. However, this was starkly contradicted by the then Law Advisor Mainul Hossein’s public statement at a meeting of the militant pro-Bengali settler group “Parbotto Shomo Odhikar Andolon” (The Hill Equal Rights Movement) that the Accord required revision.

Legal Challenge to Peace Accord

In a disturbing new development, a writ was filed in the High Court by Advocate Md. Tajul Islam, a member of the Jamaat-i-Islami, challenging the constitutionality of the 1997 Peace Accord.215 Islam claimed that the CHT Accord was passed "amidst huge protest and rejection of the major section of the people of Bangladesh", undermined the unitary nature of Bangladesh and that special provisions for indigenous inhabitants of CHT were against the Constitution. It should be noted that the 1997 Peace Accord was indeed greeted by protests from the opposition parties, the BNP and Jamaat, with BNP chairperson Khaleda Zia announcing a "long march" to Khagrachari. Similar political machinations may be behind this lawsuit.216

Voter List implementation

Perhaps Advocate Tajul Islam's writ did not hope to dismantle the 1997 Peace Accord. However, filed at a strategic moment, it has already accomplished what may be its main objective - inclusion of the settlers in the voter list for the planned December 2008 national elections. In response to this petition, a Division Bench ruled in August 2007 that until the writ is...

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disposed, the Election Commission should not differentiate between permanent and non-permanent residents in CHT while registering voters. While the Constitution mandates only one electoral roll for the Parliamentary Election, it remains to be seen whether this roll will be amended for the holding of local government elections in the CHT in line with the Accord and the HDC Acts.

217 "CHT voter list will not be created in line with Peace Accord", Ittefaq, 24 June, 2007.
CHILDREN’S RIGHTS

Bangladesh was one of the first countries to ratify the UN Convention on the Rights of the Child (UNCRC) and has also ratified ILO Convention 182 and other similar conventions. While some strides have been made, numerous challenges remain, as identified by a coalition of 19 child rights organisations in their Alternative Report to the United Nations Committee on Children’s Rights, critically analysing trends in and the status of implementation of Bangladesh’s implementation of its obligations under the CRC. During the year, the Supreme Court gave a number of important judgments and directions on the issue of children in custody and on juvenile justice (see Chapter VII.1).

Violence and Abuse: Serious concerns related to the growing numbers of children who face abuse and exploitation within the family, schools and other institution, community and at national level. Official estimates from Ministry of Home Affairs and Ministry of Social Welfare and Ministry of Women’s and Children Affairs suggested that at least 13,220 children had been trafficked out of the country over the last five years.

According to ASK’s documentation unit, 38 female children aged under 6 years, 97 female children aged 7-12 years, 76 female children aged 13-18 years were raped in 2007. Among them 38 girls were killed after rape and three committed suicide. There are no statistics available on whether these cases were adequately investigated and prosecuted.

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Child labour: The government is implementing eight programmes totaling US$ 12.7 million to eliminate all forms of child labour through awareness raising, creating more opportunities for children’s education, income earning opportunities for families of child labour and capacity building of partner organisations.\(^\text{220}\) Despite that one child out of every eight is working.\(^\text{221}\) The number of boys working as child labour is double than that of girls (18 per cent versus 8 per cent). Again nearly one-fifth of children from slum and tribal areas are working to earn a livelihood for themselves and their families. A quarter of child workers do not attend schools.\(^\text{222}\)

\(^{221}\) UNICEF, 2007
RIGHTS OF PERSONS WITH DISABILITIES

The year saw increasing attention to the rights of persons with disabilities, with public commitments made to promote and protect such rights through the state becoming party to the Convention on the Rights of Persons with Disabilities (CRPD), and through the announcement of pledges of action at the national level. While some budgetary support was also allocated, much remained to be done to activate existing mechanisms, to deliver services and adjust perceptions in order to address the practical realities of the lives of people with disabilities. Although disability activists were able to articulate their demands through public meetings and events, and to obtain interventions from high levels of Government in their support, they were inhibited from holding a broader movement, or from taking legal action to demand enforcement of their rights, or to challenge legal discrimination, due to the continuation of the SoE.

Legal and Policy Changes
The adoption of the Convention on CRPD by the UN General Assembly on 13 December 2006 was quickly followed by the Government’s signature and then ratification of the treaty on 30 November 2007.223

223 http://www.un.org/disabilities/default.asp?id=257. It did not however ratify the Optional Protocol to the CPRD which would have given the right to submit individual complaints to the UN to those affected by violations.
To comply with the CRPD, the Government introduced institutional reforms by setting up 46 focal points in the ministries and various departments and restructured the National Disability and Development Foundation (NDDF) as an autonomous body. However, there was no progress in amending the Disability Welfare Act 2001.

Significant policy commitments made during the year regarding the promotion and protection of disability rights included the announcement on 3 December by the Chairman of the Public Service Commission of encouraging persons with disabilities in the next call for applications for jobs in Government service. The Chief Adviser also emphasized the need for the economic empowerment of people with disabilities through creating jobs and providing credit and skills. These commitments were backed by material support, as the national budget for 2007-08 allocated increased resources for micro-credit and disability allowances to promote the economic, social and cultural rights of persons with disabilities. The Ministry of Social Welfare also entered into an agreement with the World Bank to obtain a loan of US $ 25 million for the economic empowerment, social development and rehabilitation of persons with disabilities.

Significantly, the Election Commission for the first time identified voters with disabilities, by including related information in the voter registra-

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224 See for example, the Government’s mid term review report on the Second Asia-Pacific Disability Decade 2003-2012 submitted to the high level intergovernmental meeting organized by the UN ESCAP
tion forms, and also took special measures to facilitate registration, with enumerators listing persons with disabilities through home visits.

**Access to Education**

To further the Millennium Development Goal of universal education for all, the Government introduced a new programme of Taka 50 million for stipends for students with disability”. However, some reports indicated that decisions on such stipends had not been made till yearend. The Ministry of Social Welfare claimed that its stipend distribution policy was not prepared till the end of the year. 225

**Access to Employment**

Despite the commitments noted, and the continuing demand for allocating 10 per cent of government jobs for persons with disabilities, no steps were taken by year end to either remove existing restrictions or provide for such affirmative measures. Disability activists reported that Government departments did not follow existing quotas for persons with disabilities in the recruitment process, although the quota itself was clearly identified in all advertisements of third and fourth class jobs, for example for recruitment of Government Primary School Teachers. At the same time, existing job advertisements, such as those for recruitment of Assistant Judges, imposed qualifications such as the height, weight and physical fitness of candidates that effectively debarred any person with disabilities from applying for these jobs.226

**Accessibility /Mobility**

Major public institutions, including government departments and courts did not comply with legal requirements to provide for ramps in both public and private buildings to ensure access for persons with disabilities.227

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CONCLUSION
Changing Rhetoric but Continuing Practice?

Viewed in isolation, many of the events documented in this volume appear no different from violations that occurred in earlier years under elected and more “democratic” regimes. Forcible evictions, the arbitrary arrest of journalists, violent repression of workers’ rights and so on seem to have been incorporated into state practice in some ways, as acceptable or at least expected forms of negotiating with the citizenry.

At times, government actions appear to have been driven by rhetorical zeal and self-righteousness, to the detriment of human rights. For instance, in its efforts to establish the letter of the law in slums, the CTG itself violated constitutional guarantees of the right to life as well as specific legal safeguards against forcible eviction without resettlement. In the same way, the manner of its demolition of the illegally constructed Rangs Bhaban, in total disregard of safety laws, led to the deaths of 15 construction workers. At other times, CTG actions went beyond the stated goal of restoring conditions conducive to holding free and fair elections. The closure of ‘unprofitable’ jute mills, for instance, which led to the retrenchment of around 50,000 workers, was a policy decision on the structure and direction of the economy completely outside the ambit of any Caretaker Government.

The promulgation and continuation of the Emergency, grafted on to these existing practices of indifference to or abuse of human rights, exacerbated the levels of impunity, in particular by removing the opportunity for judicial enforcement of fundamental rights, and restricting the space
for public protest. Under the EPR, prosecutions were launched against many highly influential persons earlier perceived to be ‘above and beyond’ the law, but the manner in which these prosecutions were conducted in certain cases, and the appearance of selectivity of targets, raised serious concerns regarding human rights and fair trial issues throughout the year.

As in other years, human rights, feminist and other citizens’ groups challenged, with some success, numerous state actions, from the deprivation of the right to bail under specific circumstances under the EPR, to cases of arrest and detention and torture, and restrictions on freedom of expression, to ongoing instances of violence against women and the forcible evictions of hawkers and vendors. Ironically, the movement for trials of war criminals also took on new momentum during the year, as a further challenge to the culture of impunity.

Yet, some of the most pressing public concerns, basic issues of survival that shape the lives of most citizens, remained marginalized in the rights world. The rights to food and adequate nutrition come to mind immediately. On the whole, despite the spotlight being shone on certain violations, rights activists rarely addressed questions of redistributive justice, and failed to see the impact of ongoing abuses on the most vulnerable members of the community. One could argue that there existed a division of labour between the human rights movement and the development world. This is a gap that urgently needs to be overcome in the coming years.
RECOMMENDATIONS

ASK calls upon the Government to address past and present abuse of power, and human rights violations in order to move towards a truly democratic society which will respect diversity and the rights of all, not just the powerful few. To this end it calls for urgent steps to be taken to strengthen institutional reforms on the basis of people’s participation, and to check abuse of laws or abuse of power to violate rights, irrespective of the perpetrator’s identity or source of authority.

In particular, ASK calls on the Government to:
1. Take necessary steps for withdrawal of the State of Emergency and full restoration of the enjoyment and enforcement of fundamental rights.
2. Address impunity by taking immediate steps to establish through independent, impartial and competent persons, investigations of allegations of custodial deaths and torture and ill-treatment, or wrongful arrest or detention (and to repeal the Special Powers Act 1974), and take immediate action to prosecute and punish those found responsible and to provide reparations to those affected.
3. Hold investigations and prosecutions of those found responsible for the war crimes and crimes against humanity of 1971, as a critical part of the process of ending the culture of impunity.
4. Investigate any allegations of failure to act by law enforcing agencies in cases of violence or intimidation by non-state actors against women, or marginalised communities, including forcible occupation of land of religious and ethnic minorities, and take appropriate action.
5. Ensure that all trials are held in accordance with established due process norms, including the availability of prompt and competent legal aid and representation for all indigent persons.

6. Adopt laws or policies to prevent eviction of slums without alternative rehabilitation or resettlement in line with High Court Guidelines, stop all further evictions without notice and without prior rehabilitation, and implement existing schemes for rehabilitation and resettlement for all evicted slum dwellers.

7. Pursue measures for institutional reform, including
   - to ensure full independence and accountability of the entire judiciary, and consider establishing a Judicial Reforms Commission to review existing concerns regarding appointments and related matters;
   - to activate the NHRC, and pending its establishment, set up a high-level review body to receive and address grievances regarding abuses within criminal justice system;
   - to establish an independent and competent public prosecution department;
   - to ensure review of policing practices and procedures, reducing the focus on arrest and imprisonment including through consultations on the draft Police Ordinance;
   - to ensure effective implementation of existing quotas in public service and of fair recruitment policies and non-discriminatory practices in both public and private bodies;
   - to implement fully the CHT Accord of 1997, including through withdrawal of army camps, activating the Land Disputes Resolution Commission for the CHT and to strengthen the capacity of the CHT Regional Council and Hill District Councils;
   - to implement the Munim Commission 1980 recommendations for jail reforms and to revise the Prisons Act and Jail Code in conformity with international and national human rights standards.

8. Enforce labour laws on health and safety, and enable the factories inspectorate to hold prompt and effective investigations into causes of worker deaths and injuries, and appropriate payment of compensation,
and establish a monitoring mechanism to enforce the Building Construction Act, 2006.

9. Ensure through public consultations the enactment of laws on the Right to Information, on Remedies for Domestic Violence as well as amendment of the Vested Property (Return) Act, the Citizenship Act and the Disability Welfare Act in response to citizens’ advocacy and in furtherance of the state’s human rights obligations.

10. Withdraw reservations to international human rights treaties in particular the ICCPR, ICESCR, CEDAW, CERD, CAT and the CRC, and incorporate their provisions in national laws.