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**ODHIKAR**  
**REPORT ON 22 MONTHS OF EMERGENCY**

*State of Emergency must entirely be revoked*  
*Parliamentary election: only option to democracy*  
*Party manifestos must elaborate measures on human rights*  
*Extrajudicial killings are national shame*

Odhikar, a human rights organisation, monitors different aspects of human rights situation of Bangladesh relying on internationally recognised universal human rights instruments and campaigns for rule of law, democracy and justice. Following is the organisation's report on 22 months of State of Emergency in Bangladesh.

***Human rights are indivisible: Emergency must go:***

The State of Emergency, imposed on 11 January 2007 must be lifted in its entirety. A State of Emergency is inherently undemocratic and curtails fundamental rights and freedoms without which civilized society cannot operate. Also the grounds of “internal disturbances”, the stated so-called reason for the Proclamation of Emergency, no longer exists, thus continuing the State of Emergency has no justification. Moreover, it also contravenes permissible limits set up by the International Covenant of Civil and Political Rights, which Bangladesh is a party to. As such, the State of Emergency is no longer meeting its legal thresholds and continuation thereof violates both domestic and international laws.

In response to widespread demands to lift emergency, the Government had merely repealed parts of the Emergency Powers Rules 2007 that curbed the people's fundamental rights to assembly and relaxed the bars on meetings, gatherings, processions, rallies and demonstrations for electioneering purposes for a very short period only to impose it again. Assembly for all other purposes — be they by garments workers demanding a living wage, by cultural activists protesting against the communal forces, or human rights bodies protesting against extra-judicial killings — remains banned by the Emergency Powers Rules 2007. It has also lifted restrictions on the media, particularly with regard to reporting on political parties and their activities. In short, the government had eased the Emergency Powers Rules 2007 for the time being only in the plea of facilitating the elections. However, on 11 November 2008, the Government re-imposed the restrictions, and thus, it has failed to return to the people their political and democratic rights that were confiscated by the State of Emergency.

Odhikar believes that the rights and freedoms of the people are indivisible and cannot be selectively allowed or denied. Human rights are basic rights which are indispensable and indivisible, and hence, the State of Emergency must immediately be lifted in its entirety for people to enjoy their rights and freedoms.

### ***Parliamentary election only option to democracy:***

Odhikar demands immediate restoration of a Constitutional and Parliamentary form of Government and the only option is to hold general elections to constitute duly elected parliament. To restore a democratic government, election is the only option and all other means to form a government lacks democratic legitimacy. Odhikar insists that only a popularly elected parliament can constitute a legitimate government and as such, the election must be held. There are no short-cuts to democracy other than a widely participated, free and fair popular election. Odhikar therefore calls on the Government to hold the general election and all political parties to participate in it so that a truly representative parliament emerges with a mandate to set up government.

### ***Party manifestos must uphold human rights:***

In the upcoming elections, Odhikar demands that political parties not only clearly state their commitments and adherences to human rights but should also elaborate measures to be taken, should they be elected, to protect and further basic human rights to all. Human rights, rule of law, justice, and good governance should be the core basis of all activities and parties must amplify their positions how they plan to proceed in these areas. Mere sweeping reference to human rights would not suffice. A party must state categorically, if elected, how it will ensure furtherance of rights, adopt non-discriminatory policies, offer access to all and in particular, protect the rights and dignity of ethnic, religious and other minorities, rights of the women, children, disabled and other marginalised segments of the population.

Odhikar also urges voters to exercise their voting rights with utmost prudence and vote for those with impeccable commitments and good record in working for securing human rights and freedoms, regardless of gender.

### ***The Right to Information Ordinance:***

The government on October 20, 2008 promulgated the Right to Information Ordinance 2008 that many people, especially journalists, observed that the new law was more rhetoric than substance. The Ordinance will curb freedom of press as it is more inclined to restrict information rather than making it public. The Ordinance has kept a number of security and intelligence agencies outside its purview and restricted people's access to information, classified under at least 20 categories. The agencies kept outside the purview of the law are: the National Security Intelligence, Directorate General of Forces Intelligence, defence intelligence units, Criminal Investigation Department, Special Security Force, intelligence cell of the National Board of Revenue, Special Branch and intelligence cell of the Rapid Action Battalion.

Odhikar maintains that the wholesale exemption of the eight security and intelligence agencies from the reach of the Ordinance, given that many of these agencies are often accused of overstepping their legal jurisdiction and violation of human rights, is not consistent with the peoples' right to information and expression.

The people seeking public information will need to apply in writing and in prescribed forms or by e-mail to the designated officers by paying an amount of fee to be set for specific

information. The officers concerned will need to provide the information requested for in 20 working days. The officers must inform the clients within 10 days of the submission of applications, if they are unable to provide the information on demand in any case. Such provisions cannot ensure free flow of information. Rather it will curtail facilities the newsmen are currently enjoying in terms of collecting information.

***Extrajudicial killings, custodial deaths are a national shame; they can no longer be tolerated:***

Not only have extrajudicial killings not stopped, they are now being perpetrated with greater recklessness and the killings are carried out with absolute impunity. At least 308 people have been killed by legally constituted forces in the 22 months under Emergency. Defiant of the laws and norms, these errant law enforcers do not even think it necessary to give an elaborate report of the circumstances of deaths to explain away their conduct but hand out the same stereotyped story of 'crossfire' or 'exchange of gunfire'. During this period 245 people were allegedly killed in crossfire/encounter/gunfight and 38 people were allegedly tortured to death.

While election and democratic rights are in the air, the law enforcers continue to commit the grossest kind of human right violations. The Emergency Rules have curtailed the freedom of common citizens to seek fair trial while they have given a new freedom to law enforcers to arrest, torture and kill. It is true that extrajudicial killings have existed for years and are not an innovation of the present military backed government. But if the government remained true to its claim that it would clear much of the cobwebs of the past, then it should have probed the summary executions that took place in the past and stopped this outrageous practice. Extrajudicial killings and custodial deaths are a national shame that should no longer be tolerated.

***Labour rights:***

The news of garment workers' demonstrations and clashes with the police at Fatullah on October 22, 2008 is only the latest of numerous others in recent months. It becomes increasingly evident both from the garment workers' demands and the factory owners' declaration of ration distribution that the minimum wage decided upon in 2006 is not sufficient to meet the rising costs of living as inflation continues to remain high on the back of high prices of essential food items. Given the marked rise of essentials in the last 22 months of the government, it is conceivable that the minimum wage of Tk 1,662.50 per month is proving to be extremely inadequate — inadequate for a reasonably acceptable standard of living that is — for an individual, let alone a family. In this regard, the continual demand of the garment workers to increase their wages is not only justified but necessary just as it is necessary for the entire industry to thrive and expand.

Towards this end the government should immediately constitute a Wage Commission with the representation of all parties concerned to review the prevailing wage structure. However, the current minimum wage, though apparently decided upon after a rigorous exercise, is not based on any benchmark as such. The figure was arrived at by way of a compromise between what the factory owners claimed they could afford to pay and what their employees demanded. That is hardly how a minimum wage, which in this context is far below a living wage, should be determined. Consequently then, the primary responsibility of the wage commission should be

to ascertain a benchmark or yardstick in terms of food, shelter, clothing, medical expenses, children's education and other necessities as the Commission deems fit. When translated into monetary terms, the minimum wage must be equivalent, at least, to a minimum living wage.

As part of the government's measures to ensure that garment workers receive living wages, the price tag of the bundle of necessities that constitute the minimum wage benchmark should be reviewed periodically, every six months or so, in order to avoid periodic outbursts of the garment workers demanding pay hikes. The entire process will undoubtedly require serious discussions between the members of the Wage Commission and the garment workers' representatives. On the Commission should be those who are credible and genuine representatives of the workers. Towards that end, we once again reiterate our view that the relevant quarters — workers, owners as well as the government — should actively work towards instituting a meaningful collective bargaining mechanism, pending full-fledged trade unions, in the interest of the industry in particular and the economy in general.

### ***Conclusions:***

1. Odhikar calls upon the Government to revoke immediately the proclamation of emergency, associated Rules and Other orders immediate to restore fundamental rights and freedoms since the state of emergency has lost its grounds and legitimacy.
2. The general election to elect a parliament should be held without further delay so that the country can transit to democracy. Odhikar insists that election is the only legitimate means to form a government and that the Government and political parties ensure successful holding of the election. Odhikar further insists that the Government must do everything possible for free, fair, participatory and credible elections and political parties should equally act responsibly as the repository of peoples trust.
3. Odhikar demands that all political parties make their positions and programs on human rights clear to electorates. Party manifestos should not only contain references to human rights but concrete action plans. It should also state how past wrongs would be addressed and past practices reversed. It should address directly the practices of gross violations of rights such as violence against women, cross fires etc, and detail on actions to end the culture of impunity.
4. Odhikar demands that the Right to Information Ordinance be suitably amended to enable easier access to information and remove restrictions and exclusions. Odhikar insists that information should not be denied to citizens who are the sovereign source of all authority.
5. Odhikar demands an end to extra-judicial killings and all such incidents must independently be investigated and those found responsible be brought before law and prosecuted accordingly. The Government must compensate victims of such killings and other violations.

*Odhikar Tel: 88-02-9888587, Fax: 88-02-9886208,  
Email: odhikar.bd@gmail.com, odhikar@citech-bd.com, Web: www.odhikar.org*

#### Notes:

1. Odhikar seeks to uphold the civil, political, economic, social and cultural rights of the people.
2. Odhikar documents and records violations of human rights and receives information from its network of human rights defenders and monitors media reports in twelve national daily newspapers.
3. Odhikar conducts detailed fact-finding investigations into some of the most significant violations. Odhikar is consistent in its human rights reporting and is committed to remain so.