
HUMAN RIGHTS CONCERNS 2007

ODHIKAR REPORT ON BANGLADESH



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This report is intended to cover concerns of Odhikar, a human rights organization of Bangladesh, covering the year 2007. It highlights critical areas that require immediate and urgent national, regional and international actions. Odhikar works to improve the quality of life, liberty and livelihood of the people of Bangladesh promoting civil, political, economic, social, cultural and collective values of human rights including implementation of obligations of the government prescribed by national constitution as well as by international instruments including the International Covenant on Civil and Political Rights, International Covenant on Socio, Economic and Cultural Rights and Convention on Torture.

Table of Contents

ODHIKAR REPORT ON BANGLADESH	1
URGENT AND IMMEDIATE RECOMMENDATION OF ODHIKAR	4
INTRODUCTION.....	5
TAKING CARE OF ELECTION.....	5
CONTEXTS THAT BROUGHT THE CARETAKER GOVERNMENT	6
FROM CARETAKER TO MILITARY-BACKED ADVISERS	6
CONSTITUTIONAL CONCERN OF STATE OF EMERGENCY.....	6
HUMAN RIGHTS CONCERNS OF STATE OF EMERGENCY	7
LEGITIMIZING EMERGENCY AND CURBING RIGHTS.....	8
REFORMING STATE INSTITUTIONS.....	8
ELECTION COMMISSION	9
ANTI-CORRUPTION COMMISSION	9
PUBLIC SERVICES COMMISSION	10
JUDICIARY.....	10
HUMAN RIGHTS COMMISSION.....	10
REFORMING POLITICAL PARTIES.....	11
CASES OF HUMAN RIGHTS CONCERNS	11
A. FREEDOM OF MOVEMENT	11
B. FREEDOM OF ASSEMBLY, ASSOCIATION, EXPRESSION.....	12
C. FREEDOM OF THOUGHT AND CONSCIENCE	14
D. FREEDOM OF SPEECH / EXPRESSION	14
RIGHT TO LIFE	15
EXTRA-JUDICIAL KILLING CONTINUES	16
BREAKDOWN OF EXTRA-JUDICIAL KILLINGS BY AGENCY	16
CIRCUMSTANCES OF THE DEATHS.....	16
POLITICAL ALLEGIANCE OF THE VICTIMS	17
OTHER CHARACTERISTICS OF THE VICTIMS	18
TORTURE.....	18
ARREST	18
VIOLENCE AGAINST WOMEN.....	19
WORKERS' RIGHTS	21
FARMERS' RIGHTS	21
EVICTION OF SLUM DWELLERS AND STREET HAWKERS.....	21
F. ETHNIC & RELIGIOUS MINORITIES.....	22
BORDER VIOLENCE.....	23
CONCLUSION.....	24
RECOMMENDATIONS	25

EXECUTIVE SUMMARY

1. Human rights situation and overall political and security conditions in Bangladesh has been signaling deterioration on many counts for the last decade, concurrent with the shift in the role of the state from socio-economic welfare of the citizens to promoting 'free' market that in essence uncritically safeguard the interest of the private sector against the citizens at large. The shift also signals the paradigm shift in governance: the state has to become more concerned about security and law and order situations since shift in governance paradigm did set into motion imminent economic contradiction and conflict of interests by widening gap between rich and the poor. In the absence of effective instruments and institutions defending the collective and individual rights of the citizens overall situation showing symptoms that are alarming.
2. In 2007 the inevitable course is manifesting in general deterioration of democratic values and political tolerance culminating in increasing fragmentation of the society breeding non-negotiable antagonistic positions and open violence. Human rights situation deteriorated sharply in Bangladesh in 2007. Following the escalation of increasingly violent clashes between members of rival political parties allegedly over the independence of the state bodies tasked with conducting national elections, the Army intervened on 11 January 2007; a new military-backed interim government took control and declared a State of Emergency.
3. Ever since a military-backed government came to power in Bangladesh, on 11 January 2007, Bangladesh Constitution has faced a number of challenges, particularly providing constitutional means to make an exit from the present situation. This situation has serious implication for the democratic future of Bangladesh and has further aggravated already vulnerable situation of human rights. The extent to which the current regime is able to identify those challenges and how it responds to them will dictate the future course.

URGENT AND IMMEDIATE RECOMMENDATION OF ODHIKAR

4. Lift the State of Emergency.
5. To restore normalcy the government should immediately begin engaging people to create enabling environment for dialogue, change and democratic polity, rather than disruption, confusion, conflict and instability.
6. To facilitate an enabling environment: (a) release all political prisoners; if there are case against any person, trials should be conducted respecting human rights and ensuring due process of the law, in an open and transparent manner to ensure justice (b) end intimidation of the media and (c) withdraw legal cases filed against jute-mill and garments workers for violating the State of Emergency.
7. Extra-judicial killings, torture and indiscriminate arrest should be stopped. Hold independent judicial inquiries into extra-judicial killings and prosecute all those suspected of involvement

HUMAN RIGHTS CONCERNS 2007

INTRODUCTION

1. Human rights inscribed in the PART III of the Constitution of the People's Republic of Bangladesh, is not absolute. The guarantees of rights that constitution intends to ensure in principle are open to amendment by the Parliament under Article 142 and also restricted by law enacted by the legislature. (The constitution says, nothing in the Article 26 "shall apply to any amendment of this constitution made under Article 142").
2. Generally speaking there are democratic deficits in the constitution which are major concerns for the human rights defenders of Bangladesh. This year contradictions in our constitution have become very apparent in two core areas: emergency and election. The present report intends to highlight on these contradiction.
3. The report summarizes various reports and case studies odhikar produced during the 2007. A compilation of all these reports are available and produced separately as an attachment with this report.

TAKING CARE OF ELECTION

4. Assumption in the constitutional reform for the so called 'Caretaker Government' are the following: (a) political culture of Bangladesh is not democratic and constitutional authority of the Election Commission is not enough or does not guarantee free and fair election and peaceful transition of power (b) therefore a constitutional reform is necessary to install a transitional non-party government to conduct the election (c) among all professions Supreme Court judges are considered capable and acceptable to head such a caretaker government. Rather than taking up the challenge of strengthening Election Commission and providing sufficient constitutional authority to use executive power for a free and fair election, the partisan, conflictual and confrontational political culture of Bangladesh has been institutionalized in the Constitution (Thirteenth Amended) Act 1996. When this deficit in the Constitution adds to the failure of incumbent government to earn sufficient credibility to trust with electoral process, serious crisis of confidence is precipitated quickly leading to crisis situations such as the peoples of Bangladesh are now facing: rule of unaccountable and inherently undemocratic interim regime backed by military and the development partners.
5. Since 1996, Bangladesh has used this Constitutional provision that provides for an unelected non-party Caretaker Government to oversee election. "Advisors", lead by a 'Chief Advisor', take over Ministerial portfolio for the duration of the 'Caretaker' regime. According to Article 123(4) of the Constitution the Election Commission must hold elections within ninety days of dissolution of the Parliament. The Article 123 (3) mandates general election 90 days after dissolution of the Parliament¹. Taking over control of the Caretaker Government administration in the lead-up to general elections, so as to ensure that the incumbents cannot rig the election

¹ Substituted by the Constitution (Thirteenth Amendment) Act 1996 (Act I of 1996), s.6

by design sets into motion conflicts of power and interest automatically sets into motion conflict of power and administrative challenges.

6. By-and-large, the system worked satisfactorily in general elections in 1996 and 2001, facilitating the transfer of power to the winning opposition from the ruling party. This credit is due mainly to the democratic spirit of the peoples of Bangladesh who after long and arduous struggle forced the military to retreat to cantonment after the fall of military government of Hussain Muhammad Ershad. Bangladesh returned to democracy in 1991.

CONTEXTS THAT BROUGHT THE CARETAKER GOVERNMENT

7. The last elected regime, led by the Bangladesh Nationalist Party (BNP), handed over power to a Caretaker Government on 28th October 2006. For the first time, the Caretaker Government was led by a President, Dr. Iazuddin Ahmed (who was President during the last BNP regime) as the two major political parties, the Bangladesh Nationalist Party (BNP) and Bangladesh Awami League (AL) were unable to reach a consensus regarding the appointment of a former Chief Justice of the country as Head of the Caretaker Government.

8. The general perception developed that the administration, led by Dr. Iazuddin Ahmed, was not neutral and that the Caretaker Government was not wholly independent of the previous BNP government and that it would not facilitate a fair election. National, regional and international organizations, institutions and even the diplomatic circle representing some powerful countries expressed their concerns. The political opponents of the government of BNP alliance, Awami League and her allies and other political parties announced that they would boycott the polls that were scheduled to take place on 22 January 2007.

9. Supporters of both these main political parties launched a series of confrontational street protests, which became increasingly violent. This prompted the military to take action with the support of some development partners and a section of the 'civil society'.

FROM CARETAKER TO MILITARY-BACKED ADVISERS

10. A new military-backed government took control of the administration on 11 January 2007. The new regime removed President Ahmed from his position as head of the Caretaker Government; although he remains Head of State, and declared the State of Emergency, suspending fundamental rights and freedoms - including the right to petition the Supreme Court to enforce human rights. The scheduled 22nd January 2007 general election was cancelled.

11. The State of Emergency, proclaimed by the President under Article 141A of the Constitution, has remained in force since 11 January 2007. Fundamental rights and freedoms, otherwise guaranteed under Part 3 of the Constitution, remain suspended.

12. It has also been declared that the Election Commission will declare a new date for the elections after the government would introduce sufficient political reforms to make a free and fair election possible.

CONSTITUTIONAL CONCERN OF STATE OF EMERGENCY

13. Emergency has been proclaimed 11 January 2007 at a time when Parliament has already been dissolved and a Caretaker Government is in-charge. This had been a unique event and never happened in history of Bangladesh in that "exceptional measures taken by a transitional

government." The existing emergency provision (Article 141 A (1)) of the constitution came through Constitution (Second Amendment) Act, 1973 (Act XXIV of 1973). Accordingly, President may issue a Proclamation of Emergency if he is 'satisfied' that 'grave emergency' exists in which economic life of Bangladesh or any part thereof, is threatened by (a) war or external aggression or (b) internal disturbance. Emergency "shall be laid before Parliament" and "shall cease to operate at the expiration of one hundred and twenty days, unless before the expiration of that period it has been approved by a resolution of Parliament".

14. According to Article 141 A (2) "proclamation shall cease to operate at the expiration of thirty days from the date on which Parliament first meets after its re-constitution, unless before that expiration of the said period of thirty days a resolution approving the proclamation has been passed by Parliament." Contentious interpretation of this clause is also precipitating political crisis and legal uncertainties as to the period of the present Caretaker" government in the absence of the Parliament how long the State of Emergency could be prolonged by an unelected regime. The constitutional, legal and political scenario became contentious and complicated given the Article 123(3) that says: 'a general election of members of Parliament shall be held within 90 days after Parliament is dissolved, whether by reason of the expiration of its term or otherwise than by reason of such expiration.'".

15. It is clear that Emergency proclaimed under Caretaker Government in the absence of the parliament has created a serious constitutional crisis. Not only the legitimacy of the present government is at stake, the legal experts are also divided on the interpretation of constitutional provisions related to Emergency and the reconstitution of the Parliament. It's very difficult to rationalize Article 58. B (1) and C (12), relating to duration of Caretaker Government, with Article 123 (3). According to Article 58. B (1) and C (12) there is no specific time period for the caretaker government that only says that after the dissolution of the Parliament Non-party Caretaker Government remain in effect until taking office by the new Prime Minister after the post-election constitution of new Parliament. Unfortunately, both these provisions were inserted by the Constitution (Thirteenth Amendment) Act, 1996 (Act I 1996), s.2). Lack of linkage between various constitutional clauses and amendments and their potential multiple and contentious interpretation is imminent and a constitutional crisis is looming.

16. The other potential source of crisis is the duration of Emergency in the proviso of Article 141 A (2) when Parliament dissolved and its re-constitution, enabling suggestions that Emergency could be in place for much longer than 120 days. Finally, such gap and uncertainties have been further compounded by lack of definitive interpretation by the Supreme Court on duration of emergency, timing of election and other critical areas.

HUMAN RIGHTS CONCERNS OF STATE OF EMERGENCY

17. Under Emergency constitutional clauses safeguarding the fundamental rights (articles 36, 37, 38,39,40 and 42) of the citizen can not restrict the 'power of the state' "to make any law" (Article 141B). Emergency also suspends enforcement of fundamental rights (141C). On 12 January 2007 Emergency Power ordinance has been proclaimed. On 25 January 2007 Emergency Power Rules has been proclaimed.

18. Emergency restricts (a) freedom of movement (Article 36), (b) freedom of assembly (Article 37), (c) freedom of association (Article 38), freedom of thought, conscience and speech (Article 39), freedom of profession and occupation (Article 40) and rights to property (Article 42).

19. The Order-1 promulgated under Article 141 C (1) proclaims: "Enforcement of fundamental rights in courts under the Part III of the Constitution will remain suspended.

According to Order-2 all proceedings pending in any court for the enforcement of the fundamental rights shall remain suspended under emergency.

LEGITIMIZING EMERGENCY AND CURBING RIGHTS

20. The new military-backed government declared that it had multiple mandates granted to it by popular support; this included holding parliamentary elections - but not within the 90 days dictated by the Constitution, but after completing a fresh voters list. The new Head of the adviser-government, former Head of the Bangladesh Central Bank, Dr. Fakhruddin Ahmed, announced that the administration planned to create a new voter list to remove the controversy around whether elections would be rigged. In addition, the regime announced that free and fair elections would not be possible until rampant corruption in Bangladesh was tackled. The principle targets in the new drive against corruption would be those politicians and party activists suspected of illegal activities and their businessmen cohorts.

21. In the absence of constitutional mandate, the military-backed advisers regime, an unique experiment in political and social engineering, argued to legitimize their take over by highlighting certain tasks to be accomplished by them before power is returned to elected government: (1) rescuing democracy from 'viciously confrontational two-party politics'² that essentially meant "minus two formula" - eliminating from politics the countries' two leading civilian politicians, Khaleda Zia and Sheikh Hasina Wazed; (2) drive against corruption and punishing those guilty of corruption; (3) effective role in counter terrorism; (4) reforms of the state institutions and (5) reform of the political parties. However, since holding elections had to remain the primary purpose of a Caretaker Government, the regime had to argue this would not be possible until corruption and mismanagement in public life is halted. "

22. However, there are grave suspicions that not only is the military-backed government unable to deliver in its declared mission it is, in fact, using the crackdown on those guilty of corruption as nothing more than a tool to reform the political parties to its liking. This is evident from the various (alleged) pro-government and (alleged) pro-party leader fractions that major political parties are breaking into and the reported incidents of infighting within them.³

REFORMING STATE INSTITUTIONS

² It is observed that the individual character of Hasina and Khaleda has been solely blamed for the political, social and cultural failure of Bangladesh that is dominated by development partners and civil society. Without assessing the utter failure of the costly development experiments and the challenges a peripheral country like Bangladesh faces in her attempts to compete in a highly competitive and unequal world, the chaos and conflicts at the political levels has been solely shuffled upon the shoulder of the so called 'two begums' by almost all of the national and international mainstream media. 'Minus two' formula is the outcome of such lack of analysis and manipulation that has serious implication for democracy and human rights. Not only the systematic suppression of the right of a political leader to have objective and analytical assessment of his or her regime is at stake here, it also highlights the patriarchal attitudes media took at women leadership, only parallel to the anti-women rightwing politics.

³ See news paper reports from October 2007 onwards for more information.

23. The state institutions that have been targeted under Emergency to reform are (a) Election Commission (b) Anti-Corruption Commission. (c) Public Service Commission and (d) Bangladesh Telecommunication Regulatory Commission. Interestingly government has also intervened to reform the political parties.

24. On the face of it, such actions could be justifiable, indeed commendable; however, the military-backed government views the military as the sole State institution that is free from the scourge of corruption. Therefore, in a practice so characteristic of a military dictatorship, serving and retired Army officers were appointed to high office as Commissioners in the "reformed" institutions. Structural reforms of the institutions have rarely been undertaken except change in appointment. As a result "reforms" has been nothing more than a face-changing exercise raising fears of militarization of State Institutions.

25. Government have had some success in addressing potential future corruption by blocking the employment of newly appointed civil servants whose selection had been tainted with the suspicion that they had gained their posts through dishonest means.

26. The government has often approached institutional improvements by replacing the head of some organizations and branding that as 'reform'. At times, such as in the case of reforms in the Dhaka City Corporation, this has been imposed by sending in soldiers. Short of arresting local government Chairmen and Mayors suspected of corruption, the administration has not invested in improvements at the local democratic level. As changes have been enforced by government without engaging people in debate, discussion or decision-making, it seems likely that the reforms are fragile and perhaps not be sustainable.

ELECTION COMMISSION

27. After several months in power the military-backed government declared a roadmap for elections, which are scheduled to take place before December 2008.

28. Preparing a new voter list is a massive task that may not be achievable within the timeframe that the government has set for itself; without the new voter list credible elections are unlikely. Secondly, if the political parties believe that they are not being genuinely engaged and their participation has been denied in making vital decision on electoral process - either because their leadership is in jail, or, because the Election Commission has been negotiating with a party faction that does not speak for the mainstream - they may choose to boycott elections, returning the country to a position similar to the one that the Army stepped in to manage in January 2007.

29. As a result acceptability and neutrality of the Election Commission has already been strained. It will be difficult now, given the political environment, to regain positive public image to ensure a credible election. Election Commission has failed to prove that it is independent or neutral and still subject to Government control because of lack in the institutionalization of its operational freedom to discharge its constitutional duties and obligations. This is the inevitable consequence of its remaining unreformed despite the fact that question of democratic future of Bangladesh and constitutional transition of power is largely dependent on this reform.

ANTI-CORRUPTION COMMISSION

30. There are some changes in Anti-Corruption Commission that may indicate positive direction, but yet a lot to do to gain confidence of the citizens. The government of the advisers has converted buildings within the Parliamentary compound into sub-jails to hold high-profile, political corruption suspects. The risk remains that the delivering promises is difficult including transparent and fair trial of corrupt politicians. In tackling corruption by punishing a small number of high-profile political suspects to eradicate corrupt practices in Bangladesh may prove

unsustainable in the medium- and long-term, particularly because it appeared as indiscriminate targeting or targeting with purpose in tandem with political objectives. There are concerns that due process of the law has not been maintained and secondly individual corruption trails leave the systematic corruption untouched.

PUBLIC SERVICES COMMISSION

31. The military-backed government has reorganized the Public Service Commission after the resignation of the incumbent members. The former Cabinet Secretary has been appointed as the Chairman of the Public Service Commission to lead his new team by blocking the employment of newly appointed civil servants whose selection had been tainted with the suspicion that they had gained their posts through dishonest means.

JUDICIARY

32. On 1 November, the Judiciary officially on papers became separated of the Executive branch of government. For more than a decade successive governments had promised to deliver on the separation of the Judiciary; but the current government has done so. It has merely executed Supreme Court directives to separate judiciary. However, this administrative change, while vital for a functioning democracy, does not, in itself, guarantee that judicial decision-making will be free from government interference.

33. As a result of decades of judicial appointments made on narrow, often-based on political considerations, the judiciary, both high and low, is staffed by many judges whose strength of character is severely questioned. The question of their independence now before litigants in particular and public in general. Continuation of allowing detainees to be put under the remand (where no representatives of the detainees are present and allegations of torture are often reported) and following the judgment sentencing four teachers of Rajshahi University to two years rigorous imprisonment for their part in the nationwide August student protests⁴, suspicions are high that they may remain under the *de facto* control of the executive.

HUMAN RIGHTS COMMISSION

34. The council of advisers has approved the National Human Rights Commission Ordinance 2007 on 9 December 2007. The cabinet approved the ordinance to set up the long-awaited National Human Rights Commission (NHRC), which will work like a national human rights watchdog. The NHRC can investigate human rights violations but is empowered to only settle issues or refer them to the court. This ordinance has been passed during the state of emergency is in full force.

35. The selection committee will be headed by an appellate division justice, to be nominated by the chief justice, and will include the cabinet secretary, attorney general, comptroller and auditor general, chairman of the public service commission, and law secretary as members.

36. The chairman and members of the human rights commission will be appointed for three-year tenures and for no more than two consecutive terms, according to the proposal. Their age limit will be between 50 and 72.

⁴ Description of incident contained later in this report

37. The chairman must have outstanding contributions made in protection of human rights, welfare of the humanity, and social work. One of the members will be either a serving or a retired judge of the Appellate Division of the Supreme Court.

38. The functions of the commission will include investigating any allegation of human rights violation received from any individual or quarter, or the commission itself can initiate investigation into any incident of rights violation. The commission would be empowered to investigate particular human rights violation allegations brought forward by citizens or discovered through their own monitoring. If a human rights violation has been proved, the NHRC can either settle the matter or pass it on to the court or relevant authorities.

39. To the critics, establishment of the National Human Rights Commission under the State of Emergency might become a toothless tiger, which will find people from the pro establishment background to provide some lip service than working for the actual protection of human rights.

40. The NHRC Ordinance has serious deficiencies in how human rights have been defined. Committee to select Members of the Commission from overwhelmingly government officials, not outside and independent experts and activists, no gender balance in the Commission and the Committee. Methods Commission to pursue is also limit the meaning of NHRC; for example, "compromise" between victims and perpetrators, commission's inability to deal with matters before courts etc.

REFORMING POLITICAL PARTIES

41. Government has attempted to engineer change in the leadership of the two main political parties, the Awami League (AL) and the Bangladesh Nationalist Party (BNP). The obvious intervention in forcing political parties to accept reform imposed by the government has already created suspicion and blocked reform initiative undertaken spontaneously within the political parties.

42. The deficiencies such as legal status of political parties, transparent process of funding of political parties, consideration of State funding, internal election processes etc, could have been suggested in an open and democratic dialogue in generating public discourse constituting democratic demand for reform in this area. There are certain areas that are within exclusive domain of political parties to be decided by members and leaders. However, government attempt to reform political parties has so far ended in being division, manipulation and control create constituency for political support of the regime itself.

CASES OF HUMAN RIGHTS CONCERNS

43. Contrary to the government's claim, suspension of fundamental freedoms adversely affected the "common people", giving rise to numerous cases of injustices.

A. FREEDOM OF MOVEMENT

44. As part of the 'minus-two' policy⁵, before their formal arrest Sheikh Hasina (AL) and Khaleda Zia (BNP) were detained under effective house-arrest with no recourse to the courts to challenge their detention. Other high profile political figures faced similar restrictions on the

⁵ The military-backed government has consistently denied the existence of a minus-two policy but this claim has met with wide-spread skepticism.

movements; particularly, family members of the two political leaders. Khaleda Zia's sons, Tarique and Arafat Rahman, were held under house-arrest with their mother before all the above three were formally arrested by law enforcement agencies and sent to prisons. Sheikh Hasina was arrested on 16 July and Khaleda Zia was arrested on 3 September 2007.

45. In other cases, even when courts have granted arrested criminal suspects bail, the military-backed government has not released them. In some cases government has avoided their release by bringing new, unrelated, charges against a suspect, days - and sometimes only hours - before a court rules in favor of granting a suspect bail and framing the new charges under Emergency Powers rules which prohibit an application for bail.⁶ In other cases, detention has continued after a suspect has been granted bail, despite the absence of any legal mechanism justifying the actions mechanism justifying the actions.

B. FREEDOM OF ASSEMBLY, ASSOCIATION, EXPRESSION

46. The Special Powers Act gives the law enforcement agencies the power to disperse or arrest four or more people gathered in one place. This power has been used in a wide variety of occasions since throughout the State of Emergency. In particular, it has been used to stop protests; some of which have been directed at the military-backed government itself, but others have been directed towards more specific demands.

47. On 20 August an altercation between a soldier and a student lead to nation-wide protests.⁷ Students of Dhaka University promoting number of demands including (a) withdrawal of military and police camps from all educational institutions, (b) an apology from the army chief for the assaults, punishment of the security forces involved in the assaults, (c) Proper medical care for the injured students, (d) lifting the nationwide state of emergency

48. Police and army, as broadcast by media, displayed violent response and demonstrated a lack of discipline from those in charge in controlling law and order. Incidents of concern include the reported indiscriminate use of tear gas, arrest of numbers of teachers, students and employees of Dhaka and Rajshahi University. According to press reports, in August, the Government specifically asked Ekushey Television (ETV) and Focus Multimedia Company Limited (CSB News) to refrain from broadcasting any provocative news, documentaries, talk-shows and discussions critical of the government. According to press reports, in separate orders, the Government held that it can ban or attach conditions on broadcasting provocative news, documentaries, talk-shows and discussions critical of the government under powers given to it by Article 5 of the Emergency Powers Rules 2007.

49. These restrictions were imposed following broadcasting of reports on protest in Dhaka University and other places in August. A number of journalists were assaulted, beaten up and injured by the security forces at the time of the curfew which took place (Aug 22-27, 2007). While the Government's advice on self-censorship and direct restrictions on the media is in place, one organization, CSB News, has been temporarily shut down for allegedly filing forged documents to obtain frequency allocation.

50. Following the threat of legal action against media outlets which broadcast news items critical of government actions by the administration, Odhikar drew the Government's attention to the fact that such actions may contravene their obligations to allow freedom of expression

⁶ Sheikh Hasina, Hannan Shah (BNP Chairperson's adviser)

⁷ See Open letter of FIDH and Odhikar -27 August 2007-www.fidh.org

and ensure the free flow of information. By taking legal action which stops one such media outlet, CSB News, from broadcasting, albeit, for allegedly filing forged documents, the Government's actions could raise suspicions that its commitment to the due process of law is not absolute.

TABLE 1: ABUSE OF MEDIA PERSONS: FREEDOM OF EXPRESSION 2007⁸

Month (s)	Injured	Killed	Arrested	Kidnap ped	Assaulted	Threat ened	Attacked	Force d to sign a docu ment	Case filed	Othe rs
January	3	0	4	0	6	21	0	0	8	0
February	0	0	0	0	2	4	0	0	0	0
March	3	0	4	0	1	6	1*	0	1	0
April	3	0	0	0	0	8	0	0	0	0
May	5	0	2	0	0	33*	0	0	0	0
June	1	0	0	0	1	3	0	0	2	0
July	1	0	1	0	0	0	0	1	0	0
August	16	0	0	0	19	0	0	0	0	2
September	0	0	0	0	2	0	0	0	0	0
October	2	0	2	0	1	4	0	0	1	0
November	1	0	0	0	0	4	0	0	1	1
December	0	0	0	0	3	0	0	0	0	0
Total	35	0	13	0	35	83	1	1	13	3

Source: Odhikar Statistics

51. Similarly, protesting garments factory workers venting concerns about their monthly wages, over time, other benefits and conditions, were arrested and charged with violating the State of Emergency.

52. The Garment-manufacturing authority's reluctant and slow-pacing attitude in implementing the tripartite agreement made among the Government, the garments authority and garment factory workers, purporting to safeguard workers' rights, has contributed to the instability of this industry. The lack of a Government surveillance system is another factor.

53. In a move that shocked many people in Bangladesh, the law enforcement agencies, with the explicit encouragement of the Law Advisor, charged twelve men who were part of a crowd of 200 victims of Cyclone Sidr⁹ with violating the State of Emergency by taking part in a protest demanding sufficient and equitable supply of emergency aid relief.

54. Following a split in the BNP an attack took place against some senior leaders in the government backed faction by activists claiming loyalty to Kaleda Zia. Activists and one senior leader from the pro-Zia camp were arrested and charged with violating the State of Emergency.

⁸ The statistics are mainly collected from the report in the media as well as the field reports coming from the Human Rights Defenders associated with Odhikar.

⁹ Sidr hit the costal area of Bangladesh on 15 November leaving approximately 4000 persons dead or missing and thousands homeless. It is reported that relief operations were mismanaged.

C. FREEDOM OF THOUGHT AND CONSCIENCE

BAN ON POLITICAL ACTIVITIES

55. On 8 March the government imposed an absolute ban on political activities, which they said would also apply retrospectively from 11 January 2007. This included a ban on 'indoor politics' too.

56. The offices of political parties were shutdown; politicians, political activists and NGOs faced arrest if they were found to be discussing anything of a political nature. However, this provision was applied selectively.

57. The ban was partially lifted on 10 September when the Chief Advisor announced that the ban on "indoor" politics would be lifted. However, even that relaxation did not apply equally to all parties and did not apply at all outside of Dhaka. Extreme restrictions remain in place.

58. The overall impression that was created, was that those politicians who were secretly working with the military-backed government to advance their minus-two formula and the wider reforms agenda in the political parties were allowed, under close supervision from military intelligence, to carry on proceed with political activities despite the ban on politics.

D. FREEDOM OF SPEECH / EXPRESSION

59. The military-backed government has tightened restrictions on news and journalists' freedom to work and report, often creating a climate of fear - constantly walking the tightrope between professional reporting and facing the wrath of the authorities.

MEDIA CENSORSHIP

60. Bangladeshi media is facing the most severe restrictions on its reporting since the fall of autocratic military dictator General H.M. Ershad in 1990. Self-censorship in all forms of media is rife due to intimidation from state agencies. Intimidation has occurred in two forms; beatings of journalists and threatening phone calls - typically from the intelligence agencies.

61. The print and electronic media in Bangladesh has been under significant pressure from the State to refrain from reporting news or comments critical of the Government. Journalists report being regularly 'reminded', usually by telephone calls, that if they publish news critical of the Government they may face negative consequences. During the nationwide curfew in August journalists were assaulted, beaten-up and injured by the security forces. Additionally, the Government declared that it had the power to ban or attach conditions on broadcasting so-called "provocative news", documentaries, talk-shows and discussions critical of the government under powers given to it by Article 5 of the Emergency Powers Rules 2007.

62. From the outset of the August 2007 curfew, the military-backed government declared that journalists would be exempt from its restrictions. Nevertheless, there were widespread, deliberate and organized beatings of journalists by the law enforcement agencies. Give stats from that press release.

63. Odhikar views attacks against journalists and misuse of the Emergency Powers Rules to censor, directly or indirectly, the media as serious violations of the freedom of expression. The freedom of the press must be respected, especially at this time when Bangladesh is facing many challenges.

64. The Government should recognize that, even if it publicly condemns physical assaults on journalists by its law enforcement agencies, by attempting to censor the media, individual members of the law enforcement agencies will be encouraged to breach journalists' rights.

65. Threats of legal action against media organizations, who accurately report news, whether supportive or critical of government actions, contravene the Government's obligations to ensure the free flow of information and the government must refrain from all such actions.

66. In 2007 Odhikar reported incidents of violating freedom of expression. At least 35 journalists were reportedly injured, 13 journalists were arrested, 35 were assaulted and 83 were threatened. 13 legal cases have been filed against journalists and 1 journalist's house was attacked, 1 journalist was reportedly forced by the Bangladesh Rifles to sign an agreement that he would not publish any news without their prior permission.

67. On the 10 May journalist Tasneem Khalil, a journalist who had been outspoken about human rights abuses in Bangladesh, was arrested from his home in an apparent attempt - of intimidation. Later he was released and left the country.

68. Another journalist, Jahangir Alam Akash, faced similar threats; in the middle of the night on 24 October Jahangir, General Secretary of Rajshahi Union of Journalists was arrested by members of RAB on charges alleging extortion.

69. Cases of assault and arrest of journalists are rare compared to other forms of intimidation by the agents of the intelligence agencies. Journalists report receiving regular telephone calls from people claiming to represent DGFI telling them that if they report on a certain storey, or publish a particular photograph, they will face "untoward consequences". Journalists feel the implication is clear; unless they toe the government's line then they will be arrested on trumped-up charges or murdered by the law enforcements agencies in a so-called "crossfire" incident.

70. Editors have been subjected to visits from officers from the intelligence agencies at their offices and have been summoned to meetings with political and military officials where they have been "reminded" of what the government view as the media's "responsibilities". The result is a high degree of self-censorship in all newspapers - a curtail on the freedom of expression - and a journalistic community in constant fear that they and their families will come to harm should they publish an article the military-backed government does not like.

ELECTRONIC MEDIA

71. In August two TV channels were asked to refrain from broadcasting any provocative news, documentaries, talk shows and discussions critical of the government. According to press reports, in separate orders, the Government held that it can ban or attach conditions on broadcasting provocative news, documentaries, talk-shows and discussions critical of the government under powers given to it by Article 5 of the Emergency Powers Rules 2007. These restrictions were imposed following broadcasting of reports on disturbances in Dhaka University and other places in August.

72. In September, while the Government's advice on self-censorship and direct restrictions on the media is in place, one organization, CSB News, has been temporarily shut down for allegedly filing forged documents to obtain frequency allocation.

RIGHT TO LIFE

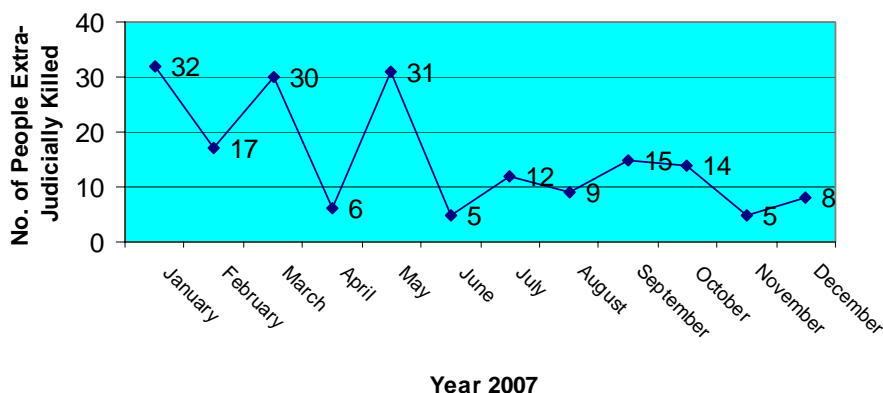
'No person shall be deprived of life or personal liberty saves in accordance with law (Bangladesh Constitution, Article 32).

EXTRA-JUDICIAL KILLING CONTINUES

Since 1 January to 31 December 2007, a reported number of 184 people have allegedly been extra-judicially killed by law enforcement agencies.

Table 2: Extrajudicial Killings

No. of Extra-Judicial Killings between January and December 2007



BREAKDOWN OF EXTRA-JUDICIAL KILLINGS BY AGENCY

73. Of the 184 people killed by law enforcement personnel, as recorded, Rapid Action Battalion (RAB) killed 94 people, the police killed 64 people, RAB and police acting together killed 3, the “Joint Forces” killed 7, the Army killed 7, the Navy killed 3, the Jail Police killed 1 person, Coast Guards killed 1 person, Forest Guards killed 1 person, Bangladesh Rifles killed 1 and the Department of Narcotics Control Officers killed 2 persons

CIRCUMSTANCES OF THE DEATHS

74. Of the 184 people extra-judicially killed, it was reported that 130 people were killed in so-called “crossfire”/encounter/gunfight/shootout¹⁰, 30 people were tortured to death, 13 were shot dead in circumstances other than “crossfire”/encounter/gunfight/shootout and there were 11 deaths in other circumstances - the details of which are given below.

75. It was reported that RAB killed 90 people in “crossfire”/encounter/gunfight/shootout. 2 persons were tortured to death while 2 other men, arrested by RAB, later died in hospital.

76. 35 people were killed by police in “crossfire”/encounter/gunfights/shootout. They tortured 14 people to death. The police kicked 1 elderly man causing him to fall, hit his head

¹⁰Recently, reports in the press have increasingly used more than one of the terms “crossfire”, “encounter”, “gunfight” and “shootout” in one article to describe the same incident. It is, therefore, no longer possible for Odhikar to determine which of these descriptions best describes an incident of extra-judicial killing. Odhikar has, therefore, grouped these incidents together.

and die. The police shot dead 11 people in circumstances, other than “crossfire”/ encounter/ gunfights/ shootout. 1 person died in police custody and 2 men who had been arrested by the police later died in hospital.

77. RAB and the police acting together killed 3 people in “crossfire” /encounter/gunfight/shootout.

78. Army allegedly tortured 5 people to death. 1 person died while reportedly trying to escape from an Army van. 1 man who had been arrested by the Army later died in hospital.

79. It has been reported that the Navy tortured 3 people to death.

80. The “Joint Forces” allegedly killed 1 person in “crossfire” “/encounter/ gunfight/shootout. They allegedly tortured 3 people to death. 1 person who had been arrested by the “Joint Forces” later died in hospital. 1 person in “Joint Forces” custody reportedly jumped off a six-storey building and died. 1 person who was arrested by the “Joint Forces” died in a police station.

81. It was reported that the Department of Narcotics Control tortured 2 men to death and that the Jail Police tortured 1 man to death. The Coast Guard killed 1 person in “crossfire” “/encounter/gunfight/shootout. The Forest Guard gunned down 1 man and Bangladesh Rifles (BDR) shot dead another person in circumstances, other than “crossfire”/ encounter/ gunfights/ shootout.

TABLE 3: EXTRAJUDICIAL KILLINGS BY LAW ENFORCING AGENCIES IN 2007

Month (s)	RA B	Police	Army	Navy	Joint Force	Jail Police	RAB Police jointly	Narcotics Officers	BD R	Coast Guard	Forest Guard	Total
January	16	9	5	0	2	0	0	0	0	0	0	32
February	9	5	1	1	1	0	0	0	0	0	0	17
March	21	4	0	1	3	0	0	1	0	0	0	30
April	5	1	0	0	0	0	0	0	0	0	0	6
May	15	10	0	1	1	1	3	0	0	0	0	31
June	4	0	1	0	0	0	0	0	0	0	0	5
July	4	8	0	0	0	0	0	0	0	0	0	12
August	5	4	0	0	0	0	0	0	0	0	0	9
September	4	11	0	0	0	0	0	0	0	0	0	15
October	4	8	0	0	0	0	0	0	1	1	0	14
November	2	2	0	0	0	0	0	0	0	0	1	5
December	5	2	0	0	0	0	0	1	0	0	0	8
Total	94	64	7	3	7	1	3	2	1	1	1	184

Source: Odhikar statistics

POLITICAL ALLEGIANCE OF THE VICTIMS

82. Of the 184 people reported extra-judicially killed, 8 people were members of the Bangladesh Nationalist Party (BNP), 5 were members of the Awami League, and 1 was a member of Jatiyo Shomajtantrik Dol (JSD) and 1 a member of the United People’s Democratic Front (UPDF). 8 were members of the Purbo Banglar Communist Party; 11 were members of the Purbo Banglar Communist Party (Jonajuddho); 9 were members of the Purbo Banglar Communist Party (Red Flag); 8 were members of the Biplobii Communist Party; 2 were of the New Biplobi Communist Party; 2 were of New Biplobi Communist Party (Mrinal Group); 6 members of Gono

Mukti Fouz; 4 members of Sromojibi Mukti Andolon; 7 were of the Shorbohara Party, 2 were members of Gonobahini.

OTHER CHARACTERISTICS OF THE VICTIMS

83. 3 people extra-judicially killed were farmers, 1 was a businessmen, 1 a police informer, 2 were bus drivers, 1 a truck supervisor, 1 an ethnic minority leader, 1 was a female garments worker, 1 was a housewife, 1 a freedom fighter, 1 was an adolescent tea-stall boy, 1 was an elderly man, 1 was assumed to be a jute mill worker, 1 a rickshaw puller, 1 fruit vendor, 1 fisherman, 1 a contractor of the Department of Roads and Highways, 1 was an unidentified young man -and 1 was a person whose profession was unknown.

84. Of those 184 who were extra judicially killed, some were affiliated with alleged gangster/dacoit groups: Among them 3 people were from Gangchil Bahini, 1 from Masim Bahini, 1 from Haji Bahini, 1 from Salam Bahini, 1 person was from Matin Bahini, 1 from Panna Bahini and 1 person was from Lalchand Bahini, 1 from Kamal Bahini and another 1 was from the Nur Bahini.

85. It was alleged that 2 people were arms smugglers, 3 were arms dealers, 1 a gunrunner, 3 were muggers, 1 was a gambler, 1 a timber smuggler, 1 a thief, 2 people were drug peddlers, 1 was a liquor trader, 2 were under trial prisoner, 1 was a prisoner, 1 person was reported as an 'extremist', 1 was an alleged extortionist, 1 an alleged Islamic militant, 23 were dacoits and 34 people were alleged to be criminals but there was no information available to Odhikar about the nature of their alleged crimes.

86. However, a positive development noted by Odhikar was that the police have initiated an investigation into the death of Morshed Rana who died in Narsingdi Model Police Station on 28 October 2007 in circumstances that the police have said suggest that he was tortured to death by the police. The police announced that immediate punitive measures against those police officials involved would be invoked. Odhikar demands that those policemen suspected of murder be thoroughly investigated, prosecuted and, if found guilty, punished. Odhikar continues to demand the establishment of an independent judicial inquiry into incidents of death as a result of torture or extra-judicial killing.

TORTURE

87. Allegations of torture continued to dominate the concerns regarding the violations of human rights. At least 44 people have been reportedly tortured by the law enforcement agencies in 2007. Suspects were picked up by the law enforcement agencies, detained, and tortured while they were in the custody of the law enforcement agencies. Another kind of torture happened when people were taken into remand in order to extract evidence to be used against them or others allegedly accused for corruption or crime. On many occasions they were tortured into giving confessional statements¹¹. Some were even threatened with death by "crossfire".

ARREST

88. In ten months since the state of emergency was declared and the present government took over, a total of 4,40,684 people have been arrested on various

¹¹ See Khan. Saira Rahman: *The Use and Abuse of the Law of Confessions in Bangladesh*. Bangladesh Journal of Law. Special Issue. November 2007. Bangladesh Institute of Law and International Affairs. pp 79 for more information on this issue.

grounds. This was disclosed at a cabinet committee meeting on law and order. It is further learnt that of those arrested 2, 39,480 had warrants of arrest against them and 778 were criminals wanted by the police.

89. Arrest, detention, trial and conviction are a normal part of governance and in the normal course of things there should hardly be any space for commentary.

90. Mass arrests were often resorted to and mere suspicion is considered ground for arresting in many cases. After arrest the detainees were not brought before trial for an indefinite period and left to languish in overcrowded prison cells. The better-off prisoners could seek legal redress but the poorer ones could only blame their fate.

91. Another strange phenomenon witnessed under the emergency rule is arrest of wives for corruption committed by their husbands. This was unheard-of under all previous regimes. Every corrupt person who amasses wealth is wont to place a part of the ill-gotten assets in the name of his wife and dependants.

92. The rising numbers of detention have not been accompanied by improvement in jail conditions. The jails of the country were already reported to be overcrowded and jail administrations were seriously overburdened even before 1/11

93. Arresting university teachers in August without warrant, holding them incommunicado for nearly 40 hours at an unknown location before being brought before a court - violating Article 33, Sub-articles (1) and (2) of the Constitution that mandates that "No person... shall [be] denied the right to consult and be defended by a legal practitioner of his choice" and further mandates production of the arrestee "before the nearest magistrate within a period of twenty-four hours"; and detaining them in a facility called the Joint Interrogation Cell, causes concern that their rights under national and international law are not being respected by the authorities, the due process of law are denoted to these individuals. Odhikar has reminded the Government of its obligations and calls again for scrupulous adherence to internationally recognized legal procedures in dealing with people in detention, including considering interim release, and calls for the immediate release of these men so as to allow the legal process to operate without such coercion or manipulation

VIOLENCE AGAINST WOMEN

94. Violence against women is a major issue in Bangladesh and, unfortunately, one that is neglected -especially as it relates to the poor and underprivileged women - by various government agencies of. Despite specialized criminal laws for protecting women - the Suppression of Violence against Women and Children Act, the Dowry Prohibition Act, the Child Marriage Restraint Act, the Acid Crime Control Act, to name a few - instances of violence against women- especially domestic violence and rape - have not decreased in any significant manner. The major reasons why women do not get justice are: barriers to accessing the justice system itself, police corruption, mismanagement of vital evidence, and ignorance of the law and a lack of proper medical reports. The number of women who experience violence - including rape, beatings, torture and murder - is high in impoverished sections of society and particularly women who live in rural areas of Bangladesh, both in domestic situations and outside the home. In addition, many women who are subjected to violence die by suicide, real or apparent.

TABLE 4: RAPE IN 2007

Month (s)	Total number of victims	Total number of women	Total number of children	Gang Rape		Killed after being raped		Committed suicide after being raped	
				Women	Children	women	Children	Women	Children
January	32	16	16	8	2	5	0	0	0
February	40	22	18	7	5	3	3	0	0
March	44	23	21	14	6	4	0	0	0
April	50	19	31	5	8	4	1	0	0
May	46	13	33	5	5	5	1	0	0
June	42	21	21	11	5	2	5	1	0
July	33	15	18	8	6	4	3	0	0
August	45	20	25	11	10	5	4	0	0
September	33	22	11	16	1	6	1	0	0
October	37	15	22	14	10	7	1	0	0
November	28	13	15	10	4	7	2	0	0
December	29	14	15	10	10	4	2	0	0
Total	459	213	246	119	72	56	23	1	0

Source: Odhikar statistics

95. Between 01 January and 31 December 2007 a total of 459 women and girls were reported as victims of rape. Among them 213 were women and 246 girls¹². Of them, 56 women and 23 girls were killed after being raped and one woman committed suicide. Among those raped 119 women and 72 girls were the victims of gang rape.

96. A total of 161 people; 96 women, 42 men and 23 children, were reported as victims of acid attacks in 2007.

97. Acid violence is the term used for the violence perpetrated when a person throws a corrosive substance like acid on the face or body of another person. Unfortunately, it has become a relatively common form of violence against women in Bangladesh. The first documented case of acid violence was in 1967 when a young girl had acid poured on her by her 'admirer' when the girl's mother refused his proposal of marriage. There is evidence in recent years that there has been an increase in acid attacks.

TABLE 5: ACID ATTACK 2007

Month (s)	Women	Men	Children	Grand Total
January	7	2	4	13
February	7	0	2	9
March	6	7	2	15
April	4	1	1	6
May	12	0	4	16
June	7	6	0	13
July	11	3	2	16
August	4	0	1	5
September	11	16	3	30
October	9	1	3	13
November	11	2	1	14
December	7	4	0	11

¹² The term 'girls' means females up to the age of 16 years in accordance with the Children Act 1974.

Total	96	42	23	161
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Source: Odhikar statistics

Repression on human rights defenders

98. Odhikar conducted two fact-finding missions regarding the killings of Ward Commissioner Dulal of Charfashaion Upazila (20 February 2007) and Farid (21 March 2007) of Tazumuddin upazilla of Bhola under custody of local naval force. The copies of the reports were submitted to the Chief of Naval Staff for information, enquiry and necessary action. Odhikar's Acting Director ASM Nasiruddin Elan was taken to the Naval Headquarter on 3 May 2007 where a Naval Intelligence Officer with his 3 other associates intimidated and harassed him for preparing those reports and threatened him with death.

99. Odhikar's Kushtia based Human Rights Defender Hasan Ali who carried out a number of fact finding missions on extrajudicial killings was taken into Kushtia Sadar Police Station on December 4, 2007, where he faced severe physical assault from police. Odhikar condemns this action taken by the Kushtia Sadar Police.

WORKERS' RIGHTS

100. Throughout 2007 many jute-mills and garments factory workers have protested demanding full payment of the wages to which they are entitled. Many of these workers have been arrested for violating the State of Emergency. In Khalishpur Industrial Area of Khulna Jute Mills Workers staged demonstrations against the closure of Jute Mills and payment of their arear wages. Similar protests have been made in Chittagong.

101. Garment workers demonstrated to realise their wagws and the implementation of the tripartite agreement.

FARMERS' RIGHTS

102. Since the start of the year, there have been periodic protests by farmers concerned that they cannot access sufficient supplies of fertilizer. Despite claims by the Advisor responsible for agriculture that such concerns were simply the result of media scare mongering¹³ sporadic protests by angry farmers occurred in various districts. Law enforcement agencies used the powers given to the under emergency legislation to arrest thousands of protests for violating the State of Emergency by staging a protest.

EVICTON OF SLUM DWELLERS AND STREET HAWKERS

103. During the 300 days of the State of Emergency, the authorities have conducted several eviction drives against poor slum dwellers and street hawkers without making provision for

¹³ New Age 14/12/07 "Fertiliser crisis a myth created by media, says Geeteara".

the resettlement of poor people displaced by the clearances. That action resulted in thousands of poor people being displaced without shelter and being made homeless. Forcing people, including women and children into homelessness violated numerous basic rights of these individuals. The eviction drive badly affected the livelihood of many poor hawkers.

F. ETHNIC & RELIGIOUS MINORITIES

104. Several members of the Parbattya Chattragram Jana Shanghati Shamiti (PCJSS) were detained by the law enforcement agencies. A prominent leader of the Garo community, Choles Richil, has been tortured and killed by the Army

TABLE 6: HUMAN RIGHTS VIOLATION ON ETHNIC MINORITY 2007

Month	Killed	Injured	Assaulted	Property Damage	Abducted	Arrested	Land Grabbing	Total
January	1	18	2	1	0	2	0	24
February	0	0	0	0	1	0	0	1
March	0	4	0	0	0	0	0	4
April	0	0	0	0	0	0	0	0
May	0	0	0	0	0	0	0	0
June	0	0	0	0	0	0	0	0
July	0	12	0	0	0	0	1	13
August	0	0	0	0	2	0	0	2
September	0	0	0	0	2	1	0	3
October	0	0	0	0	1	0	0	1
November	0	8	0	2	0	0	0	10
December	1	0	0	0	0	0	0	1
Total	2	42	2	3	6	3	1	59

Source: Odhikar Statistics

B. TABLE 7: HUMAN RIGHTS VIOLATION ON RELIGIOUS MINORITY 2007

Month	Killed	Injured	Assaulted	Abducted	Arrested	Grabbing		Case filed	Attack		Total
						L	H		Private Property	Religious Property	
January	0	44	0	0	0	0	1	0	1	0	46
February	0	6	1	5	0	0	0	1	0	1	14
March	0	2	0	0	0	0	1	0	0	0	3
April	0	1	0	0	0	1	0	0	0	1	3
May	0	4	2	0	0	2	0	0	1	0	9
June	0	14	1	1	0	1	1	0	0	0	18
July	0	7	0	0	0	0	1	0	1	3	12
August	0	1	0	0	0	1	0	0	0	0	2
September	0	10	0	0	2	0	0	0	0	2	14
October	0	0	0	0	0	0	1	0	0	3	4
November	0	2	0	0	0	1	0	0	1	2	6
December	1	0	0	0	0	1	0	0	0	2	4
Total	1	91	4	6	2	7	5	1	4	14	135

Source: Odhikar Statistics 2007

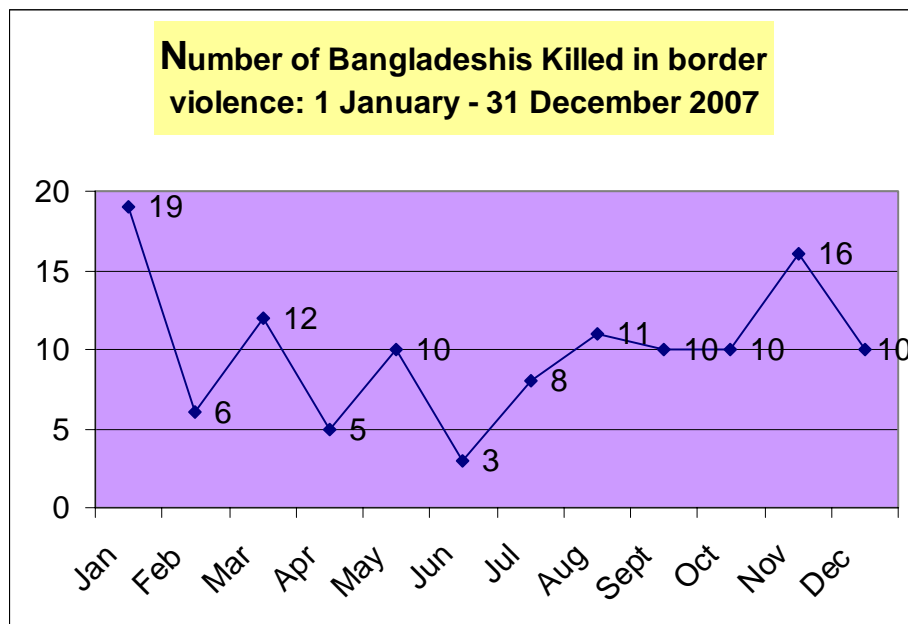
105. The much talked about Land Commission for the ethnic communities could not be activated, although a Retired Supreme Court Judge was given the responsibility to Head the Commission. Rehabilitation of the internal migrants belonging to the ethnic minority communities of the Chittagong Hill Tracts in their ancestral lands continued to be the contentious issue. People belonging to ethnic minority communities continued to face threats and intimidation in respect of protecting their ancestral and collective lands.
106. In this year also there have been 13 incidences of attacking on the place of worship of the Hindu minorities; there are also several incidences of damage of properties. In Bangladesh Hindu women under their Personal Law cannot inherit properties unlike their counter parts in West Bengal Province of India.

BORDER VIOLENCE

KILLINGS

107. 120 Bangladeshi nationals were reportedly killed by the Indian Border Security Force (BSF) from 1 January to 31 December 2007. During this time 82 Bangladeshis were reported injured, 8 were arrested, 98 were abducted, 3 women were raped by BSF and 5 incidents of looting by BSF allegedly took place. It is also reported that a total of 198 Bangla speaking people were pushed into Bangladesh territory.
108. On the 2 August 2007 the Bangladeshi home secretary Mr. Md. Abdul Karim, met with his Indian counterpart to discuss, amongst other things, border violence by the BSF. However, in August 12 Bangladeshis killed by the BSF.

TABLE 8: BORDER KILLINGS



NON-FATAL INJURIES

109. In 2007 there have reportedly been 82 non-fatal injuries to Bangladeshis in border violence. These are typically gunshot wounds and injuries sustained from beatings.

ABDUCTIONS

110. In 2007, 98 Bangladeshis have reportedly been detained by the BSF but have not been handed over to the appropriate Indian law enforcement agency. Such incidents are classified as abductions. Odhikar has no information as to whether the people abducted by the BSF have subsequently been released.

PUSH INS"

111. "Push in" describes an incident in which members of the BSF gather together and physically push groups of people - in these cases typically Bangla speaking people - from Indian territory into Bangladeshi territory. In 2007 a total of 198 people have reportedly been the victims of "push ins".

112. The matter of deportation or removal of a person from one country to another should be dealt with in an appropriate judicial forum in each and every individual case. The practice of "push-ins" deprives the victims of a fair hearing and subverts the due process of law; it thus breaches international legal standards.

113. Violent actions in Bangladeshi territory by Indian state and non-state actors are of deep concern to Odhikar. In particular, those incidents in which the BSF, as an armed force of the Republic of India, are the perpetrators constitute a grave violation of international law and an abuse of Bangladeshis' human rights.

CONCLUSION

114. Lifting the State of Emergency itself will be a significant challenge to this regime. It will depend on two keys things: holding free, fair, participatory elections and ensuring that the elected government that follows will affirm the decisions of the military-backed regime. The first of these is under threat on couple of fronts.

115. As for affirming decisions taken by the military-backed government, especially decisions taken under emergency powers legislation, the ruling administration has a vested interest to ensure a group sympathetic to their actions takes over the reigns of power. The environment is therefore ripe for democratic rights to be further undermined.

116. Bangladesh is at a critical crossroads in its democratic journey. Enforced, top-down reforms imposed, without the participation of the people or their elected representatives, by a military-backed government that uses fear to intimidate those it deems to be contrary to the national interest and which has scant respect for the due process of law, are unlikely to deliver any enabling environment for democracy.

117. Furthermore, the civil society has divided into two broad camps. One group typically composed of people working in development organizations and backed and privileged by much of the international community, support unconstitutional and dictatorial regime on the pretext that political party and the political processes are essentially corrupt, confrontational and unproductive. They feel that, despite its faults, the military-backed government will deliver on promises to hold an election and ultimately bring good results for the country. However, while they euphorically hailed the coming to power of an unelected regime, they have undermined the political and human rights consequences of a regime insensitive to constitutional obligations and human rights. Exiting from such a vulnerable and unstable situation is a big risk.

118. The other group that includes people from the human rights movement, academics and some journalists close to the grass root concerns, feel that the present government has gone beyond its Constitutional mandate and is acting illegally - suppressing the

fundamental rights of the people, pressurizing the judiciary and controlling the media. Bangladesh needs systematic political and economic reform from within the democratic political processes. They argue that despite the moral and political scope created by the utter failure of the political parties, the military-backed regime has rather disrupted the potential scope for positive change and now heading towards disastrous economic, political and constitutional consequences making exit from the present situation difficult. Rather than politicizing and engaging masses and the people for positive democratic change in order to integrate Bangladesh into the dynamic global economic opportunity for prosperity and political stability - the regime from the beginning took anti-political stance generating suspicion that the political, civil, social and cultural rights of the people at large is at stake.

RECOMMENDATIONS

119. A change in the course is now immediately and urgently needed. A confidence building strategy by restoring constitutional and human rights is essential. The military-backed government should immediately lift the State of Emergency and begin engaging the people in the changes that will be required to move beyond present state of lack of confidence, confusion and uncertainty.
120. To avoid imminent constitutional and political crisis the Election Commission should seek permission from the Supreme Court to hold elections after ninety days under Article 106 of the Constitution of Bangladesh, to hold a Parliamentary election. To make such legal and constitutional move politically effective, social and political consensus must be built, particularly with the major stake holders in Bangladesh politics including major political parties.
121. To facilitate an enabling environment: (a) release all political prisoners and conduct trials, if any case is pending, respecting human rights, due process of the law and transparently and openly for scrutiny to ensure justice (b) end intimidation of the media and (a) withdraw legal cases filed against jute-mill and garments workers for violating the State of Emergency.
122. Extra-judicial killings, torture and indiscriminate arrest should be stopped. Hold independent judicial inquiries into extra-judicial killings and prosecute all those suspected in such human rights abuse.