



General Assembly

Distr.
GENERAL

A/HRC/8/NGO/25
28 May 2008

ENGLISH ONLY

HUMAN RIGHTS COUNCIL
Eighth session
Agenda item 3

**PROMOTION AND PROTECTION OF ALL HUMAN RIGHTS, CIVIL,
POLITICAL, ECONOMIC, SOCIAL AND CULTURAL RIGHTS, INCLUDING
THE RIGHT TO DEVELOPMENT**

**Written statement* submitted by the Asian Legal Resource Centre (ALRC),
a non-governmental organization in general consultative status**

The Secretary-General has received the following written statement which is
circulated in accordance with Economic and Social Council resolution 1996/31.

[23 May 2008]

* This written statement is issued, unedited, in the language(s) received from the
submitting non-governmental organization(s).

BANGLADESH: the booming business of arbitrary arrests and detention under the State of Emergency

Bangladesh is plagued by gross arbitrariness across the board as far as human rights are concerned. The ongoing State of Emergency, which has been in place since January 11, 2007, has only multiplied the scale and gravity of abuses, notably as concerns arbitrary arrests and detentions.

The Bangladesh Police and the Magistrate's Courts are the main actors that have enabled the vast scale of arbitrary arrests and detentions. NGO reports indicate that as many as 300,000 Bangladeshis have been arbitrarily arrested and detained since the beginning of the Emergency.

For example, Mr. Dilip Kumar Dhali and Mr. Suzan Kumar Dhali of Khulna are members of the Hindu minority and had a dispute over some submerged land with a locally influential group led by a group of Muslim men. A number of cases were pending before the civil and criminal courts of the Paikgachha upazilla, Khulna district, when a decision to maintain the status quo in the disputed land was issued. The Paikgachha police arrested Dilip and Suzan from their house without any prior case or arrest warrant, having allegedly been bribed by their opponents in court. The police beat them during arrest, detained them overnight, beat them and forced them to pay Taka 17,000.00 (USD 248.00) in bribes. The two victims were forced to sign blank piece of papers before they were released from custody, following interventions by members of the local elite (for further details, please see <http://www.ahrchk.net/ua/mainfile.php/2008/2795/>). The authorities have not yet taken any action against the alleged perpetrators other than transferring one Sub Inspector of police to another location.

There are no working avenues for the victims to seek remedy in the country. Rampant corruption in all public departments and institutions including the police, prosecution and judiciary, along with illegitimate interventions by politicians undermine and even replace the law. For example, when a crime is committed in Bangladesh, the police do not try to identify the actual perpetrator. Instead, they record a complaint against dozens or hundreds of "unidentified" people, and then carry out large-scale indiscriminate arbitrary arrests of innocent persons.

Even though the officers are often likely to be aware of the identity of the alleged perpetrators, they do not arrest them as they receive a regular bribe or "commission" from the alleged criminals. Furthermore, the case itself becomes a further opportunity to make money for the police, as they arrest and ill-treat or torture innocent persons into paying their way out of trouble.

Moreover, addition or removal of names to the list of targets for arbitrary arrest and detention and the severity of torture to be used is based on the instructions of the superior police or public officers, as well as influential people. The incapacity to pay the required bribes leads to the fabrication of charges against the victim, leading to detention for an indefinite period, without any hope of a short or fair trial. The ALRC has numerous

documented instances where the police fabricate charges against innocent persons, making fake declarations that arms, ammunition and/or explosives were seized from a person or where a person is falsely found guilty in a case of rape or violence against women.

The use of arbitrary measures, including arrest and detention, has increased following the creation of the Rapid Action Battalion (RAB), a paramilitary force comprising members of the armed forces, the police and the border security force, in 2004. This so called "Elite Force" has made incommunicado detention a standard procedure and has also been responsible for hundreds of extra-judicial killings of persons following their arbitrary arrests and detention. This force has, however, received numerous honours and awards for its services to Bangladesh, none of which is more prized than the blanket immunity it enjoys concerning the actions of its members.

Since the State of Emergency was proclaimed in the country on January 11, 2007, the armed forces have been deployed across the country on the ground as well as in public institutions. In the Bangladeshi society, the armed forces hold the real power. Politicians bow down to the military and the people are forced to keep silence and suffer their brutal methods of control. No institutions of the country, including the police and the judiciary, register any complaints against the armed forces for any allegations of arbitrary arrests and detentions, torture or extrajudicial killing. The institutions that are responsible for upholding the rule of law do not function where the military operate, and since the Emergency, they operate everywhere.

The law-enforcement agencies, which in Bangladesh include the armed forces, the police, the Rapid Action Battalion (RAB), the Bangladesh Rifles (BDR), the border security force, and other non-militia and paramilitary forces, do not require courts orders to arrest anyone under the Emergency Powers Ordinance of 2007 and the Emergency Powers Rules of 2007. These same emergency instruments do not allow victims to seek bail at any Courts when they have been charged under the emergency laws.

As a result of the suspension of fundamental rights, including the freedom of the press and widespread militarisation, nobody in Bangladesh knows the exact number of the victims of arbitrary arrests and detentions since the beginning of the Emergency. Locally human rights groups estimate that approximately 300,000 people have been arrested by the armed forces since the State of Emergency was proclaimed. This number can surely not be rivalled around the world.

Amongst the detained are NGO activists, journalists, human rights defenders, day labourers, trade unionists and a few politicians and industrialists. They have been charged under emergency laws as well as the Special Powers Act of 1974, which is recognised as law that has been misused to enable arbitrary arrests and detention. A few of them have been able to pay their way out, but the majority, who are poor and unable to afford the costs of lawyers in the higher courts, are forced to suffer prolonged detention and fabricated charges for indefinite periods.

The Magistrate's Court, which is the first place to seek justice, and the Session Judge's Court, as the immediate next option, entertain the directions given either by phone or in person, by the military officers as well as the local administration, the latter of which implements the decisions and directions of the armed forces in the respective administrative jurisdictions. The arbitrary arrests and detentions have been justified by measures in place to fight against corruption while the actual number of the alleged corrupt persons being pursued is tiny in comparison to the total number of detainees being held.

Ironically, the Appellate Division of the Supreme Court, in a verdict declared on April 23, 2008, validated the provisions of the emergency laws asserting that no courts in the country, including the Supreme Court itself, are authorised to entertain bail applications when a case is lodged under the emergency laws. This decision of the apex court of the country has sent a shockwave through Bangladesh, notably for human rights defenders and lawyers.

Bangladeshi society has been left deeply frustrated by the lack of interest, let alone effective intervention, by the international community, including the Human Rights Council. Bangladesh's continued membership remains a deep concern with regard to this body's credibility.

The Asian Legal Resource Centre (ALRC) calls on the Human Rights Council to intervene with the Bangladeshi authorities to urge them to immediately lift the State of emergency and repeal all laws made in relation to this emergency. Furthermore, all persons detained arbitrarily must be released without delay. The Council must stop ignoring the situation in Bangladesh, which continues to deteriorate as a result of global inaction.

###

About ALRC: The Asian Legal Resource Centre is an independent regional non-governmental organisation holding general consultative status with the Economic and Social Council of the United Nations. It is the sister organisation of the Asian Human Rights Commission. The Hong Kong-based group seeks to strengthen and encourage positive action on legal and human rights issues at local and national levels throughout Asia.
