

RESTORING DEMOCRACY IN BANGLADESH

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RESTORING DEMOCRACY IN BANGLADESH

EXECUTIVE SUMMARY AND RECOMMENDATIONS

Bangladesh is under military rule again for the third time in as many decades. Although the caretaker government (CTG) insists its plans to stamp out corruption and hold general elections by December 2008 are on track, its achievements have been patchy, and relations with the major political parties are acrimonious. Efforts to sideline the two prime ministers of the post-1990 democratic period have faltered (though both are in jail), and the government has become bogged down in its attempts to clean up corruption and reshape democratic politics. Even if elections are held on schedule, there is no guarantee reforms will be sustainable. If they are delayed, the risk of confrontation between the parties and the army-backed government will grow. There is an urgent need for all sides to negotiate a peaceful and sustainable return to democracy.

The army's intervention on 11 January 2007 was widely welcomed for preventing a slide into extensive violence. Activists of the opposition Awami League had stepped up street protests against efforts by the outgoing Bangladesh Nationalist Party (BNP)-led government to rig elections. Clashes had led to some 50 deaths by the end of 2006, and there was no compromise in sight. The CTG, headed by technocrats but controlled by the military, quickly ended street violence and raised hopes of political change, promising to tackle the corruption, nepotism and infighting that had crippled fifteen years of elected governments. It used wide-ranging emergency powers and argued that the exceptional situation, not envisaged by the constitution, legitimised its extended tenure and ambitious program. Its goals attracted support from key international backers.

Some progress is evident. The creation of a new electoral roll, with photographic voter identity cards, is underway; the government has begun to separate the judiciary from the executive; and it has reconstituted the Election and Public Service Commissions – essential preliminaries to more extensive reforms of the electoral system and the bureaucracy. Its anti-corruption drive has targeted powerful politicians and their protégés. Debilitating *hartals* (general strikes) that sapped business confidence and disrupted daily life have been banned.

However, despite some continued support from civil society and the international community, the government's honeymoon is over. There is now fear the government is undermining the very democratic institutions it set out to rescue. In its first year in power, the government made some 440,000 arrests ostensibly linked to its anti-corruption drive, creating a climate of fear in the country. Its poor handling of the economy and natural disasters has aggravated underlying scepticism over its real intentions. The continued state of emergency and efforts to undermine popular politicians and split their parties have left many questioning its sincerity. Former Prime Ministers Khaleda Zia and Sheikh Hasina weathered clumsy attempts to force them into exile. They are both under detention facing corruption charges but still dominate their parties, and their popularity may get a boost if their prosecutions are seen as unfair.

The Directorate General of Forces Intelligence (DGFI), the military intelligence agency and the engine of military government, has been careful to avoid being front and centre, but serving and retired officers have been placed in critical positions, from the Election Commission to the National Coordination Committee heading the anti-corruption drive. Senior officers assert that the army has no desire to get its hands dirty and would rather stay out of politics altogether. They remember the messy collapse of past military regimes and are concerned about their and their army's international reputation and peacekeeping role. Still, there have been persistent signals that the army would like to institutionalise a degree of continuing influence after elections. In any event, it will have difficulty extricating itself from politics with its prestige intact, unless it can negotiate a graceful exit strategy with the parties.

There is an immediate need for dialogue between the government and the main parties. Any viable roadmap for elections and a smooth return to democracy has to be agreed by all major actors. The first step must be to address mistrust between the two sides, as well as the acrimonious relations between the Awami League and BNP. Ideally, a new consensus would not only cover how to hold elections but also develop commitments on post-election behaviour (including sustaining institutional

reforms and anti-corruption measures) and democratic functioning (including safeguarding human rights and political pluralism).

Failure to negotiate would invite confrontation. Student unrest in August 2007 showed how quickly frustration with military rule can boil over. Two floods, a devastating cyclone and rising food prices have left many Bangladeshis hungry and the CTG struggling to assert that the politicians it imprisoned on corruption charges would be equally unable to handle the food crisis. If the government cannot bring the politicians along to help it cope with soaring food prices, the parties are likely to channel popular discontent into street protests. This would carry the immediate risk of violent clashes; it would also increase the advantage militant Islamists are already quietly taking from the situation.

International actors who have too placidly accepted the government's rationale and supported its agenda should recognise that the priority is to maintain pressure for timely and credible elections. They should also be prepared to act as a possible guarantor to facilitate a delicate transfer of power and to support a longer-term program of sustainable reforms to put the country's democracy back on track.

RECOMMENDATIONS

To the Caretaker Government (CTG) and the Military:

1. Lift the state of emergency, including complete cancellation of the Emergency Power Rules (EPR), at least two months ahead of any elections to create conditions conducive for free and fair contests.
2. Carry out the following steps ahead of elections:
 - (a) immediately rescind the emergency ban on all political party activity and freedom of association, as well as press restrictions, and repeal Section 16(2) of the EPR granting immunity from prosecution to the Joint Forces;
 - (b) continue good faith efforts to adhere to the election roadmap for parliamentary elections by the end of 2008 at the latest, by setting a specific election date and keeping in mind Islamic holidays to ensure full participation;
 - (c) begin discussions immediately with the main political parties on core political issues not addressed in talks between those parties and the Election Commission;

- (d) refrain from using coercive measures to induce and expedite political party reforms and allow sufficient time for party leaders to build support for internal reforms at all levels; and

- (e) desist from anti-corruption arrests without warrants or sufficient evidence.

3. Disavow the "minus two" policy as part of the political reform process, and in regard to the trials of Sheikh Hasina and Khaleda Zia:

- (a) refrain from interfering and allow them to be held in open court;

- (b) conduct them before the general election;

- (c) ensure they are speedy and verdicts are delivered in time for the accused to stand for late 2008 parliamentary election if found innocent; and

- (d) respect the High Court or High Court of Appeal's verdicts.

4. Identify and encourage non-partisan national observers to monitor all elections outlined in the roadmap and invite international election observation missions to monitor elections, in consultation with the parties.

To the Parties:

5. Demonstrate a willingness to reciprocate goodwill gestures by the CTG (such as removal of the ban on party activity) by promoting internal party democracy, rejecting those convicted in corruption cases as candidates and forging consensus on an election code of conduct.

6. Promote internal party democracy by:

- (a) holding regular elections for all leadership posts at all party levels;

- (b) rewarding committed and effective party workers with greater opportunities to rise through the ranks, including running for office, gaining access to funds and other resources for their candidacies and winning promotions to important committees;

- (c) selecting candidates to stand for elections who enjoy the confidence of their local party workers; and

- (d) determining a quota, in consultation with the Election Commission, for ensuring women's representation at all levels.

7. Do not boycott the elections, and if they are deemed free and fair by credible observers, accept the results.

To Both the CTG and the Parties:

8. Seek to ensure a smooth transition to democracy and a credible parliamentary election by December 2008 by entering into a dialogue, with a clearly defined agenda from the start, that aims broadly to:
 - (a) achieve a common minimum commitment on sustaining institutional reforms such as the independence of the judiciary, maintaining a non-partisan public service commission and refraining from political interference in police and army promotions and assignments;
 - (b) agree on how to ratify actions of the CTG, whether by approving ordinances (which might mean amending current ordinances to make them more acceptable), by a constitutional amendment or by other means;
 - (c) ensure a smooth transfer of power after elections, with safeguards against retaliatory prosecutions, demotions or transfers of CTG officials and military officers for administering routine ministerial, government and security functions and formulating and implementing institutional reforms such as the Anti-Corruption Commission, Public Service Commission, judicial and other reforms necessary for strengthening democratic functioning, but without foregoing the state's responsibility under domestic and international law to investigate and prosecute civilian and military officials who have ordered, condoned or directly participated in human rights abuses to enforce the state of emergency;
 - (d) consider mechanisms for institutionalising pluralism and empowering opposition voices in parliament such as creating a bicameral legislature; repealing Article 70 of the constitution, which imposes rigid party discipline in the parliament; and ensuring meaningful bipartisan participation in parliamentary committees and working groups; and
 - (e) intensify efforts by the next government to: reduce space for radicalism, cooperate in dismantling terrorist groups and tackle any linkages between violent extremists and state institutions, political parties and

politicians, and members of the business community, as well as between violent extremists and organised crime or other sources of domestic and international funding.

9. Include in any agreement a common reiteration of commitment to all fundamental rights, including concrete promises for action in areas such as extrajudicial killings, torture and illegal detention, and protection of minority rights, women's rights and refugee rights.
10. Hold, upon conclusion of the talks, several roundtable discussions with a wide range of civil society organisations in the six division capitals so as to forge a broader national charter for post-election governance and respect for human rights.

To the International Community, especially Australia, Canada, the European Union, Germany, India, Japan, the UK, UN and U.S.:

11. Maintain pressure on the CTG to hold timely and credible elections, as well as technical support for the electoral process and unity in public and private messages to the main political actors.
12. Consider official visits to Bangladesh in the upcoming months at foreign minister or under-secretary-general level to remind the CTG that its legitimacy depends on meeting its elections target, and the army that its international reputation rests on assisting a smooth transfer of power and remaining outside of politics, and ensure that senior visitors also meet with leaders of the main political parties.
13. Encourage strongly an inclusive dialogue both between the CTG and parties and among the parties, stand ready to assist the resumption of talks if they breakdown and give public support to any agreement reached.
14. Support non-partisan national election monitoring mechanisms, prepare to send electoral observation missions and agree on benchmarks for credible elections, which likely should include:
 - (a) participation by all major parties;
 - (b) lifting of the state of emergency at least two months before the elections, including the end of all restrictions on fundamental rights;
 - (c) minimal pre-election violence; and
 - (d) minimal candidate and voter intimidation by either the CTG, the military or the parties.

15. Emphasise to the CTG its responsibility to uphold both domestic and international human rights standards, including investigating and holding to account past and present human rights abuses, particularly those committed by the security services, and be prepared to offer technical and financial assistance to Bangladesh's human rights commission.

Dhaka/Brussels, 28 April 2008

RESTORING DEMOCRACY IN BANGLADESH

I. INTRODUCTION

On 11 January 2007 Bangladesh's military installed a caretaker government (CTG), which used emergency powers to clamp down on violence in the run-up to bitterly contested elections.¹ Prime Minister Khaleda Zia's Bangladesh Nationalist Party (BNP) had attempted to rig the polls, prompting the opposition Awami League to launch street protests, which led to some 50 deaths. BNP rule had continued the worst trends of the post-1990 multiparty democratic period, with corruption and cronyism debilitating state institutions and undermining the economy. Faced with the prospect of more street violence – and having to choose sides – the army stepped in.

The new government promised to conduct elections by the end of 2008 but also embarked on a major reform agenda beginning with a massive anti-corruption drive against top political figures and business leaders. Thousands have been arrested in the clamp-down on crime, including two former prime ministers, Sheikh Hasina and Khaleda Zia, on corruption charges. The government has also put political parties under heavy pressure to reform before elections, declaring it is not interested in holding “an election for election's sake but rather to restore democracy”.²

The state of emergency has complicated the political terrain. There are now more actors with more at stake, but the two main parties, the Awami League and the BNP, continue to occupy the largest share of the political space. The BNP is in disarray following the arrest of its chairperson, Khaleda Zia. The Awami League has remained united, even though its leader, Sheikh Hasina, is in jail as well. The Jamaat-e Islami, the largest Islamist

party and a BNP ally, remains relatively untouched, arousing suspicions of a mullah-military nexus.³

This report examines developments since the military's “quiet coup”.⁴ It assesses the CTG's progress towards its stated goal of holding credible elections and examines the major political actors' agendas. It looks at the impact of the extended period of emergency rule and highlights the need for a restoration of democracy. The report is based on interviews in both Bangladesh and concerned capitals. Many interviewees requested anonymity.

¹ For background, see Crisis Group Asia Report N°121, *Bangladesh Today*, 23 October 2006.

² “Reforms, Polls Within Next Year: Mainul”, *The Daily Star*, 11 June 2007, at www.thedailystar.net/2007/06/11/47061101159.htm.

³ Bangladesh's 11 January 2007 military takeover shares similarities with recent coups in South Asia, notably Pakistan's in 1999 and Nepal's in 2005. See, for example, Crisis Group Asia Reports N°40, *Pakistan: Transition to Democracy?*, 3 October 2002; N°49, *Pakistan: The Mullahs and the Military*, 20 March 2003; N°102, *Authoritarianism and Political Party Reform in Pakistan*, 28 September 2005; N°137, *Elections, Democracy and Stability in Pakistan*, 31 July 2007; N°36, *Nepal: Responding to the Royal Coup*, 24 February 2005; and N°91, *Nepal's Royal Coup: Making a Bad Situation Worse*, 9 February 2005.

⁴ “The Coup That Dare Not Speak its Name”, *The Economist*, 18 January 2007.

II. THE ARMY STEPS IN

A. THE RUN-UP TO THE COUP

The Awami League and BNP, Bangladesh's two largest parties, have virtually divided the country's electorate and its institutions between themselves since 1990. The BNP, considered right-of-centre, middle class, urban, anti-Indian, pro-Pakistani and of an Islamic bent, has led two governments in the past fifteen years; the Awami League, left-of-centre, secular, pro-Indian and rural, has led one.⁵ While these descriptions are generally accurate, neither party is rigid in its ideology, and both are about power, often in its rawest forms.

Since 1990, democratic functioning had been steadily deteriorating, with corruption becoming further entrenched under both governments of both parties, such that Bangladesh was perceived to be one of the most corrupt countries in the world.⁶ Civil society groups saw the period leading to the elections that were expected in early 2007 as a chance to at least halt the political decay. Five years of BNP rule had left many citizens wanting change, and initiatives like the Nagorik Committee (Citizen's Committee) launched in March 2006 sought to promote good governance standards and competent candidates. The major media outlets, like *The Daily Star* and *Prothom Alo* newspapers and the television network Channel I, were all involved.

Meanwhile, tensions built steadily between the main political parties, and the BNP-led government tried to use state institutions to its benefit ahead of the general elections that were eventually scheduled for 22 January 2007. Its efforts to rig the results included placing party loyalists in key positions throughout the administration and, as early as 2005, altering regulations to ensure that Chief Justice K.M. Hasan, a party supporter, would head the non-partisan interim government the constitution mandated to oversee elections.⁷ The Awami League

concluded it had the most to gain at the polls from promoting democracy and the clean candidates backed by the Nagorik Committee. On the eve of the elections, the fourteen-party alliance it led announced a reform plan that included a call for increased intra-party democracy, nomination of competent candidates and efforts to stop the use of illicit wealth in campaigns. Rehman Sobhan, an influential scholar, said the 23-point plan "was, if anything, more advanced than the writings and declarations of civil society".⁸

When the demands of that plan were not met, however, the Awami League adopted an increasingly confrontational stance. Protests erupted in October 2006, after the two main parties disagreed on formation of the Election Commission and the caretaker government. More than 25 people were killed, scores were injured⁹ and, in their wake, Hasan stepped aside.¹⁰ The government ignored constitutional requirements to select another retired chief justice and instead concentrated the powers of chief adviser and president (most notably, control of the army) in one person by installing the BNP-appointed president, Iajuddin Ahmed. An Awami League legal challenge was thwarted, but civil society and the media voiced concerns about his presumed partisanship. On 11 December, four government advisers resigned, saying his government could not hold impartial elections.¹¹ One, General Hasan Mashhud Chowdhury, said, "from the very start it was clear that the president was a party [BNP] man.... He was not detached from his party in the least....[and had] totally failed in his job as a neutral administrator".¹²

amendment to increase the retirement age of supreme court justices from 65 to 67, to ensure the job would go to K.M. Hasan. The Constitution of the People's Republic of Bangladesh is available at www.pmo.gov.bd/constitution/index.htm.

⁸ Rehman Sobhan, "Exit Strategies: The Way Forward", *Forum*, December 2007, at www.thedailystar.net/forum/2007/december/index.htm.

⁹ "Fifty hurt in Bangladesh clashes", BBC, 20 November 2006, at http://news.bbc.co.uk/2/hi/south_asia/6164468.stm.

¹⁰ "KM Hasan steps aside for the sake of people", *The Daily Star*, 29 October 2006, at www.thedailystar.net/2006/10/29/d6102901109.htm. Although a party member in 1979, he is seen as non-partisan compared with President Iajuddin Ahmed. An Awami League member said, "looking back at what we got after Mr Hasan, we should not have opposed the chief justice as the caretaker head", Crisis Group interview, Awami League member, Khulna Division, November 2007.

¹¹ "Four Advisers Resign in Frustration", *The Daily Star*, 12 December 2007.

¹² Crisis Group interview, General Hasan Mashhud Chowdhury, adviser in Iajuddin Ahmed's caretaker administration and chief of the Anti-Corruption Commission, Dhaka, November 2007.

⁵ The BNP led two governments, from 1991 to 1996 and from 2001 to 2006. The Awami League led one government, between 1996 and 2001.

⁶ By the time the Awami League left office in 2001, Bangladesh was perceived as the most corrupt country in the world according to Transparency International's Corruption Perception Index for that year. By the end of the BNP's second government in 2006, it was again ranked at the bottom of Transparency International's index. The 2001 and 2006 Corruption Perception Indices are available at www.transparency.org/policy_research/survey_s_indices/cpi.

⁷ The constitution stipulates that the chief adviser to the caretaker government (its head) be the most recently retired chief justice. In 2005 the government changed the fifteenth

Iajuddin Ahmed focused more on the timeliness of the elections than on their fairness, ignoring many signs that their credibility was eroding. In December 2006, the National Democratic Institute (U.S.) reported that the voter list drawn up by the BNP-led government contained over 12 million false names.¹³ As the divide between the parties widened and protests sparked violence, the caretaker government and the Election Commission ignored Awami League concerns and pressed ahead with election preparations, prompting the League to shut down the economy with repeated *hartals* (strikes) and threaten a boycott.

Renewed demonstrations and strikes ignited clashes between Awami League and BNP supporters, bringing the death toll to 50 by the end of 2006. Neither party condemned the violence or the behaviour of its supporters, and Iajuddin Ahmed ordered the military onto the streets. Military intervention grew increasingly likely, as diplomats in Dhaka warned Khaleda Zia that the army, if forced to take sides, would prevent a fraudulent election rather than crush the Awami League as she believed.¹⁴

There is much speculation among Bangladeshis that the coup was hatched far in advance of 11 January 2007, but it appears to have been the result of a convergence of military interests rather than premeditated. By late December, rumours were circulating that Iajuddin Ahmed might fire the army chief for not intervening on the BNP's behalf. While some officers might have been keen to help the BNP, the military's standing would have been severely compromised by open partisanship.

B. THE COUP

Fearing further bloodshed, a group of Dhaka-based diplomats met Awami League General Secretary Abdul Jalil and his BNP counterpart, Abdul Mannan Bhuiyan, to negotiate a compromise.¹⁵ After the talks failed,¹⁶ the European Commission suspended its Election

Observation Mission, warning that polling would not meet international standards.¹⁷ The UN announced it would suspend all technical support for the election, including closing its International Coordination Office for Election Observers in Dhaka.¹⁸ The chief UN official in Bangladesh said the army would jeopardise its lucrative role in UN peacekeeping operations if it facilitated an election boycotted by the Awami League and its allies.¹⁹

Outside powers insist “this was not an internationally inspired military coup”,²⁰ but they did not discourage the military takeover and were probably more proactive than they publicly acknowledge.²¹ A Western ambassador in Dhaka admitted, “we [the international community] were instrumental in the events in January”.²² A senior Bangladeshi military official claimed, “the British, Americans, Australians, and the Canadians were heavily involved in bringing the military in”.²³ There was even “low key support from [UN] headquarters for it [the coup]”.²⁴ Symptomatically, the international community has been careful not to call the military takeover a coup.²⁵

¹³ “Survey on the Integrity of the Voter’s List”, National Democratic Institute, 10 December 2006, at http://ndibd.org/adm_in/resource/10120631.pdf.

¹⁴ Rounaq Jahan, “Bangladesh At A Crossroads”, *Seminar*, issue 576, August 2007, at www.india-seminar.com.

¹⁵ The group, known as the Tuesday Club, is an informal caucus of Bangladesh’s largest donors. It meets weekly, usually on Tuesday, to discuss critical issues affecting the country. Its core members are the ambassadors of Australia, Canada, the EU, Japan, UK and U.S.

¹⁶ Awami League leader Sheikh Hasina and BNP leader Khaleda Zia did not attend the talks. According to a senior diplomat at the meeting, “there was no way they [Hasina and Zia] could be same room with each other”, Crisis Group interview, diplomat, Dhaka, November 2007.

¹⁷ “European Commission suspends its Election Observation Mission to Bangladesh”, Brussels, 11 January 2007, at <http://europa.eu/rapid/pressReleasesAction>.

¹⁸ “United Nations Says Bangladesh Political Crisis Jeopardises Electoral Legitimacy”, UN Department of Public Information, 10 January 2007, at www.un.org/News/Press/docs/2007/sgsm10838.doc.htm.

¹⁹ Press statement by UN Resident Coordinator Ms Renata Lok Dessallien, Dhaka, 11 January 2007. General Moeen had received similar warnings in the months preceding the 11 January coup. Crisis Group interviews, New York and Dhaka, 2007.

²⁰ Crisis Group interview, UK diplomat, London, February 2008.

²¹ Peter Lloyd, “Evidence mounts of Bangladesh mass torture”, ABC News, 8 June 2007, at www.abc.net.au/news/newsitems/200706/s1945599.htm.

²² Crisis Group interview, Western embassy official, Dhaka, November 2007.

²³ Crisis Group interview, Bangladeshi military officer, Dhaka, November 2007.

²⁴ Crisis Group interview, UN official, New York, October 2007.

²⁵ The U.S. embassy in Dhaka continued to refer to the new Bangladesh government as a “caretaker government”, as did the UK Foreign Office. See press release, U.S. embassy, 12 January 2007, at http://dhaka.usembassy.gov/uploads/images/mjntnHMfzUQDGfVWe51DsA/pre1jan12_07.pdf, and “Minutes of Evidence”, Select Committee on Foreign Affairs, 23 January 2007, at www.publications.parliament.uk/pa/cm200607/cmselect/cmfa/55/7012312.htm. The Australian foreign minister, Alexander Downer, welcomed “the decision of President Iajuddin to appoint a new chief adviser ... [and] caretaker government”, press release, 16 January 2007, at www.foreignminister.gov.au/releases/2007/fa006_07.html.

Around the same time as party leaders were meeting the diplomats, the armed forces chiefs presented the president with three options: order Khaleda Zia and the BNP, in front of the generals, to put an end to election rigging; declare martial law;²⁶ or impose a state of emergency while postponing the elections. As the president was unwilling to confront his political master, and the military was unwilling to go for full martial law, they opted for a state of emergency. The generals forced Iajuddin Ahmed to resign as chief adviser (although he remained president), dissolve the caretaker government, impose the emergency on 11 January 2007 and delay the January polls. The next day, the army installed a new caretaker government headed by Fakhruddin Ahmed, a former central bank governor and World Bank official.²⁷

The military's stated rationale for intervening was to forestall increased violence and flawed elections.²⁸ Many commentators agree that more conflict would have occurred had the military not stepped in. The army chief and the chief adviser have repeatedly insisted that the military is only supporting the civilian administration and wields no political power. But acting or retired senior officers occupy key positions across government. Two are or have been CTG advisers;²⁹ Lt.-Gen. Masud Uddin Chowdhury has the operational lead in the National Coordination Commission on Combating Corruption and Crime (NCC); former army chief Lt.-Gen. (rtd.) Hasan Mashhud Chowdhury heads the Anti-Corruption Commission (ACC); and Brig.-Gen. (rtd.) M. Sakhawat Hossain is one of three election commissioners.

C. RESPONSES TO THE COUP

Political parties. The initial reactions of the major parties were markedly different. The Awami League took the

emergency measures as an endorsement of its criticisms of the poll preparations.³⁰ General Secretary Abdul Jalil supported the "role of the army" in reconstituting the caretaker government and welcomed Iajuddin Ahmed's resignation as chief adviser.³¹ Initially, the BNP leaders refused to accept any responsibility for the state of the emergency and blamed the Awami League for cancellation of the elections.³² The BNP-Jamaat alliance did acknowledge that the army's intervention saved lives and property but rejected the legitimacy of the reconstituted caretaker government. Khaleda Zia was reportedly shocked by the takeover and disappointed in the BNP-appointed president and generals.³³ Party leaders angered by Iajuddin Ahmed's acquiescence in signing the emergency order sought to replace him with someone "more loyal".³⁴

Civil society. Large sections of civil society and the media embraced the coup.³⁵ "In the end, we saw the military as the least-worst option for government", said an activist.³⁶ Leading civil society groups and personalities, such as Transparency International Bangladesh (TIB)³⁷ and the Centre for Policy Dialogue's (CPD) executive director, Debapriya Bhattacharya, are working with the CTG.³⁸ Farooq Sobhan, the president of the Bangladesh Enterprise Institute (BEI), a Dhaka think tank, has acted as the CTG's special envoy to the U.S.³⁹ A prominent

²⁶ General Ziaur Rahman's and H.M. Ershad's military regimes declared martial law on 15 August 1975 and 24 March 1982 respectively, but there is no constitutional provision for such a measure.

²⁷ Nine advisers to the caretaker government also resigned, while Justice Fazlul Haque, the most senior among them, took over as acting chief adviser. He resigned when Fakhruddin Ahmed assumed that post.

²⁸ "Army chief feels need for constitution review", *The Daily Star*, 11 July 2007, at www.thedailystar.net/2007/07/11/d7071101011.htm.

²⁹ Major General (rtd.) M.A. Matin, the former head of military intelligence, is adviser to the ministries of communications, shipping, civil aviation and tourism and liberation war affairs, as well as chairman of the National Coordination Commission on Combating Corruption and Crime (NCC). Major General (rtd.) Matiur Rahman was adviser to the health and family welfare, water resources and religious affairs ministry (he resigned on 9 January 2008).

³⁰ "Awami League, allies want fair polls in shortest possible time", *New Age*, 15 January 2007, at www.newagebd.com/2007/jan/15/front.html#10.

³¹ "Awami League, BNP want free, fair polls the soonest", *The Daily Star*, 15 January 2007, at www.thedailystar.net/2007/01/15/d7011501096.htm.

³² "BNP blames rivals for emergency", *New Age*, 15 January 2007, at www.newagebd.com/2007/jan/15/front.html#12.

³³ Crisis Group interview, Canadian official, November 2007.

³⁴ "BNP clique trying to change president", *The Daily Star*, 16 January 2007, at www.thedailystar.net/2007/01/16/d7011601022.htm.

³⁵ There are notable exceptions. Two are *New Age*, Bangladesh's second largest daily English language newspaper, and Odhikar, a leading Bangladeshi human rights organisation. Both were critical from the outset of the state of emergency's suspension of democracy and civil rights.

³⁶ Crisis Group interview, former parliamentarian and current civil society leader, Dhaka, October 2007.

³⁷ TIB is the local chapter of the Berlin-based Transparency International. It is lending technical support to the Anti-Corruption Commission. Crisis Group interviews, Iftekhhar Zaman, TIB executive director, Dhaka, 11 November 2007; and General Hasan Mashhud Chowdhury, chief of the Anti-Corruption Commission, Dhaka, 15 November 2007.

³⁸ On 20 October 2007, Bhattacharya was appointed Bangladesh's Representative to the UN in Geneva.

³⁹ Farooq Sobhan is also a former Awami League foreign secretary. He acted as the chief adviser's special envoy to the U.S. in May 2007.

member of civil society explained: “We have to support this military government. There is no other choice; they [the political parties] were running us into the ground. We had nothing to lose; we were getting the BNP again or worse Tarique [Rahman]⁴⁰ or civil war. Why not the military? It is all that remains”.⁴¹

The public. A monthly public perception survey conducted by the donor-funded Election Working Group (EWG)⁴², found that in February 2007, several weeks after the coup, over 90 per cent of Bangladeshis saw the emergency declaration as essential to end the lawlessness of Iajuddin Ahmed’s government.⁴³ CTG, military and diplomats alike have pointed to this and subsequent EWG surveys as evidence of broad public support. However, they are not scientific studies but rather are based on guided discussions without questionnaires. The methodology makes it difficult to rely on them as an assessment of public support.

Nevertheless, it is clear from interviews, media reports and blogs that there was significant public support for the new government. Nearly a year of Awami League-led *hartals* had prevented millions from going to work or sending their children to school. The new CTG put an immediate end to strikes and within days, normality returned to the streets. A school teacher said that:

On the day-to-day level, the military is not going to interrupt your life or harass you like the BNP or Awami League did. We have not fooled ourselves that a military government would be

perfect; we lived under Ershad⁴⁴ for nearly a decade. We knew that abuses under a military government would be less than under a BNP or Awami League government; they were that bad.⁴⁵

The political class and university students – historically a barometer of the political climate – were conspicuously silent after the coup. “Students were quiet about the military government because of the emergency laws, but we were also quiet in the beginning because it [the coup] was good for Dhaka and the country”, one said.⁴⁶ The CTG’s promises to tackle rising food prices and shortages of electricity, water, fertiliser and diesel fuel were initially well received among sections of society traditionally more concerned with meeting basics needs than with politics.⁴⁷

The business community. Business leaders generally embraced the state of emergency, hoping it would end months of strikes. According to some, the *hartals* had cost the economy between \$65 million and \$70 million a day.⁴⁸ The initial stability energised the economy. Chittagong port, which handles more than 80 per cent of Bangladesh’s international trade, reopened after political blockades had caused weeks of disruption. Three days after imposition of the emergency, the Dhaka Stock Exchange (DSE) all-share index rose to its highest level in over a decade.⁴⁹

The international community. Diplomats saw the military as “a last resort and a necessary evil”⁵⁰ to tackle the corruption of the political parties and the bureaucracy. A senior one commented that some colleagues saw the army’s intervention as “the only way to protect our development investments. We were getting robbed by both the Awami League and BNP-Jamaat governments”.⁵¹ The UK and U.S. expressed regret over the political parties’ failure to resolve their differences through dialogue. The U.S. said Iajuddin Ahmed was compelled to declare the state of emergency but also that early elections were the best solution for

⁴⁰ Tarique Rahman, 42, was arrested by the Joint Forces on 7 March 2007 and charged with extortion. He is the eldest son of the late Zia Rahman, a former Bangladeshi president and the BNP founder, and of the former prime minister and current BNP Chairperson, Khaleda Zia. Tarique acquired a reputation for brutally enforcing party discipline through coercion and violence. His 2002 promotion by his mother to the position of senior joint secretary-general of the BNP was widely viewed as a move to ensure the Rahman family’s continued domination of the BNP.

⁴¹ Crisis Group interview, former Awami League cabinet minister and civil society leader, Dhaka, November 2007.

⁴² The Election Working Group (EWG) is a non-partisan, 34-member coalition of civil society organisations that share a commitment to free and fair elections in Bangladesh. It is supported by the Asia Foundation, Australian Agency for International Development, Canadian International Development Agency, Danish International Development Agency, Swedish International Development Cooperation Agency, UK Department for International Development (DFID) and the Norwegian Embassy in Dhaka.

⁴³ “National Public Perception Study Report”, EWG, February 2007, at www.ewgbd.org.

⁴⁴ General H.M. Ershad and his military regime ruled Bangladesh between 1982 and 1990.

⁴⁵ Crisis Group interview, Dhaka, October, 2007.

⁴⁶ Crisis Group interview, Kabir, Dhaka University student, 29 October 2007.

⁴⁷ Crisis Group interviews, Barisal, Chittagong, Dhaka, Khulna and Rajshahi Divisions, October and November 2007.

⁴⁸ “Bangladesh emergency good for business, say exporters”, Agence France-Presse, 13 January 2007.

⁴⁹ “Bangladesh state of emergency gives hope to investors”, Reuters, 15 January 2007, at www.reuters.com/article/latestCrisis/idUSDHA232548.

⁵⁰ Crisis Group interview, Dhaka, November 2007.

⁵¹ Ibid.

the political crisis.⁵² British High Commissioner Anwar Choudhury said his government broadly welcomed the opportunity for political change.⁵³

D. A LEGAL BASIS?

1. The question of constitutionality

Fakhruddin Ahmed described the government as a “caretaker” administration in his January 2007 speech, but it was clear from its reform agenda that it meant to do more than routinely administer the country between elections as mandated by the constitution. Normally, caretaker governments are non-party administrations formed to run the state “from the date on which Parliament is dissolved or stands dissolved”⁵⁴ until “a new Prime Minister enters office after the constitution of Parliament”.⁵⁵ Their primary function is to create an environment in which a general election can be held “peacefully, fairly and impartially”.⁵⁶ They are also responsible for exercising the “routine functions of government with the aid and assistance of persons in the services of the Republic”,⁵⁷ and “except in the case of necessity ... shall not make any policy decision”.⁵⁸

This CTG rests on a “maximalist definition of the constitution in relation to elections preparations”.⁵⁹ Supporters, like constitutional expert Kamal Hossain, argue that it has a legal mandate: “The first caretaker government was not a legal caretaker government. It had failed to meet constitutional standards of non-partisanship and had to be reconstituted”.⁶⁰ However, most parties argue the CTG’s extended tenure is illegitimate and its reforms are policy decisions it should not take.⁶¹ A BNP adviser said, “the government’s swelling reformist objectives are unconstitutional”.⁶² “This kind of government is not anywhere in the constitution”, a legal expert claimed. “The military likes to call Fakhruddin’s show a caretaker because it gives their takeover a flavour

of constitutionality. The method by which [the CTG] came to power and its goals singularly and together put its legality in doubt”.⁶³

The parties also contend that the postponement of elections is unconstitutional. They insist that the document is clear on this: elections must take place within three months of the expiration of the last parliamentary term.⁶⁴ But the CTG’s position is that free and fair elections cannot happen unless its reform agenda is fully implemented. A Bangladeshi human rights activist said that:

The caretaker will have to suspend democracy for nearly two years to get its job done. It is an unelected government acting undemocratically. Just because its stated intentions are good should not be a diversion from the fact that it is acting without a popular mandate. The advisers’ plans may have more support than any Awami League or BNP programs, but that doesn’t make their government legal or constitutional.⁶⁵

A February 2008 ruling by the High Court division of the Supreme Court⁶⁶ has already challenged the constitutionality of the emergency. The justices ruled that Sheikh Hassina could not be tried under the Emergency Power Act (discussed below) for an offense committed prior to 11 January 2007. Although the CTG has appealed the decision to the Supreme Court’s Appellate division, the ruling opens the door for further legal challenges to emergency rule. These constitutional issues will have to be dealt with before any election. The next parliament’s first session will be required to pass on ordinances issued by the CTG.⁶⁷ If it refuses to endorse them on the grounds that they were produced by an “unconstitutional” interim government, there could be a new constitutional impasse.⁶⁸

⁵² “U.S. Responds to State of Emergency”, press release, U.S. embassy, 12 January 2007, at http://dhaka.usembassy.gov/uploads/images/mjntnHMfzUQDGiVWe51DsA/pre1jan12_07pdf.

⁵³ “US, UK reaction to emergency”, *The Daily Star*, 13 January 2007, at www.thedailystar.net.

⁵⁴ Constitution of Bangladesh, op. cit., Article 58(B).

⁵⁵ Ibid.

⁵⁶ Ibid., Article 58(D).

⁵⁷ Ibid.

⁵⁸ Ibid.

⁵⁹ Crisis Group interview, Bangladeshi political analyst, Dhaka, 29 October 2007.

⁶⁰ Crisis Group interview, Kamal Hossain, 7 November 2007.

⁶¹ Constitution, op. cit., Article 58(D).

⁶² Crisis Group interview, Hannan Shah, adviser to Khaleda Zia, 3 November 2007.

⁶³ Crisis Group interview, Bangladeshi legal scholar, Chittagong City, November 2007.

⁶⁴ Constitution, op. cit., Article 123.

⁶⁵ Crisis Group interview, prominent Bangladeshi lawyer, Dhaka, November 2007.

⁶⁶ The Supreme Court of Bangladesh is the highest court of law in the country. It is composed of a High Court division and an Appellate division. The High Court division hears appeals from lower courts and tribunals and also has original jurisdiction in some cases. The Appellate division hears appeals from the High Court division.

⁶⁷ Constitution, op. cit., Article 93.

⁶⁸ On ratifying the CTG’s decisions and dealing with constitutional problems, see Section V below.

2. The Emergency Power Rules (EPR)

The constitution authorises the president to declare an emergency if the country faces a grave external threat or internal disturbance.⁶⁹ Such an emergency suspends the rights to freedom of movement (Article 36); freedom of assembly (Article 37); freedom of association (Article 38); freedom of thought, conscience and speech (Article 39); freedom of profession and occupation (Article 40); to property (Article 42); safeguards from arrest and detention (Article 33); and protection of home and correspondence (Article 43).⁷⁰

On 12 January 2007, the CTG issued an Emergency Power Ordinance granting itself authority to promulgate further ordinances to “restrict all activities subversive to the state”.⁷¹ Two weeks after the takeover, the government issued the more extensive Emergency Power Rules (EPR) as legal cover for its reforms.⁷² It forbids any kind of association, procession, demonstration or rally without authorisation from the government and imposes severe restrictions on press freedom by prohibiting any criticism of government deemed “provocative”.⁷³

The EPR initially stopped short of banning “indoor” political activities (party members meeting in small groups at home), but a home ministry statement claimed that the CTG had “observed that some political parties have been misusing this flexibility”.⁷⁴ On 8 March 2007, the government plugged the hole by imposing a nationwide ban on all forms of public and private political activity. Parties were forced to shut their offices; small private meetings in homes were banned, as were trade union activities.⁷⁵ The ban was only partially eased

on 10 September, when “indoor” political activity was again allowed in Dhaka. It remains in effect for the rest of the country.

The EPR authorises any member of the “law and order maintaining force”⁷⁶ under Section 16(2) to arrest any person on suspicion without a warrant. Section 20 authorises the use of force to execute any order and grants immunity to the government for “any action, or any action done in good faith under the authority of this Ordinance”.⁷⁷ These broad powers for the security forces have facilitated mass arrests and arbitrary detentions, resulting in numerous claims of mistreatment and torture. A Bangladeshi legal scholar said that:

The emergency has suspended fundamental rights, but not the right to seek remedy for them, so one could seek remedy for torture. These rights are technically still active under customary law. When the emergency is lifted, the next government may seek to prosecute military government people on these grounds. That is why the military and advisers are scared and clinging to power, or dusting off their British and American passports.⁷⁸

Fears of prosecutions may affect how and when elections are held. If officers believe there is a significant risk they may stand trial for crimes committed during the emergency, they may stay in power longer or rig the elections to produce a compliant parliament. To limit the space for electoral malpractice and to allay CTG and military fears of retaliatory prosecutions by the next civilian government, both main parties (despite their concerns that the emergency is unconstitutional), the CTG and army officials should discuss before the election cycle begins foregoing prosecutions of government and army officials for implementing institutional and democratic reforms. However, all concerned must recognise that this should not be a way to circumvent domestic and international legal obligations. They should agree to investigate and prosecute those suspected of responsibility for ordering, condoning or perpetrating human rights abuses committed during the state of emergency.

⁶⁹ The president may issue a proclamation of emergency if he is “satisfied” that a “grave emergency” exists in which the economic life of Bangladesh or any part thereof, is threatened by war, external aggression or internal disturbance. Constitution, op. cit., Article 141.

⁷⁰ Ibid.

⁷¹ “Emergency ordinance promulgated”, *The Daily Star*, 14 January 2007, at www.thedailystar.net/2007/01/14/d7011401044.htm.

⁷² “Emergency rules framed restricting politics, media”, *New Age*, 26 January 2007, at www.newagebd.com/2007/jan/26/front.html#1.

⁷³ Emergency Power Rules, 25 January 2007, copy with Crisis Group. It exempts rallies, processions and functions relating to religious, social and state affairs. “Rules promulgated to curb political activity”, *The Daily Star*, 27 January 2007. For a partial discussion of the EPR, see “Bangladesh’s State of Emergency is unjustifiable and ensuring abuses of human rights”, Asian Legal Resource Centre, at www.alrc.net/doc/mainfile.php/alrc_statements/441/.

⁷⁴ “Bangladesh bans all political activity as graft crackdown intensifies” *Agence France-Presse*, 9 March 2007.

⁷⁵ These restrictions applied retroactively to 11 January 2007.

⁷⁶ Section 2(a) of the EPR defines the country’s “law and order maintaining force” as including the Bangladesh Police, the Armed Police Battalion, the Rapid Action Battalion (RAB), Bangladesh Ansar (a village defence paramilitary group), the Bangladesh Rifles (BDR), the Coast Guard forces, the National Security Intelligence service (NSI), the Directorate General of Forces Intelligence (DGFI) and the Armed Forces.

⁷⁷ Emergency Power Rules, op. cit., Section 6.

⁷⁸ Crisis Group interview, Bangladeshi lawyer, Dhaka, 28 November 2007.

III. THE AGENDA

A. THE STATED AIMS

In his first public appearance as chief adviser ten days after the takeover, Fakhruddin Ahmed presented an ambitious but vague set of reforms meant to pave the way for new elections. Six months later the government announced a December 2008 target, but it has yet to set a firm date. The agenda embraces three main elements: tackling corruption; reforming electoral machinery and practices; and reforms aimed at depoliticising state institutions, including the civil service. Foreign affairs adviser Iftekhar Chowdhury said the policies were nothing new. “Previous governments promised these reforms and passed the laws but were unable to implement them for political reasons. We’re attempting to finish the job”.⁷⁹

1. Tackling corruption

The government sees its anti-corruption drive as essential for free elections. Although it has initiated legal and institutional reforms to get at the root causes of corruption, the primary goal has been to influence at least the direction of its electoral reforms. Two bodies have been established:

- **The Anti-Corruption Commission (ACC).** A law to set up the ACC was passed in 2004 but not fully implemented. The legislation envisions it as a permanent, independent body, but it currently is under the prime minister’s office. The government has begun building it nearly from the ground up. With the help of a \$170 million loan from the Asian Development Bank, the staff is being increased from roughly 650 to 1,300.⁸⁰ The military has put its stamp on this ostensibly civilian body by appointing a former army chief, General Hassan Mashud Chowdhury, as its head.⁸¹ It will be the sole body responsible for investigating allegations of corruption.

- **The National Coordination Commission on Combating Corruption and Crime (NCC).** Communications Adviser Gen. (retired) M.A. Matin heads the NCC but Lt.-Gen. Masud Uddin Chowdhury oversees its day-to-day functioning. The NCC’s primary task is enforcing the EPR and leading the drive against corruption and other serious crimes. Created to fill the vacuum while the ACC is being established, it is mostly comprised of security officials from Bangladesh’s military, paramilitary and police forces, known collectively as the Joint Forces.⁸² The NCC is envisioned as a temporary body which will disband when the emergency is lifted.⁸³

Many Bangladeshis initially welcomed the treatment meted out to politicians accused of corruption, seeing it as belated retribution for fifteen years of abuse of power. Lt.-Gen. Masud Uddin Chowdhury said arrests were necessary because “politics had been criminalised. We wanted to get the message across loudly that no one was above the law”.⁸⁴ Even political party members supported some arrests. One Awami League member said, “Even if we came to power we could not have arrested him [Tarique Rahman – the son of the BNP leader Khaleda Zia]. He was too powerful. He had huge amounts of money, guns and support from some people in the military”.⁸⁵

2. Reforming election machinery and practices

The roadmap for elections has five elements.⁸⁶

Reconstituting the Election Commission

The Election Commission is an autonomous body entrusted with holding elections at all levels. Its three commissioners are appointed for five-year terms and are subsequently barred from government posts.⁸⁷ It is responsible for all non-security-related election preparations, including schedules, delimiting constituencies, registering political parties and maintaining voter rolls. The present Commission is also responsible for implementing the CTG’s roadmap.

⁷⁹ Crisis Group interview, Iftekhar Chowdhury, foreign adviser, Dhaka, 13 November 2007.

⁸⁰ See “Combating corruption in Asia-Pacific: Bangladesh’s measures to implement the Anti-Corruption Action Plan for Asia-Pacific”, Asian Development Bank/Organisation for Economic Co-operation and Development Anti-Corruption Initiative for Asia and the Pacific, at www.oecd.org/dataoecd/3/27/39619063.pdf.

⁸¹ Retired General Hasan Mashud Chowdhury was the head of Bangladesh’s military between 2002 and 2005. He was replaced by the current army chief, Moeen Uddin Ahmed.

⁸² The Joint Forces are comprised of the police, armed forces, Bangladesh Rifles (BDR) and the Rapid Action Battalion (RAB).

⁸³ Crisis Group interview, General Masud Uddin Chowdhury, chief coordinator, NCC, Dhaka, 15 November 2007.

⁸⁴ Ibid.

⁸⁵ Crisis Group interview, Awami League official, Dhaka, November 2007.

⁸⁶ The CTG’s election roadmap is available at www.ecs.gov.bd/images/Election-Roadmap-English.pdf.

⁸⁷ Constitution, op. cit., Article 118.

Politicisation of the Commission undermined the credibility of past elections. A senior Awami League leader said, “the Election Commission as an institution had almost zero credibility. No one had any doubt that it was just one of the many tools for incumbent governments to facilitate a rigged election”.⁸⁸ Within a month of its formation, the CTG announced reform plans. Officials claim it now functions without interference from the executive,⁸⁹ but its budget is still controlled by the office of the prime minister (chief adviser), and while Chief Election Commissioner Shamsul Huda, appointed in February 2007, is generally considered a man of integrity, the military has put its stamp on the body by appointing General Shakhwat Hossain to it. Nevertheless, a Rajshahi University academic said, “One of the successes of this government has been the reformed Election Commission. It’s not perfect, but it’s better. Had the government ignored it, there is little doubt that the results of future elections would be questioned”.⁹⁰

Electoral reform

The Election Commission is discussing its proposed modifications to electoral laws with the political parties in two rounds. It missed the end-of-November 2007 deadline to complete the first round due to a legal dispute about which BNP faction should be represented,⁹¹ but, while still awaiting settlement of that dispute, it opened the second round in late February 2008 without the BNP factions.

The fifteen parties that had at least one seat in the previous parliament were invited to the talks.⁹² Commissioner Sakhawat Hussain explained that at least 95 of the country’s more than 100 parties contested the 2001 elections. “We were only able to invite several of the larger parties to the talks for the sake of time”.⁹³ The discussions are aimed at generating support for proposed changes to the electoral laws, including compulsory registration of parties;⁹⁴ democratisation of

internal decision making through regular party elections; a 33 per cent minimum quota for women in all party decision-making bodies;⁹⁵ and scrutiny of candidates’ income and asset statements. The Commission has also introduced a controversial proposal to give itself civil court powers to try offences against electoral law and seeks authority to punish contempt of court, something only the Supreme Court can presently do.⁹⁶

It is unclear, however, how much weight the Commission assigns to the process of consulting with the parties. For example, on 29 October 2007, a week before it invited either the Awami League or BNP to the discussions,⁹⁷ a senior Western official familiar with the roadmap talks said, “the Election Commission reforms are done. They [the Commission and the CTG] are just going through the motions to say they have consulted the parties”.⁹⁸ The Commission’s impartiality was also questioned, after it excluded the pro-Khaleda Zia faction of the BNP. A Bangladeshi legal scholar described that decision as “not illegal, but clearly prejudiced and political and designed to delegitimise Khaleda Zia and her partisans”.⁹⁹

Both major parties, however, have shown little willingness to act constructively. Instead of addressing issues like endemic party corruption, they devoted much of 2007 to wrangling over who would replace the top officials arrested in the anti-corruption drive. Party leaders correctly pointed out that the ban on political activity prevented them from building the necessary consensus throughout their structures to carry out sustainable reforms.¹⁰⁰ However, the leaders (including those of both BNP factions) have failed to build this consensus even at the national level. An international development official familiar with the parties said, “nothing has prevented the leadership of any party from meeting in Dhaka. The Awami League and BNP leaders, in particular, have squandered a year of opportunity to at

⁸⁸ Crisis Group interview, senior Awami League politician, Dhaka, 9 November 2007.

⁸⁹ Crisis Group interviews, Dhaka, November 2007.

⁹⁰ Crisis Group interview, Rajshahi University academic, Rajshahi Division, 16 November 2007.

⁹¹ The BNP split into two factions in October 2007. For more on this, see Section IV below.

⁹² Crisis Group interview, Humayoon Kabir, secretary, Election Commission, Dhaka, 29 November 2007.

⁹³ Crisis Group interview, Election Commissioner Brig. Gen. (retd.) Sakhawat Hussain, 28 November 2007.

⁹⁴ A party qualifies for registration if it has won at least one parliamentary seat in the past eight general elections, a criterion that only fifteen or sixteen would meet, Crisis Group interview, Humayoon Kabir, secretary, Election Commission, Dhaka, 28 November 2007.

⁹⁵ The Election Commission may modify this requirement. Its secretary, Humayoon Kabir, said, “even the most progressive of parties say this quota is unrealistic. They don’t have a high number of registered female party members. Although we have females heading the two largest parties, it is not indicative of the parties’ female membership”, *ibid*.

⁹⁶ “Election Commission wants power to punish for its contempt”, *The Daily Star*, 11 September 2007, at www.thedailystar.net/law/2007/09/03/week.htm.

⁹⁷ The Election Commission invited the Awami League for talks on 4 November 2007 and the BNP the next day.

⁹⁸ Crisis Group interview, Western official, Dhaka, 30 October 2007.

⁹⁹ Crisis Group interview, Bangladeshi legal scholar, Dhaka, November 2007.

¹⁰⁰ Crisis Group interviews, Dhaka, November 2007.

least agree on the necessary framework to democratise their decision-making process".¹⁰¹

Voter list preparation

There is little dispute that a new voter roll is needed. The previous one, developed under the last BNP government, was a prime factor in the Awami League's boycott of the polls that ultimately were cancelled and the emergency declaration. In December 2006, a study found that the old electoral roll had over 12 million extra names (13 per cent of the total); many duplicate entries were due to migrants registering in two places. The larger concern, however, was that 12 million extra ballot papers would be available on Election Day and could have been used to pad ballot boxes.¹⁰² The superfluous names prompted the High Court on 27 March 2007 to invalidate the old roll.¹⁰³ The next month the Election Commission announced it would create a new electronic voter list, with photographs, with assistance from the United Nations Development Programme (UNDP) and the military.¹⁰⁴

It began registration for the new list on 18 August 2007 and plans to complete the task by 16 October 2008, roughly two months ahead of the tentatively scheduled parliamentary elections. According to the Commission's website, over 59 million voters – roughly two thirds of all those eligible – had been registered as of 19 April 2008. Officials and donors say they are confident that the list can be completed as early as June.¹⁰⁵ But optimistic predictions are likely to raise the expectations of voters and parties for earlier elections. If those expectations then are not met, even for valid reasons, the result could be more mistrust of the government and the growth of conspiracy theories.

Redrawing constituency boundaries

Bangladesh uses a first-past-the-post voting system, so the redrawing of constituency boundaries can have a

profound impact on results. Parliamentary constituencies have been redrawn since 1973 only four times, and then incompletely (1973, 1979, 1984 and 1995) and do not accurately reflect current population densities.¹⁰⁶ The 1976 Delimitation of Constituencies Ordinance requires redrawing after each census,¹⁰⁷ but there has not yet been one since the 2001 census. Of the parliament's 345 constituencies,¹⁰⁸ 101 qualify as swing seats.¹⁰⁹ An analysis of returns from the 1996 and 2001 elections shows that an increase in the BNP's vote of only 8 per cent led to a 44 per cent increase in parliamentary seats, while the Awami League lost 3 per cent of its vote but 57 per cent of its seats.¹¹⁰

Several major parties, including the Awami League, BNP and the Jatiya Party (a BNP ally), oppose redrawing constituencies, fearing that it could increase the number of swing seats, and say they may file legal challenges. The Election Commission has said it will reconsider if all parties oppose the exercise.¹¹¹

Elections

The Election Commission's roadmap states that it will hold three local and national elections by the end of 2008. The first are likely to be municipal and city corporation polls in May. These were supposed to be completed by the end of December 2007 but had to be postponed due to delays over the voter list. The second could be the subdivision, *upzilla parishad* (UP), polls beginning in late May. The roadmap indicates that these are to be held simultaneously with the general elections at the end of the year, but the CTG has urged the Commission to

¹⁰¹ Crisis Group interview, development official, Dhaka, 29 October 2007.

¹⁰² "Survey on the Integrity of the Voter's List", National Democratic Institute (U.S.), 10 December 2006, available at <http://ndibd.org/admin/resource/10120631.pdf>.

¹⁰³ "HC declares existing voters' roll void", *New Age*, 28 March 2007, at www.newagebd.com/2007/mar/28/front.html#1.

¹⁰⁴ The European Commission, DFID, the Netherlands, Norway, Sweden, Switzerland, Denmark and South Korea have contributed nearly \$50 million to a UNDP project, "Preparation of Electoral Roll with Photographs (PERP)".

¹⁰⁵ "National polls likely before October: Election Commission", *New Age*, 10 October 2007, at www.newagebd.com/2007/oct/10/front.html#1.

¹⁰⁶ Crisis Group interviews, Bangladesh Election Commission officials, November 2007.

¹⁰⁷ For a discussion of the delimitation ordinance, see Election Commission delimitation work plan at www.ecs.gov.bd/MenuExternalFilesEng/186.pdf.

¹⁰⁸ In 2004 the parliament amended Article 66 of the constitution to increase the number of parliamentary seats to 345 and to reserve 45 for women. The women-only seats are to be allocated in proportion to votes won by each party in a general election. However, a general election has not been held since this amendment.

¹⁰⁹ A swing seat is considered one for which the victory margin has been 20 per cent of the vote or less. For example, a 10 per cent increase in the vote of the opposition party would cost the incumbent his or her seat in a two-candidate race. For a discussion on election swings seats in Bangladesh, see Owen Lippert, "Proposal Summary: Poll-Level Electoral Return Map", National Democratic Institute, at www.ndibd.org/election_analysis.php.

¹¹⁰ *Ibid.*

¹¹¹ "Election Commission may not redraw constituencies, if all parties oppose", *The Daily Star*, 14 January 2008, at www.thedailystar.net/story.php?nid=19195

move them up. The Commission has agreed but not yet announced a date.¹¹²

However, such parties as the Awami League, BNP, and Jamaat-e Islami are opposed to holding local elections before the parliamentary vote, concerned that the government might use them to influence the outcome of the latter.¹¹³ The last UP election was held in 1990 by the previous military government of General Ershad, who had instituted the UP system five years earlier to create a grass roots political base for himself and bypass the parties. His intent was not to decentralise or democratise power but to extend the army's control into the villages. A Bangladeshi academic commented: "In some ways the CTG's plan to hold local body elections again is reminiscent of Ershad's decentralisation program".¹¹⁴

3. Institutional reforms

These include:

□ **Separation of the judiciary.** On 1 November 2007, an amendment to the Criminal Procedure Code Ordinance came into effect formally separating the judiciary from the executive. The move is an attempt to depoliticise court rulings and end the influence of the office of the prime minister (chief adviser) in all judicial proceedings. This followed a decision by the chief justice of the Supreme Court, in accordance with Article 22 of the constitution mandating the independence of the judiciary. Pervasive corruption in the lower ranks of the judiciary and a lack of staff and adequate funds have prevented a full separation.¹¹⁵ The CTG has at least acknowledged the problem of massive staff shortages and has created an additional 655 magistrate posts to deal with backlog of about 400,000 cases.¹¹⁶ However,

lawyers say that more and better trained judges are needed.¹¹⁷

□ **Cleaning up the bureaucracy.** The government has begun to reform the Public Service Commission (PSC), a constitutional body responsible for selection and promotion of the Bangladesh Civil Service (BCS).¹¹⁸ Civil service appointments have historically been made on the basis of communal membership, political affiliation and payments rather than merit. On 7 May 2007, the government reconstituted the PSC by appointing a new set of commissioners and required all civil servants to submit annual statements of assets and wealth. It also seeks to create a confidential system for evaluating the performance of government officials.¹¹⁹

However, critics say even the best reforms will be undermined as long as senior appointments to the PSC remain the prerogative of the prime minister (chief adviser). They also point to the "55 per cent non-merit quota" system as an obstacle to bureaucratic efficiency. Under that system, 45 per cent of public servants are selected on merit while the remainder are chosen from among freedom fighters (those who fought for an independent state) or their offspring (30 per cent), women (10 per cent), persons from underrepresented districts (10 per cent) and minorities (five per cent). A mid-ranking official said, "the 30 per cent quota for freedom fighters should be probably be reduced to change with the times; it is affecting the quality of people in the BCS. It will be hard to change though as respect for the *Mukhti Bahini* [freedom fighters] is still very strong".¹²⁰

□ **University Grants Commission (UGC).** On 13 August 2007, the CTG reconstituted this regulatory body responsible for maintaining standards in universities.¹²¹ The objective is to depoliticise the appointments of university administrators and faculty as well as student activities on campuses. As with other Bangladeshi institutions, appointments to the UGC have been made on the basis of political allegiance rather than ability. The result has adversely affected all aspects of academic life. A Dhaka University

¹¹² Shakhawat Liton, "Upazila polls from May", *The Daily Star*, 06 March 2008, at www.thedailystar.net/pf_story.php?nid=26361.

¹¹³ For discussion of previous attempts by military governments to use local elections to bypass established political parties, see Crisis Group Asia Report N°77, *Devolution in Pakistan: Reform or Regression?*, 22 March 2004. For further background, see Sobhan, "Exit Strategies", op. cit.

¹¹⁴ Crisis Group interview, Rajshahi University academic, Rajshahi Division, November 2007.

¹¹⁵ Crisis Group interviews, Bangladeshi lawyers, Chittagong and Dhaka, November 2007.

¹¹⁶ Shahiduzzaman and Moneruzzaman, "Too huge burden for too few judicial magistrates", *New Age*, 2 November 2007, at www.newagebd.com/2007/nov/02/front.html#1.

¹¹⁷ Crisis Group interviews, Dhaka and Chittagong, November 2007.

¹¹⁸ The public service commission is empowered under Articles 138-141 of the constitution, op. cit.

¹¹⁹ See "Combating corruption in Asia-Pacific", op. cit.

¹²⁰ Crisis Group interview, government official, Dhaka, October 2007.

¹²¹ Bangladesh has 28 public and 51 private universities.

professor explained: “Every time we have a change in government, the text books are rewritten to play up or down the role of Sheikh Mujib [Awami League founder] or Ziaur Rahman [BNP founder] in the nation’s history. Our history is literally rewritten every five years”.¹²²

- **National Human Rights Commission.** Shortly before the CTG announced an ordinance creating this body on 9 December 2007, a UN official in Dhaka commented: “It escapes me how the CTG can establish a human rights commission when the state of emergency has suspended all of the country’s fundamental rights. The two are incongruent”.¹²³ Several Bangladeshi human rights organisations, like Ain O Salish Kendra, have expressed concerns with some of the provisions. They say the executive branch has been given undue influence in the selection of commissioners, and quotas for female and minority representation in the body are inadequate. The commission’s annual report on the state of human right in the country will not be public, and it does not appear to have sufficient powers to investigate violations of due process in the courts.¹²⁴

B. THE REAL AGENDA

The CTG has more ambitious goals than its stated agenda suggests. It seeks to change the way Bangladeshi politics works – attempting to embed military influence in “depoliticised” state institutions and use anti-corruption charges to weaken the parties and marginalise their main leaders.

1. The army role

The military intelligence agency, the Directorate General of Forces Intelligence (DGFI), is the driving force behind military rule.¹²⁵ Established in 1978 by General Ziaur Rahman, one of the country’s first military rulers, it was modelled after Pakistan’s Inter-Services Intelligence (ISI) agency and is the premier intelligence organisation handling both domestic and international portfolios, including counter-intelligence operations. Under its current director general, Major General Golam

Mohammed, it has a hand in the CTG’s policy formation and “almost certainly has the final say on anything the CTG does”.¹²⁶

During civilian rule, the DGFI reported directly to the defence minister. As prime minister, both Khaleda Zia and Sheikh Hasina held this portfolio, so that both the army and DGFI were under their command. Though the defence ministry is supposed to be put under the president during a caretaker administration,¹²⁷ Iajuddin Ahmed, who “remains in place at the courtesy of the military”,¹²⁸ exercises almost no power. Accordingly, there is presently no real civilian control over the army and the DGFI. A prominent Bangladeshi academic said, “never mind what the generals say about the army acting in support of the CTG. The clear reality is the CTG is acting in support of our army regime, and the DGFI is making all the decisions”.¹²⁹

General Moeen U. Ahmed, the head of the military, has repeatedly said the services are supporting the CTG and its reform agenda. Privately, officers say that during its time in politics, the army is attempting to insulate itself from possible corruption and excessive interference in military affairs by future party governments. An army officer bluntly said, “we are making sure we don’t have to do this [administer a state of emergency] again”.

The military appears to be embedding itself and its loyalists at both the local and national levels of government. Across the country, local officials have been arrested on dubious corruption charges and replaced by people handpicked by the military. Others have vacated their government jobs under threat of arrest. A Rajshahi city official said, “it’s a robbery of sorts. The army arrests even clean people who disagree with them and gives their jobs to weak people or others that are loyal to the army”.¹³⁰

General Ahmed is also rumoured to be keen on the presidency, though he repeatedly denies it. Iajuddin Ahmed’s five-year term expired on 5 September 2007,

¹²² Crisis Group interview, Dhaka University professor, 4 November 2007.

¹²³ Crisis Group interview, UN official, Dhaka, 30 October 2007.

¹²⁴ “Rights bodies decry flaws in ordinance”, *The Daily Star*, 27 February 2008, at www.thedailystar.net/story.php?nid=25138.

¹²⁵ Crisis Group interviews.

¹²⁶ Crisis Group interview, military officer, Dhaka, November 2007.

¹²⁷ Article 61 of the constitution, op. cit., says that: “The supreme command of the defence services of Bangladesh shall vest in the President and the exercise thereof shall be regulated by law and such law shall, during the period in which there is a Non-Party Care-taker Government under article 58B, be administered by the President”.

¹²⁸ Crisis Group interview, military officer, Dhaka, November 2007.

¹²⁹ Crisis Group interview, Bangladeshi academic, 6 November 2007.

¹³⁰ Crisis Group interview, city official, Rajshahi Division, November 2007.

but the military has allowed him to stay on until the next parliament can elect his successor.¹³¹ With much of the political class behind bars due to the anti-corruption drive, the concern is that elections staged at the end of 2008 will produce a pliable legislature that will easily elect General Ahmed. Before taking the oath as president, he would have to step down as army chief, but as president he would be the supreme commander of the armed forces.

The general has criticised Bangladesh's "Westminster-type parliamentary democracy"¹³² and in April 2007 said it should not return to an "elective democracy".¹³³ It is rumoured that General Ahmed and the military are seeking a constitutional amendment to strengthen the presidency so that the head of state could sack an elected prime minister and the cabinet and dissolve parliament.¹³⁴ The president would also head the national security council that has been suggested to oversee security affairs.¹³⁵ The council, proposed to the chief adviser on 9 March, is a slimmed down version of national security bodies formed under previous governments. It would have only thirteen members as opposed to the earlier 24, ostensibly to strengthen the voice of the president and the chiefs of the three branches of the armed services.¹³⁶ An international official commented that:

When or if the dust settles in Bangladesh, we may see a retired army chief as president, another retired army chief as the anti-corruption czar, a retired general administering elections and a security council which takes the advice of three or more generals as to how to manage the country.

And this could be the best case scenario for Bangladesh's civilian democracy.¹³⁷

2. The dark side of the anti-corruption drive

In the first hours of the emergency, the military imposed a countrywide curfew and raided Awami League and BNP politicians' homes, arresting 2,552 individuals on "various charges".¹³⁸ Between 2 and 5 February 2007, security officials arrested another 10,000.¹³⁹ A journalist described the wave of arrests:

From the end of January until mid-March, I was sleeping in my office every night waiting to hear about who the Joint Forces arrested. So many party people were being arrested, no one could count. None but a few of these people seemed to be arrested on legitimate grounds. Most were arrested, and then their charges were decided after they were behind bars.¹⁴⁰

As the campaign progressed, the Joint Forces cast a wider net. "Anyone deemed to be a political threat to the caretaker government is threatened or arrested", said a foreign official.¹⁴¹ In its first months, the anti-corruption drive netted over 100,000 people.¹⁴² Some sources put the number of arrests closer to 200,000.¹⁴³ According to Odhikar, a leading Bangladeshi human rights organisation, in the first year of emergency rule 440,000 people were arrested, only 239,480 of whom had arrest warrants issued against them.¹⁴⁴ Many were subsequently released, but neither the government nor independent monitors can give exact numbers.¹⁴⁵ A Western embassy official said that:

¹³¹ "Bangladesh president to stay on after term expires", Reuters, 5 September 2007, at <http://in.reuters.com/article/southAsiaNews/idINIndia-29345820070905>.

¹³² "Bangladesh needs 'own democracy'", BBC, 20 February 2008, at http://news.bbc.co.uk/2/hi/south_asia/7255569.stm.

¹³³ "B'desh democracy fails, army says", BBC, 2 April 2007, at http://news.bbc.co.uk/2/hi/south_asia/6517887.stm.

¹³⁴ Crisis Group interviews, Dhaka, November 2007.

¹³⁵ "Truth commission, security council okayed in principle", *New Age*, 10 March 2007, at www.newagebd.com.

¹³⁶ The proposed council would be headed by the president and include the chiefs of the three branches of the military (army, navy and air force), the prime minister or the chief adviser, the leader of the opposition in the parliament, cabinet ministers or advisers for foreign affairs, finance, home affairs and law, the defence secretary, the principal secretary to the prime minister's or the chief adviser's office and the cabinet secretary. The president would also nominate one other person as a council adviser with minister status to act as secretary to the council. See "Truth commission, security council okayed in principle", op. cit.

¹³⁷ Crisis Group interview, New Delhi, December 2007.

¹³⁸ "Bangladesh arrests 2,500 people, raids politicians' homes in election crisis", *International Herald Tribune*, 12 January 2007, at www.ihrt.com/articles/ap/2007/01/13/asia/AS-GEN-Bangladesh.php.

¹³⁹ "Urgent Appeal: Arbitrary arrest and detention of ten thousand people by the police across the country", Asian Human Rights Commission, 7 February 2007, at www.ahrchk.net/ua/mainfile.php/2006/1518/.

¹⁴⁰ Crisis Group interview, Bangladeshi journalist, Dhaka, October 2007.

¹⁴¹ Crisis Group interview, Western development official, 1 November 2007.

¹⁴² Jahan, "Bangladesh at a Crossroads", op. cit.

¹⁴³ "Human Rights Concerns 2007", Odikhar, 1 January 2008.

¹⁴⁴ Ibid. It is not clear how many of these 440,000 arrests were connected to the anti-corruption drive or were part of routine law and order operations.

¹⁴⁵ Fakhruddin Ahmed, the chief adviser, said that the total prison population is between 75,000 and 85,000, including those convicted or awaiting trial. "Only a handful of those

Some media reports exaggerate the number of people in secret detention from the Joint Forces' anti-corruption campaign, which is preventing the government from addressing the ... arbitrary and secret detentions ... It's not the media's fault, as there is almost no reliable data.¹⁴⁶

By late 2007, the wave of arrests caused enough public discontent to prompt a government rethink. A senior army officer admitted the anti-corruption drive had turned into a "witch-hunt" to "settle political and personal scores: the government is targeting the corrupt, but doing nothing to deal with corruption...it's a witch-hunt without a strategic vision".¹⁴⁷ A woman from Khulna Division said that:

Every time we have a military government we have to follow the military's law. When we have civilian government, even a corrupt one, criminals are at least given a trial and then go to jail. But with the military governments, even this one, they send the RAB¹⁴⁸ first and crossfire¹⁴⁹ him first or just put him right in jail. Never a trial. How can we support this government now?¹⁵⁰

Special courts established under emergency provisions are trying 222 senior officials and 1,000 associates who were arrested and charged by the NCC.¹⁵¹ Trials are speedier than in regular courts and closed to the public. The courts also hand down harsher sentences.¹⁵² There

detained" are held under the EPR, he said, Fakhruddin Ahmed's interview with David Frost, "Frost Over the World", Al Jazeera, 21 March 2008.

¹⁴⁶ Crisis Group interview, Dhaka, October 2007.

¹⁴⁷ Crisis Group interview, military officer, Dhaka, November 2007.

¹⁴⁸ The Rapid Action Battalion (RAB), is an elite anti-crime unit established in 2004 by the previous BNP government. It is under the jurisdiction of the home affairs ministry and consists of armed members of the army, navy, air force and police. It often operates together with other armed units, such as the Bangladeshi Rifles.

¹⁴⁹ Crossfire killings are those in which the victim is allegedly killed as a bystander to a gunfight. However, the term often is used to refer to what is believed to be an extrajudicial killing in the custody of government security forces like the RAB. See "Judge, Jury, and Executioner: Torture and Extrajudicial Killings by Bangladesh's Elite Security Force", Human Rights Watch, 14 December 2006, at <http://hrw.org/reports/2006/bangladesh1206/bangladesh1206web.pdf>.

¹⁵⁰ Crisis Group interview, head of a local NGO, Khulna Division, November 2007.

¹⁵¹ Crisis Group interview, Lt.-Gen. Masud Uddin Chowdhury, chief coordinator, NCC, Dhaka, 15 November 2007.

¹⁵² Crisis Group interview, Bangladeshi lawyer, Dhaka, 5 November 2007.

are not enough special courts to deal with the flood of cases, and more are being created. Lt.-Gen. Masud Uddin Chowdhury, the NCC head, is concerned they will be unable to try all the cases before the emergency is lifted ahead of elections in December 2008.¹⁵³ Some suspect the CTG will hold elections under the state of emergency to allow the special courts to continue; others fear the trials could be used to justify delaying the vote.¹⁵⁴

The government is also drafting the Voluntary Disclosure Ordinance 2008, which will create a truth commission. Suspects will be able to leave prison by confessing their crimes and turning over illegal wealth to the government. Anyone who makes a voluntary confession to the commission will forfeit the right to hold public or elected office for up to five years.¹⁵⁵

The proposed commission is also to have the power of summons. Anyone who does not respond may be imprisoned for up to three years. It will also be entitled to levy fines or confiscate assets acquired illegally. Its mandate will not be retroactive; convictions for corruption handed down by any court during the emergency will remain in place.¹⁵⁶ According to the chief adviser, Fakhruddin Ahmed, the government is considering barring recourse to the commission for anyone "already arraigned and charge-sheeted and [for whom] the judicial process has begun", meaning the detained former prime ministers, Khaleda Zia and Sheikh Hasina, would be excluded.¹⁵⁷

There are numerous allegations that the CTG has violated due process during the anti-corruption drive and even used torture.¹⁵⁸ There are also charges that intelligence officers are acquiring shares in private companies in return for releasing their owners from prison.¹⁵⁹ Senior UN officials and Western diplomats privately agree the government has held many people indefinitely without charge, but their public response

¹⁵³ Crisis Group interview, Lt.-Gen. Masud Uddin Chowdhury, chief coordinator, NCC, Dhaka, 15 November 2007.

¹⁵⁴ Crisis Group interviews, Bangladeshi and Western officials, Dhaka, November 2007.

¹⁵⁵ Julfikar Ali Manik and Shamim Ashraf, "Truth Commission", *The Daily Star*, 29 March 2008, at www.thedailystar.net/story.php?nid=29734.

¹⁵⁶ Crisis Group interviews, Dhaka, November 2007.

¹⁵⁷ Fakhruddin Ahmed interview, op. cit.

¹⁵⁸ "The Torture of Tasneem Khalil: How the Bangladesh Military Abuses Its Power under the State of Emergency", Human Rights Watch, 14 February 2008, at <http://hrw.org/reports/2008/bangladesh0208/bangladesh0208web.pdf>.

¹⁵⁹ Crisis Group interviews, Dhaka, November 2007. Also see, "The Clean-Up", *The Economist*, 8 November 2007.

has been muted.¹⁶⁰ As one explained, “the donor community has chosen not to be too hard on this government in public. We have chosen to ignore things. We believe this CTG is going to succeed, but it will not; it is a fiction we’re all buying into”.¹⁶¹

3. Curbing dissent

There has been a clear pattern of state intimidation of journalists, human rights defenders, social activists and those who criticise the CTG or publicise rights violations. Emergency laws have been applied very broadly. For example, garment industry workers protesting delayed wages and poor working conditions have been arrested and charged with violating the state of emergency.

The CTG has systematically, albeit relatively subtly, attempted to muzzle the media and other vocal critics. Media self-censorship appears to be the norm, although sometimes control is more direct; a Chittagong journalist complained, “the army is telling us what to write”.¹⁶² Journalists say they are routinely intimidated by security forces, in ways ranging from threatening phone calls to torture. Tasneem Khalil, a journalist with the largest English-language newspaper, *The Daily Star*, and human rights researcher, said he was tortured by the DGFI after his arrest in May 2007.¹⁶³ Another journalist said, “the DGFI is definitely telling us what we can and can’t do. I know where the line is. After what happened to Tasneem Khalil, you’re damn sure I am not going to cross it”.¹⁶⁴

Western diplomats agree that the media has suffered under the emergency. One explained: “Many journalists now have DGFI handlers. If they run afoul of the DGFI, they will pay the price”.¹⁶⁵ But they also point out that the number of journalists appearing in court for violating the emergency declined in the latter half

of 2007, as did the number of physical attacks on journalists. But threats against journalists remain high.¹⁶⁶

The chief coordinator of the Joint Forces, General Masud Uddin Chowdhury, acknowledged there are restrictions on the press but said they are not enforced.¹⁶⁷ Other CTG officials, like the former law adviser, Mainul Hossain,¹⁶⁸ claimed the restrictions are only on paper, and journalists are unnecessarily censoring themselves.¹⁶⁹ Nevertheless, the CTG’s treatment of the media has alienated its most crucial ally during the emergency. Under the BNP-led government, the media was free on paper, but in practice journalists were harassed and beaten with impunity. Most media outlets initially supported the takeover. A prominent journalist described the decline of that support:

Our support for the military began to dry up when we saw the anti-corruption drive being prosecuted arbitrarily. The media turned cynical when they saw Awami League and BNP leaders being targeted, but not Jamaat, and there was zero talk of the elections or an end to the emergency. The first signs of media dissent were heard on call-in television and radio talk shows. It really wasn’t in the print media, as journalists were worried about having a story in black and white with their name attached to it. The hosts would let the callers criticise the governments. Sometimes the callers were journalists! At this point the military realised the media was not on their side. Then they turned on us. They started beating journalists and harassing us.¹⁷⁰

Not all dissent has been curbed. In September 2007, despite the EPR ban on public gatherings, hundreds of people, led by the extreme Islamist group Hizb ut-Tahrir and with Jamaat-e Islami support, demonstrated in downtown Dhaka against a cartoon depicting the Prophet Muhammad published in *Prothom Alo*, Bangladesh’s largest newspaper. Protestors burned copies of the newspaper and effigies of its editor-in-

¹⁶⁰ A notable exception has been the European Parliament resolution on Bangladesh of 6 September 2007, at www.europarl.europa.eu/sides/getDoc.do?pubRef=//EP//TEXT+TA+P6-TA-2007-0385+0+DOC+XML+V0//.

¹⁶¹ Crisis Group interview, European official, Dhaka, 27 November 2007.

¹⁶² Crisis Group interview, journalist, Chittagong Division, 21 November 2007.

¹⁶³ Crisis Group telephone interview, Tasneem Khalil, 14 January 2008; also see, “The Torture of Tasneem Khalil”, *op. cit.*

¹⁶⁴ Crisis Group interview, Bangladeshi journalist, Dhaka October 2007.

¹⁶⁵ Crisis Group interview, Western official, Dhaka, October 2007.

¹⁶⁶ Crisis Group interview, European official, Dhaka, October 2007.

¹⁶⁷ Crisis Group interview, General Masud Uddin Chowdhury, 15 November 2007.

¹⁶⁸ Mainul Hossain resigned from the CTG as law adviser on 8 January 2008 and was replaced by A.F. Hassan Arif on 10 January.

¹⁶⁹ Crisis Group interview, CTG officials, Dhaka, October and November 2007.

¹⁷⁰ Crisis Group interview, Bangladeshi journalist, Dhaka, 27 October 2007.

chief, Matiur Rahman. *Prothom Alo* apologised for publishing the cartoons and fired an editor. However, the CTG has done little to stop Hizb ut-Tahrir's continued campaign, which has included threatening *Prothom Alo* vendors, advertisers and journalists. Civil society members and journalists accuse the military-backed government of obliging the Islamists. A journalist highlighted the contradiction:

There is a ban on politics and Hizb ut-Tahrir conducted protests. They are still burning *Prothom Alo* newspapers and calling for Matiur Rahman to be killed. But the government arrested the cartoonist [Arif Rahman]. While he is in prison, the leaders of Hizb ut-Tahrir who broke the law are free.¹⁷¹

4. The third force attempt

Less than two weeks after the takeover, the emergence of a new political force suggested the shape of a plan to displace the established parties. On 23 February 2007, the Nobel Peace Prize Laureate and founder of the micro-credit pioneer Grameen Bank, Dr Mohammad Yunus, announced formation of a party, Nagorik Shakti (Citizen's Power). He clearly had the blessings of the army and government, as well as many prominent civil society supporters.

Yunus attempted to position Nagorik Shakti as a responsible, secular, democratic alternative to the Awami League, BNP, and Jamaat-e Islami. The party aimed to draw support from youths and the working classes as well as elite civil society activists and disillusioned members of the existing parties.¹⁷² However, it died in its infancy; only two months into his political career, Yunus announced he was dissolving it and leaving politics altogether. In a public letter printed in several newspapers on 3 May 2007, he blamed his original backers for the collapse of Nagorik Shakti, saying "I have seen those who initially encouraged me gradually losing their enthusiasm".¹⁷³ But the reason was not that simple.

Yunus had failed to articulate a realistic agenda that offered concrete solutions to the country's problems.

Moreover, he had almost no political experience and placed his party's entire financial and political hopes on two groups of political actors that in some ways had the most to lose from joining a third force: elite civil society and mainstream party activists. Both were unlikely to risk their livelihoods and political careers on an unproven new movement in a country where political allegiances are strong and a source of social and financial security. According to the influential Bangladeshi scholar, Rehman Sobhan:

In such circumstances, the notion that political activists of diverse times would instantly rally to him was quite an unreasonable expectation on the part of Yunus. More to the point few people, whether from civil society or the existing political parties, would respond to Yunus without being presented with a clearer idea of where Yunus was coming from and where he was going.¹⁷⁴

In addition, Yunus and Nagorik Shakti could not compete with the machines of the largest parties. Threatened by the formation of a credible alternative, the Awami League, BNP and Jamaat undermined them from the onset. A former parliamentarian said, "Yunus generally wanted to build something good but ... they [the Awami League, BNP, Jamaat] attacked him and Grameen Bank, saying he was a usurper and his bank un-Islamic".¹⁷⁵ The editor-in-chief of one of Bangladesh's largest newspapers said, "the army did not realise the power of the Awami League and BNP and their lady leaders....The generals and their elite civil society partners did not understand this fact when they encouraged Yunus to start his party. When they finally understood, they refused to accept it, because accepting the reality meant accepting defeat for their political agenda".¹⁷⁶

5. The "minus two" strategy

The failure of the third force plan did not discourage the army and government from their primary objective: to remove Sheikh Hasina and Khaleda Zia from politics and weaken their parties. The various attempts to sideline the two leaders have been dubbed "minus two". Some even believe the CTG aims to remove the Awami League and BNP from politics altogether. A political scientist explained: "When

¹⁷¹ Crisis Group interview, Bangladeshi journalist, November 2007. The cartoonist Arif Rahamn was released in late March 2008, after nearly seven months in prison.

¹⁷² Dr. Muhammad Yunus, "My Personal Letter to You", *The Daily Star*, 11 February 2007, at www.thedailystar.net/2007/02/12/d7021201085.htm.

¹⁷³ "Professor Yunus gives up on political mission", *The Daily Star*, 4 May 2007, at www.thedailystar.net/2007/05/04/d7050401011.htm.

¹⁷⁴ Rehman Sobhan, "Where do we go from here?", *Forum*, June 2007.

¹⁷⁵ Crisis Group interview, former Awami League member of parliament, Dhaka, 11 November 2007.

¹⁷⁶ Crisis Group interview, editor-in-chief of a large Bangladeshi newspaper, Dhaka, 28 November 2007.

Yunus's party failed, the government's response was to expand 'minus two' to subtract the Awami League and BNP in their current forms from our politics".¹⁷⁷

In April 2007 the CTG banned Sheikh Hasina, then in the U.S., from returning to Bangladesh on the grounds that she was a threat to national security. According to a government statement, if she returned, "she might seek to make provocative comments [and] cause further hatred and confusion among the people".¹⁷⁸ However, these heavy-handed efforts only embarrassed the government and added to international pressure.¹⁷⁹ The CTG had to relent, and Hasina arrived in Dhaka on 7 May. At the same time, the government failed to pressure Hasina's rival, Khaleda Zia, into exile in Saudi Arabia.¹⁸⁰ A BNP official said she nearly struck a deal with the military in late April 2007, but eventually refused to go into exile without her youngest son, Koko Arafat Rahman.¹⁸¹ A senior government official said, "In hindsight we should have let her take Koko. We already had Tarique [Rahman] behind bars; he was a much bigger danger to society".¹⁸²

Unable to force the two women into exile, the Joint Forces arrested them on corruption charges. An official said, "we gave them the easy way out, but they did

not want to go. So we decided to make their lives so difficult in the courts that they wish they had gone [into exile]". Hasina was arrested on 16 July 2007 for allegedly extorting nearly \$430,000 from a businessman, Azam J Chowdhury, in 2000-2001. Chowdhury's company, East Coast Trading, was seeking a government contract to build a power plant outside Dhaka, while Hasina was prime minister. Hasina and her health minister and cousin, Sheikh Selim, allegedly demanded payments. On 3 September 2007, Khaleda Zia was arrested for corruption and abuse of power during her second term as prime minister (2001-2006). She allegedly took bribes to award a government contract to Global Agro Trade Company (GATCO) in March 2003 for handling shipping containers at Chittagong and Dhaka ports.

The CTG has brought both cases under the EPR. On 7 February 2008, however, the High Court ruled that Sheikh Hasina's extortion case could not be tried under those rules because the alleged offences were committed prior to promulgation of the emergency in 2007.¹⁸³ The ruling may impact over 150 other cases filed under the EPR, including Khaleda Zia's. At least 50 verdicts have already been delivered in such cases, resulting in jail sentences of former government ministers, parliamentarians, bureaucrats and businessmen. Some 50 more cases are being heard and another 50 are under investigation. The CTG has appealed the ruling, with some prospect of success.¹⁸⁴ According to the U.S. State Department, "The Appellate Division of the Supreme Court frequently overturned [in 2007] politically charged decisions by the High Court Division of the Supreme Court if those rulings went against the government".¹⁸⁵

The army believes there is strong public support for putting Hasina and Zia on trial. According to a senior military intelligence officer, unpublished opinion polls conducted by the DGFI show each of the women enjoys the support of only 13-14 per cent of the population.¹⁸⁶ However, Zia and Hasina are still major political personalities, and some believe their imprisonment may only make them more popular.¹⁸⁷

¹⁷⁷ Crisis Group interview, Bangladeshi academic, Dhaka, October 2007.

¹⁷⁸ Julfikar Ali Manik, "Gov't blocks Hasina's return", 19 April 2007, *The Daily Star*, at www.thedailystar.net/2007/04/19/d7041901011.htm.

¹⁷⁹ Sheikh Hasina had flown to the U.S. for the birth of her grandchild. On her return on 23 April 2007, she flew via London and connected to a British Airways flight to Dhaka. The CTG wrote British Airways threatening to refuse landing rights to any flight carrying Sheikh Hasina. It also instructed other commercial airlines flying to Dhaka not to carry the former prime minister. See "Sheikh Hasina warrant suspended", BBC, 23 April 2007, at http://news.bbc.co.uk/2/hi/south_asia/6583729.stm.

¹⁸⁰ "Khaleda agrees to leave for exile: Arafat sent back to Cantonment residence", *The New Nation*, 16 April 2007, at http://nation.ittefaq.com/artman/publish/article_35385.shtml. Officially, Zia was to perform *umrah* (a pilgrimage to Mecca that can be undertaken at any time of year), but difficulties with obtaining a Saudi visa prevented this. The embassy of Saudi Arabia in Dhaka refused to give Khaleda Zia a visa unless she appeared in person and expressed her voluntary desire to go to the Kingdom. See Nazrul Islam and Mustafizur Rahman, "Government lifts ban on Hasina, says no bar on Khaleda", *New Age*, 26 April 2006, at www.newagebd.com/2007/apr/26/front.html#1.

¹⁸¹ Crisis Group interview, BNP official, Dhaka, October 2007.

¹⁸² Crisis Group interview, senior official in Fakhruddin Ahmed's caretaker administration, Dhaka, 29 November 2007.

¹⁸³ "HC scraps Hasina case", *The Daily Star*, 7 February 2008, at www.thedailystar.net/story.php?nid=22292.

¹⁸⁴ Shakhawat Liton and Chaitanya Chandra Halder, "Judgment may impact fate of 150 cases", *The Daily Star*, at www.thedailystar.net/story.php?nid=22297.

¹⁸⁵ "Bangladesh: Country Reports on Human Rights Practices - 2007", U.S. Department of State, 11 March 2008, at www.state.gov/g/drl/rls/hrrpt/2007/100612.htm.

¹⁸⁶ Crisis Group interview, DGFI officer, Dhaka, 29 November 2007.

¹⁸⁷ Crisis Group interviews, Dhaka, October-November 2007.

On the streets of Dhaka and in many smaller towns and villages, they are seen as victims of a conspiracy hatched by the political elite and the military. A rice farmer in Rajshahi Division said, “the army is trying to kill Sheikh Hasina and Khaleda Zia. We don’t like the way government is treating them. Sheikh Hasina is the daughter of the Father of the Nation; how dare Fakhruddin [Ahmed] and his army treat her this way. They should be ashamed....the new politicians are just trying to take power for themselves”.¹⁸⁸

A mobile phone shop owner in Dhaka said that:

The leaders of both parties are corrupt; there is no doubt about that. They should be tried. But Sheikh Hasina and Khaleda Zia are another matter. All the people around them were corrupt and framed them. Khaleda Zia had no idea about Tarique’s corruption, he was a bad son; he hid everything from her. He would not even give his mother a newspaper, so how would she know about all the corruption?¹⁸⁹

IV. STATE OF THE PLAYERS

A. THE PARTIES

The CTG’s attempt to reform the Awami League and BNP and force changes in their leadership has been one of manipulation and division in order to build a base of political support for itself. The DGFI’s coercion and intimidation have left the two main parties with little recourse other than to accept government imposed reforms. There is general agreement those reforms were necessary, but no consensus about how the military has carried them out. The country’s political culture had been corroded by hostility between the Awami League and BNP and the corruption, criminality and organised violence that had become central to their way of politics. But the military has chosen to confront the parties rather than build the support needed to ensure the reforms are sustainable. A respected Bangladeshi political analyst warned: “The military has created a political situation as unstable and as uncertain as before 11 January”.¹⁹⁰

Despite their imprisonment, both Hasina and Zia still exercise great influence over their parties. The Awami League and BNP remain highly personalised and centralised around their founding families. The familial structures of both parties support a rigid hierarchy, allowing almost no policy input from lower levels and stimulating dissatisfaction among a younger generation of members. Awami League and BNP members born after independence say rewarding committed party workers with greater opportunities to rise through the ranks, including the financial and political support to run for office, would help breathe new life into the parties and jump start internal democratic reforms.¹⁹¹ Women from both parties say that more female voices in deliberations are also a prerequisite for internal democracy.¹⁹²

However, senior Awami League and BNP leaders have been reluctant to initiate reforms without the approval of the imprisoned leaders. An Awami League member said, “the government does not look strong right now. Some party leaders think this government will go, and Sheikh Hasina will be released, and are frightened to cross her. Anyone that has been disloyal to Sheikh Hasina while she has been in jail will pay

¹⁸⁸ Crisis Group interview, Liaqat, a rice farmer, Rajshahi Division, 16 November 2007.

¹⁸⁹ Crisis Group interview, Kabir, a mobile telephone shop owner, Dhaka, 11 November 2007.

¹⁹⁰ Crisis Group interview, Bangladeshi political analyst, New Delhi, December 2007.

¹⁹¹ Crisis Group interviews, Dhaka, October-November 2007.

¹⁹² Crisis Group interviews, Dhaka, October 2007 and New York, February 2008.

the price".¹⁹³ At the local level, activists remain as loyal to both women as they do to the party. BNP leaders in the southern Barisal and Khulna Divisions said that they would "fight the government for Begum [Khaleda] Zia's freedom. There is no BNP without Khaleda Zia".¹⁹⁴

The Awami League's and BNP's dismissal of a proposed national consensus government after the election¹⁹⁵ indicates that both think they can win enough votes to form the next administration. But the weakened state of the parties has enhanced the importance of pre-election alliances. Both the Awami League and BNP intend to maintain their alliances with smaller parties. The unique space the emergency has created for the Jamaat and the smaller Islamist parties has not strengthened them to the extent that they can successfully contest the elections alone. The BNP will continue to view its ties with the Jamaat as central to a return to power. The grouping of centre-left parties remains intact, but pressure from its leftist allies may force the Awami League to drop the Khelafat Majlish, an Islamist party, from the alliance.¹⁹⁶

1. The BNP

The BNP is unlikely to come out of the emergency unchanged. On 25 June 2007, Secretary General Abdul Mannan Bhuiyan announced a fifteen-point proposal for internal reforms, including one aiming to dislodge

Khaleda Zia as party chairperson. On the eve of her arrest, Khaleda Zia had expelled him for breaching party discipline and appointed Khandaker Delwar Hossain in his place. Prominent members of the standing committee – the party's highest decision-making body – refused to accept Bhuiyan's expulsion.¹⁹⁷

The party has split into two factions – BNP-Saifur and BNP-Khaleda Zia. The former is comprised of Mannan Bhuiyan's supporters and party reformists and led by Saifur Rahman, who was appointed acting chairperson on 29 October 2007. BNP-Khaleda Zia is the rump faction of the former prime minister's supporters, led by the ailing Khandaker Delwar Hossain while she is in prison. Both factions have some grounds for their claim to represent the true mainstream BNP. Many BNP voters were fed up with the leadership's authoritarian tendencies and support the Saifur faction's reform agenda. However, even many reformists consider Khaleda Zia the undisputed torchbearer.

The Election Commission has recognised BNP-Saifur as the official party, adding to suspicions the party's split was designed to weaken Zia. Fissures were apparent before 11 January, but the DGFI is believed to have taken advantage of the party's vulnerability. According to a Bangladeshi military analyst, "a reformed BNP without Khaleda Zia or someone like her [who might interfere in military affairs] was the military's next best option to host its policies after the Yunus disaster".¹⁹⁸ A retired army general explained: "The general political dispensation of both the BNP and the military is anti-Indian, nationalist and recently more religious. It is only natural that that these forces would align".¹⁹⁹ BNP-Saifur officials allege that the DGFI has threatened them with arrest to persuade them to separate from Khaleda Zia and join the reformist faction.²⁰⁰ A Western political analyst described BNP-Saifur as "an unnatural political association in some regards... People are joining to ... avoid corruption charges; it's an amnesty of sorts. The Saifur-wing and

¹⁹³ Crisis Group interview, Awami League central committee member, Dhaka, November 2007.

¹⁹⁴ Crisis Group interview, BNP party leaders, Khulna Division, November 2007.

¹⁹⁵ In October 2007 former Bangladeshi president and leader of the Bikalpadhara Bangladesh party, Badruduzza Chowdhury, proposed the formation of a national consensus government, to be composed of members from parties that won seats in the election, excluding Jamaat-e Islami. Under Chowdhury's proposal, the consensus government system would be in effect for ten years or two five-year parliamentary terms. After the term expired, a new general election would be held and another consensus government formed, consisting of the parties that won parliament seats. Crisis Group interview, Badruduzza Chowdhury, Dhaka, 29 November 2007. Smaller parties like the Jatiya Party, the Workers Party of Bangladesh and the Gono Forum support the concept. Given that any consensus government would need the support of the two large parties, however, its rejection by the Awami League and BNP makes it an unlikely scenario.

¹⁹⁶ The leaders of at least three small leftist parties allied with the Awami League have threatened to leave the alliance if Sheikh Hasina continues to maintain a relationship with Khelafat Majlish, Crisis Group interviews, Dhaka, November 2007.

¹⁹⁷ According to the BNP constitution, disciplinary action taken against a member must be preceded by written notice by the party, and the member must be afforded an opportunity to present a defence. BNP-Saifur supporters say Khaleda Zia did not give Mannan Bhuiyan this right. See Constitution of the Bangladesh National Party in Imtiaz Ahmed and Ehsanul Haque, "Advocacy Three", Centre for Alternatives, September 2006.

¹⁹⁸ Crisis Group interview, Bangladeshi military analyst, Dhaka, 27 November 2007.

¹⁹⁹ Crisis Group interview, retired army general, Dhaka, November 2007.

²⁰⁰ Crisis Group interviews.

its reform program is a product of fear rather than conviction".²⁰¹

But if the DGFI's goal is to separate the BNP from Khaleda Zia, it is failing both nationally and locally. At the national level, the factions are negotiating about reuniting, and at the local level, Khaleda Zia remains the party's biggest attraction. BNP leaders in Khulna and Barisal Divisions, both party strongholds, explained that they support democratising internal decision-making at all levels but prioritise loyalty to Khaleda Zia over reforms. A party member from Khulna said that:

We cannot support Mannan Bhuiyan because he is a traitor; Khaleda Zia is the BNP, not him. We know we will not get as many good reforms with Khaleda Zia and Delwar Hossain as we would with Mannan Bhuiyan. But Khaleda Zia will have to allow some reforms if she wants to win elections.²⁰²

There is a reasonable chance the two factions will reunite and contest the elections as a one party. Both have made public overtures to the other, indicating a desire for reconciliation. In late February 2007, Hannan Shah, a leader of the pro-Khaleda Zia faction, began talks with leaders of BNP-Saifur to unify the party, ostensibly on the chairperson's directives from prison. Senior leaders from the Khaleda Zia faction have not dropped their main precondition for talks: nullification of the 29 October 2007 election by the standing committee of Saifur Rahman as acting chairperson. The Khaleda Zia faction has, however, agreed to welcome back party leaders she expelled, such as Mannan Bhuiyan, and the Saifur faction has indicated that it wants to attend the Electoral Commission dialogues as a united BNP.²⁰³ The party's student wing, the Chhatra Dal, divided along the same lines as the national party, is also holding unification talks.²⁰⁴

However, if such talks fail, the factions are likely to contest the elections independently. They would compete fiercely for the same votes, raising the spectre of violence. Both are likely to claim to represent the party

of Ziaur Rahman, the much revered party founder, but with his widow, Khaleda Zia, atop her own faction, it will be difficult for BNP-Saifur to make good on that claim. Jamaat-e Islami has remained loyal to Khaleda Zia throughout the split, giving her faction another potential advantage at the polls. The BNP ballot symbol (a sheaf of rice) is the primary means by which many recognise the party on ballots and thus a potentially explosive issue. "The symbol is worth millions of votes", said a party official.²⁰⁵ Neither faction is likely to accept a different one.

2. The Awami League

The Awami League has remained fairly united despite DGFI efforts to weaken it. "The military now has to put the BNP back together. It will continue to try to weaken us or reunite them. A weak BNP and a strong Awami League is something they cannot work with", a party official said.²⁰⁶ There are tensions, however, between reform-minded members and those who see the reforms as an effort to dislodge the party president, Sheikh Hasina. But an Awami League official close to her explained that those who support her as party president are not necessarily against internal democratisation. "The choice is not between reforms or no reforms; it's between reforms that include Sheikh Hasina or ones that exclude her".²⁰⁷

Awami League officials say the DGFI's attempt to manufacture support for electoral reforms stunted an indigenous process that was underway before Hasina's arrest. A central committee member claimed: "There was progress with Sheikh Hasina over leadership and party reforms. The issue of her taking a step back had even been raised and she was listening".²⁰⁸ The party says DGFI's interference was intended to isolate Hasina rather than to support broader internal democratic reforms.²⁰⁹ The moment she was arrested, party reformers came under fire. Any official perceived to support the government's reform agenda without Sheikh Hasina or acting party president Zillur Rahman's blessing stands accused of being a DGFI proxy.²¹⁰ An Awami League secretary said, "a well-

²⁰¹ Crisis Group interview, Western embassy official, Dhaka, 27 November 2007.

²⁰² Crisis Group interview, BNP party official, Khulna Division, 25 November 2007.

²⁰³ "EC to go ahead with HC decision as BNP unification move fails", *The Daily Star*, 22 April 2008, at www.thedailystar.net/story.php?nid=33231.

²⁰⁴ Rakib Hasnet Suman, "Hannan starts talks with pro-Saifur group", *The Daily Star*, 26 February 2008, at www.thedailystar.net/story.php?nid=25031.

²⁰⁵ Crisis Group interview, BNP party official, Khulna Division, November 2007.

²⁰⁶ Crisis Group interview, Awami League official, November 2007.

²⁰⁷ Crisis Group interview, Awami League official, Dhaka, October 2007.

²⁰⁸ Crisis Group interview, Awami League central committee member, Dhaka, October 2007.

²⁰⁹ Crisis Group interviews, London, September 2007.

²¹⁰ Crisis Group interviews, Awami League officials, Dhaka and New Delhi, November-December 2007.

intentioned reform process has now backfired. ...the DGFI has made reform synonymous with treachery”.²¹¹

If the party can stay together, it may emerge from elections as the big winner. It maintains support throughout the country, and Hasina is popular, particularly at the grassroots level. The party is still seen as the “Liberation War party” and leads a campaign to ban collaborators from the 1971 conflict from standing for parliament. This is popular with many voters, including BNP supporters. The party’s main rival is in disarray and its factions could pose a bigger electoral threat to each other than to the Awami League. The party is also likely to attract many independent voters and perhaps even BNP supporters disillusioned by the previous government’s performance. Should the Awami League itself split, the faction with Sheikh Hasina’s endorsement would be considered the mainstream party.

3. The Islamists

The Islamist parties, mainly the Jamaat-e Islami, have weathered the emergency far better than the Awami League and BNP, mostly because they have not come under nearly the same pressure. The Jamaat’s dual status as a religious organisation and political party has allowed it to remain relatively active. It and smaller Islamist parties, like the Islami Oikya Jote (IOJ),²¹² are relatively untouched by the anti-corruption drive. Only eight Jamaat members have been imprisoned and eleven charged.²¹³

But it is not all good news for the party. On 25 October 2007, Jamaat’s secretary general, Mohammad Ali Ahasan Mojaheed, labelled the independence war a “civil war” and claimed the country had no “war criminals”.²¹⁴ His comments reignited a desire to try some of those involved in the 1971 conflict, as large sections of the public consider the Jamaat to have collaborated with the Pakistani military. Since October 2007, demands that the caretaker government try alleged war criminals have been more about justice than politics. But Mojaheed’s remarks sparked a discussion that may hurt the Jamaat at the ballot box. A Bangladeshi political analyst said, “the Jamaat

as a party suffers every time Mojaheed and Nizami [the Ameer of Jamaat-e Islami] have to defend themselves in public”.²¹⁵

It is unclear if the war crimes issue is a source of sufficient tension within the party to result in the expulsion of Nizami, Mojaheed and others. But even if the leadership is expelled or tried, it is unlikely to have a fatal impact on a party, most of whose members were born after 1971 and were not involved in the conflict. “The younger Jamaatis are not as emotionally committed to defending the party for helping the Pakistanis as some of the older ones are”, an academic said. “They can just throw off the 1971 baggage. It might actually help the party in the future”.²¹⁶

The war crimes issue does not appear to have created divisions between older and younger Jamaat members. For example, members of Islami Chhatra Shibir (Shibir),²¹⁷ Jamaat’s student wing, emphasise that Nizami and Mojaheed are not guilty of war crimes and shrug off “[t]he war criminal accusation [as coming from] within the leftist leaning communist section of society”.²¹⁸

The issue has, however, created a division between the Jamaat and other Islamist parties, including allies. The more conservative IOJ has distanced itself out of fear all Islamic parties will be associated with war crimes.²¹⁹ On 17 February 2008 in Dhaka, an IOJ faction disclosed a list of fifteen “war criminals”, including Jamaat’s Nizami and Mojaheed.²²⁰ If Jamaat fares poorly in elections as a result of this issue, party members will have to ask themselves if Mojaheed and others are worth retaining. The IOJ and other Islamist parties would be the likely beneficiaries of any redistributed Jamaat votes.

In the long term, the Jamaat leaders’ association with war crimes could become a liability for the BNP-Jamaat alliance. BNP party members, loyalists and war veterans were also offended by the Jamaat secretary general’s comments and have begun to

²¹¹ Crisis Group interview, Awami League central committee member, Dhaka, 5 November 2007.

²¹² For a discussion of the IOJ see Crisis Group Report, *Bangladesh Today*, op. cit.

²¹³ Crisis Group interview, DGFI official, Dhaka, 29 November 2007.

²¹⁴ “Jamaat now denies its anti-liberation role in 1971”, *The Daily Star*, 26 October 2007, at www.thedailystar.net/story.php?nid=8975.

²¹⁵ Crisis Group interview, Bangladeshi political analyst, Dhaka, November 2007.

²¹⁶ Crisis Group interview, Dhaka University academic, Dhaka, November 2007.

²¹⁷ For a discussion of Shibir, see Crisis Group Report, *Bangladesh Today*, op. cit.

²¹⁸ Crisis Group interview, Shibir members, Rajshahi Division, November 2007.

²¹⁹ “Election Commission waits on BNP issue for next move”, *The Daily Star*, 29 February 2007.

²²⁰ “IOJ reveals list of ‘war criminals’”, *The Daily Star*, 17 February 2008, at www.thedailystar.net/story.php?nid=23682.

question the partnership. A member of the BNP's Central Committee said, "without Jamaat, we [the BNP] could have won, and can win elections. We have rehabilitated the Jamaat. It was the wrong thing to do, and the party will pay the price".²²¹

4. Restive students

The crackdown on dissent in the first half of 2007 lulled the government into a false sense of its own security. On 6 September, General Ahmed said the unelected government enjoyed a 99.8 per cent public approval rating.²²² Already between 20 and 22 August, however, frustrations with the government's suspension of democracy had boiled over in the two largest universities, Dhaka and Rajshahi.²²³ The military, acutely aware of the history Dhaka University (DU) students have in influencing politics, had stationed after its coup several hundred soldiers in the gymnasium. DU students understood their presence as a warning. One said, "they [the army] were telling us: 'Do not fuck with us; this is not the end of Ershad again. We're here to stay, and we'll keep you in your place this time'".²²⁴

The DU protest led to unrest in other parts of the country, including Rajshahi University. The military forcibly evacuated the dormitories and beat and arrested students as they were leaving. Both DU and RU students report that Jamaat-e Islami's student wing, the Shibir, took advantage of the chaos to attack its political opponents. Three days of countrywide protests left at least one person dead and hundreds injured and resulted in the government imposing a seven-day curfew.

The government said that until the morning of 21 August, the student protests were spontaneous and

that "a lot of money has been spent to organise [the protests]".²²⁵ But this ignored the real frustration with the government's reform agenda. A student journalist who covered the DU protests explained:

The government's reforms have impacted the entire country, mostly in a negative way. This was directly related to the demonstration at DU and across the country. Students were not just protesting the military on the campus; they were protesting against some of its political and economic reforms. For example, the parents of students lost their jobs when the government closed factories, silenced workers for demanding pay and forced local government officials out of their jobs with the anti-corruption drive. All of this impacts the ability of parents to pay tuition fees and prevents students from buying books.²²⁶

Political activism on campuses is strong in Bangladesh, a legacy of its independence movement going back to the 1950s. Much political change has had its roots in universities, including the downfall of the previous military government. "The only place for the army is the cantonment, not Bangababan [the president's office]. If they try to stay too long or interfere too much, of course the students will let them know", a DU student said.²²⁷

B. THE ARMY

Emergency rule has stretched the army and placed its personnel under new strains. The reform agenda has become a weighty obligation instead of a quick success story. Officers are embedded throughout the government but cannot compensate for the CTG's inherent weakness. Its inability to cope effectively with economic difficulties and natural disasters – let alone seeing through its "minus two" strategy – has highlighted its lack of preparedness for the rough and tumble of politics. This appears to have affected morale and led to internal tensions. Nevertheless, the army has its eye on a political role well into the post-elections future.

The military has not been helped by the thinness of the CTG, which with ten advisers overseeing more than 30 ministries cannot manage basic administration

²²¹ Crisis Group interview, BNP central committee member, Dhaka, October 2007.

²²² "Corruption suspects won't be over 220", *The Daily Star*, 6 September 2007.

²²³ On 20 August 2007 an altercation at a football match on the DU campus between a soldier and a student sparked a university-wide protest against the military, which rapidly spread to other towns. Initially the student protesters had two demands: a formal apology from the army for beating up several DU students and its immediate withdrawal from the campus. However, as news broke that hundreds of students were flooding into local hospitals with injuries from tear gas, rubber bullets and batons used by the military and paramilitary forces to put down the protests, the students and professors added an immediate retraction of the state of emergency to their demands. There were also reports of students throwing stones at the army.

²²⁴ Crisis Group interview, Dhaka University student, Dhaka, October 2007.

²²⁵ Sabir Mustafa, "High stakes in Bangladesh protests", BBC, 23 August 2007, at http://news.bbc.co.uk/2/hi/south_asia/6959779.stm.

²²⁶ Crisis Group interview, Bangladeshi journalist, Dhaka, October 2007.

²²⁷ Crisis Group interview, Dhaka University student, November 2007.

and carry out major reforms simultaneously. Officers acknowledged that the civilian administration in its present configuration is not up to the job.²²⁸ The army's rank and file has taken some of the strain and reports it is tired.²²⁹ Two floods, in August and October 2007, and a devastating cyclone in November overburdened the soldiers who led relief efforts, a task that both they and aid recipients agreed previous governments were better at. An officer admitted: "Although corrupt, the civilian governments were good at disaster management; something the military is not".²³⁰ A local government official in flood-affected Rajshahi Division explained that the military's lack of local knowledge hampered its ability to provide effective flood relief. She said, "we live in the villages and know what the people need. The army doesn't live here; it came from Dhaka."²³¹

Allegations of army corruption have begun to surface, affecting officer morale. According to a retired military man, "there is a split in the military between the top brass and the junior officers. The junior officers think the hierarchy has been corrupted. They're frustrated with the higher echelons because they perceive the top brass to be enriching themselves through the CTG".²³² General Ahmed, the army chief, has been accused of taking a suspicious loan from Dhaka's Trust Bank, of which he is chairman and his brother, Iqbal U. Ahmed, is the managing director.²³³ He and several other generals are also alleged to have shielded a fellow soldier, Syed Iskander – Khaleda Zia's brother and Ahmed's former classmate – from corruption charges. A senior officer said he has seen the elements of graft and corruption setting in with all ranks.²³⁴ A UN official said, "to assume the military is less corrupt

than other institutions is false. They're not subject to the same public scrutiny as other public institutions".²³⁵

Meanwhile, the military's reform agenda is seriously faltering, and the Awami League and BNP are proving more resilient than anticipated. Several acting and retired army officers agreed that the sum of these factors could cause cracks in the military between junior and senior officers. A retired general said, "the army does not have a legacy of leadership to prove it can run the country. The military chain of command has been broken many times in our history, at times when the generals have forced the army do too much".²³⁶

"The army's goal should be", a Western ambassador in Dhaka explained, "to get out with more respect than it had when it came in".²³⁷ It will have to talk with parties, whether directly or through the CTG, to ensure a dignified and sustainable exit strategy for itself. Any deal reached with the parties should clearly demarcate the responsibilities that each side must uphold and the timeline for a smooth return to democratic rule.

C. THE BUSINESS COMMUNITY

The CTG has mishandled relations with the business community, which initially looked to be a solid supporter. Despite some well-received efforts to institute tax and institutional reforms, the CTG's anti-corruption drive severely damaged business confidence, creating an atmosphere of fear which affected day-to-day activities and scared off new investment. A business leader from Khulna said that:

The country was told the anti-corruption drive would boost economic growth but it has not; the opposite has happened. We were told only the corrupt would be arrested; the opposite has happened. The DGFI arrests are hasty, subjective and political in character. This has scared all businessmen here. Even honest businessmen have scaled back their business activities or we have stopped them altogether out of fear of being arrested.²³⁸

²²⁸ Crisis Group interview, DGFI officer, Dhaka, 29 November 2007.

²²⁹ Crisis Group interview, military officers providing cyclone relief in Barisal and Khulna Divisions, 24-26 November 2007.

²³⁰ Crisis Group interview, military officer, Dhaka November 2007.

²³¹ Crisis Group interview, government official, Rajshahi Division, 16 November 2007.

²³² Crisis Group interview, retired military officer, Dhaka, November 2007.

²³³ "Assistants to the advisers likely: Gen Moeen nails canard against bank loan", *The New Nation*, 21 October 2007, at <http://nation.ittefaq.com/issues/2007/10/21/news0876.htm>. On Trust Bank and its management, see <http://finance.google.com/finance?cid=718396>.

²³⁴ Crisis Group interview, military officer, Dhaka, November 2007.

²³⁵ Crisis Group interview, UN official, New York, October 2007.

²³⁶ Crisis Group interview, retired military officer, Dhaka, November 2007.

²³⁷ Crisis Group interview, Western ambassador, Dhaka, November 2007.

²³⁸ Crisis Group interview, business leader, Khulna Division, 25 November 2007.

In 2006, the year before the emergency, Bangladesh's economy grew 6.6 per cent.²³⁹ In December 2007, the government cut its 7 per cent growth projection to less than 6 per cent, blaming natural disasters.²⁴⁰ Inflation meanwhile hit 10.11 per cent in August, the highest in a decade.²⁴¹ The head of Transparency International Bangladesh (TIB), Iftexhar Zaman, said that:

Many business people are wealthy enough to stay out of business for six to twelve months until the economic and political situation becomes clear. If you combine this with the rise in international food and oil prices and the natural disasters, the anti-corruption project has produced some serious short-term collateral damage.²⁴²

The government has recognised the anti-corruption drive's adverse impact on the economy. In November 2007, it formed the Bangladesh Better Business Forum (BBBF) to address the concerns of the business community and encourage its members to resume investment.²⁴³ But a former senior government minister said, "the jailing for corruption has created a sense of panic. You can't browbeat people to invest. The Better Business Forum may not be enough to assist an economic recovery".²⁴⁴ On 17 March 2008, UNDP Administrator Kemal Dervis warned that "if political stability and expectations are negative, it would hamper the country's development and investment climate and, therefore, its economic growth".²⁴⁵

²³⁹ "CPI and Inflation for November 2007", Bangladesh Board of Statistics, November 2007, at www.bbs.gov.bd/na_wing/CPI_Nov_2007.pdf.

²⁴⁰ "Monetary Policy Statement January-June 2008", Bangladesh Bank, 10 January 2008, at www.bangladesh-bank.org/mps/mps_current.pdf.

²⁴¹ Khawaza Main Uddin, "Foreign, local investment proposals slump", *New Age*, 10 October 2007, at www.newagebd.com/2007/oct/20/front.html.

²⁴² Crisis Group interview Iftexhar Zaman, executive director, TIB, 11 November 2007.

²⁴³ The government announced the formation of the Bangladesh Better Business Forum (BBBF) on 26 November 2007. Chief Adviser Fakhruddin Ahmed acts as its chairperson. See Zahurul Alam, "Bangladesh Forms 'Bangladesh Better Business Forum'", *Voice of America*, 26 November 2007, at www.voanews.com/bangla/archive/2007-11/2007-11-26_voa1.cfm?CFID=256368896&CFTOKEN=24068691.

²⁴⁴ Crisis Group interview, former senior Awami League minister, Dhaka, 9 November 2007.

²⁴⁵ "Negative perceptions of stability to impede development, growth", *The Daily Star*, 18 March 2008. Also see "Statement to the Media in Bangladesh by Mr. Kemal Dervis, Administrator of the United Nations Development Programme", 17 March 2008, at www.undp.org.bd/media%20releases/2008/Press_R

Some are more upbeat. An American businessman in Chittagong said that, "on a good day" under previous Awami League and BNP governments "it took at least 37 signatures to clear my goods through the port, when best global practice is two or three [signatures]. Each guy with a pen wanted money, and each signature created a delay. This government has cut it down to a handful".²⁴⁶ Another businessman said that many shippers paid "speed money" to avoid unnecessary signatures and delays.²⁴⁷ "The CTG changed all this. Chittagong port is functioning better than ever because of the anti-corruption drive".²⁴⁸

D. THE INTERNATIONAL COMMUNITY

The diplomatic community in Dhaka has been largely uncritical of the CTG. Public statements by Western diplomats consistently urge the CTG to stick to the election roadmap but stop short of voicing concern about human rights violations committed during the state of emergency. A Bangladeshi human rights activist said, "the diplomats here don't care how we get from 11 January 2007 to December 2008; they just want us there as quickly as possible. As long as an election is held by next December, they'll close their eyes to everything that happens in the middle".²⁴⁹

Several reform-minded Awami League and BNP politicians have also expressed frustration with the international community's uncritical support of the CTG. A former Awami League minister said, "we have lost some trust in the diplomats. They have supported the CTG's political party reforms but not the reformers in the party. They think we are all criminals. I am afraid it will be an uneasy relationship between embassies and the next party government".²⁵⁰ But a Western diplomat in Dhaka explained, "Our collective silence might indicate a certain level of support for the government, but given the government we had to work with before, we have the rare appetite to stomach the army in power".²⁵¹

release_UNDP_Administrato_2017.03.08.pdf.

²⁴⁶ Crisis Group interview, Dhaka, November 2007.

²⁴⁷ Crisis Group interview, American garment importer, Chittagong, November 2007.

²⁴⁸ Crisis Group interview, Bangladeshi garment exporter, Chittagong, November 2007.

²⁴⁹ Crisis Group interview, Bangladeshi human rights activists, 3 November 2007.

²⁵⁰ Crisis Group interview, former Awami League minister, Dhaka, October 2007.

²⁵¹ Crisis Group interview, Western diplomat, Dhaka, October 2007.

Statements from the U.S. Senate and the EU Parliament have been more critical. On 14 May 2007, fifteen U.S. Senators, from both parties, including presidential candidate Hillary Clinton, sent a letter to Fakhruddin Ahmed urging him to “promptly lift the state of emergency and restore full civil and political rights to Bangladeshi citizens”.²⁵² On 6 September 2007, the European Parliament passed an Urgency Resolution demanding an end to creeping militarisation of the country.²⁵³ However, a report after a European Parliament delegation visit in November 2007 backtracked, saying “creeping militarisation” may have been “somewhat exaggerated and not entirely appropriate to describe the situation”.²⁵⁴

The international community’s seemingly tacit support for the CTG may be preventing it from addressing the real political difficulties in holding elections per the roadmap. Western election experts say the donor community has focused almost exclusively on the technical rather the political side of the process. One observed:

The donors have set themselves up with the voter list. They have not given much money for anything but the voter list. They have built perception that the voter list will be perfect and that a good voter list is tantamount to a clean election. The best list in the world can’t ensure a free and fair election when political parties could boycott. The short-sightedness of the donors’ approach to the elections is stunning.²⁵⁵

This may be changing, however. In early March 2008, the U.S. State Department critically assessed human rights under the CTG, saying the record had “worsened, in part due to the state of emergency and postponement of elections”.²⁵⁶ On 9 March, Geta Passi, the embassy’s chargé d’affaires, met with Zillur Rahman, the acting president of the Awami League and M. Saifur Rahman, the acting chairperson of the

BNP’s Saifur faction, to discuss political and electoral issues related to the roadmap.²⁵⁷ This came at a time when the Election Commission’s discussions with parties had stalled and before the CTG was to begin possible talks with the parties. Such diplomatic engagement may help to facilitate discussions between the CTG and parties on sensitive political issues that could derail the election process. Besides the U.S., Bangladesh’s other major donors that have influence over the CTG, military and the parties such as Australia, Canada, Japan, the UK and other EU member states should also stand ready to lend support to the discussions.

Although some party officials have lost trust in the embassies, the international community still commands enough respect among political actors, including the military, to be an effective facilitator – formally or informally – of a return to civilian rule. Donors must understand, however, that they should not be seen as favouring the CTG or condoning human rights abuses through silence. They should caution the military against establishing a foothold in future politics through, for instance, a heavy army presence in government institutions and stress to the generals that stability requires support for a democratic transition and full military withdraw. These messages should be conveyed to the military by diplomatic missions in Dhaka and through possible visits to Bangladesh by senior officials based in donor capitals.

²⁵² Letter to Chief Adviser Dr. Fakhruddin Ahmed signed by Senators Joseph Biden, John Kerry, Barbara Boxer, Chuck Schumer, Hillary Rodham Clinton, Richard Lugar, Norm Coleman, John E. Sununu, Russ Feingold, Johnny Isakson, Edward M. Kennedy and Frank R. Lautenberg, 14 May 2007, copy with Crisis Group.

²⁵³ European Parliament resolution on Bangladesh, 6 September 2007, at www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P6-TA-2007-0385+0+DOC+XML+V0//.

²⁵⁴ “Report of the South Asia Delegation to Bangladesh – December 2007”, authored by Robert Evans, member of the European Parliament and its South Asia Delegation.

²⁵⁵ Crisis Group interview, Western election expert, Dhaka, November 2007.

²⁵⁶ “Bangladesh: Country Reports”, op. cit.

²⁵⁷ “Washington again active in Dhaka’s politics”, *The New Age*, 10 March 2007, at www.newagebd.com/front.html#2.

V. CONFLICT OR COOPERATION?

Hopes that the CTG would deliver dramatic change have not materialised. Corrupt politicians will find it harder to rig elections and subvert the democratic process, at least in the short term, but the political situation has become progressively more complex and fragile. More players are now involved, but there are no clear winners or losers and no single actor is in decisive control. Unless the army attempts to go it alone, which it appears to recognise would not be a sustainable course, the next political developments will depend on dialogue, negotiations and the shape of any compromise that emerges.

However, while most Bangladeshis do not want a return to politics as usual, the post-coup situation does not guarantee consensus or sustainable reform. In the absence of constructive dialogue, the risks of confrontation will grow. The Awami League and BNP both hold out the prospect of an election boycott if Khaleda Zia and Sheikh Hasina are not released before the polls; an election boycotted by either party would not be credible. Awami League and BNP officials have also mooted a joint “agitation” to free their leaders. This section identifies potential flashpoints for conflict as well as opportunities for dialogue and cooperation.

A. A RISKY SITUATION

1. Adversarial atmosphere

The extended emergency rule, heavy-handed attempts to sideline political leaders and efforts to impose party reform from outside have contributed to a confrontational atmosphere. If the major parties and the CTG’s principal backer, the army, fail to cooperate in developing an exit strategy, a violent transition is likely.

The state of emergency and the EPR have been in force for more than a year, although the street violence that was cited as their justification was brought under control as soon as the new CTG was in place. The government has plausible arguments for retaining some special powers, for example to pursue anti-corruption measures that clear the way for new polls. Nevertheless, the indefinite prolongation of emergency powers and restrictions – which in effect criminalises normal political activity – is a risky strategy, which leaves few outlets for legitimate dissent and could encourage discontent to build to unmanageable levels. Denied space for legal and peaceful democratic activity, parties (and other groups, such as their student wings) may be increasingly tempted to flout

emergency rules. The CTG’s instinct would be to respond with force, as it did with the August 2007 university unrest, which would inflame tensions further.

2. Delayed or manipulated elections

Elections in 2008 are not guaranteed. Several factors could delay or prevent them.

Missed deadlines. The signs are that the electoral roll should be ready by the October 2008 roadmap deadline, but it could run into difficulties, either through technicalities, deliberate delaying tactics by officials or challenges to its accuracy. The plan to hold municipal elections before the general election looks impossible.

Botched brinkmanship. Political party reforms have become central to the CTG’s agenda and the justification for it staying in power. In the absence of a demonstrated commitment by both the Awami League and BNP factions to initiate and maintain such reforms, the CTG could be adverse to holding elections in December. A diplomat said that:

The two large parties are playing a dangerous game of chicken. They think they can wait out the CTG, but they cannot. The reality is if they do not democratise, the CTG will use it as an excuse to delay or cancel the elections altogether. If that happens, the parties will be on the streets and the army will act....Both sides are essentially holding each other hostage.²⁵⁸

Army engineering. The military, under international pressure to hold elections by December 2008, could resort to rigging to prevent an unreformed Awami League or BNP from retaking power. Analysts claim it is compiling a countrywide list of its own candidates to contest the December polls.²⁵⁹ Community leaders across the country said military officers had urged them to identify individuals in their communities as “clean” alternatives to their current parliamentary representatives. A government official familiar with the military’s alleged candidate list said, “not all the people on the army’s clean candidate list are clean. Some are corrupt, and some are on the list because they are weak leaders who will follow the army’s orders in parliament”.²⁶⁰

²⁵⁸ Crisis Group interview, New York, 4 February 2007.

²⁵⁹ Crisis Group interviews, Dhaka, November 2007.

²⁶⁰ Crisis Group interview, government official, Dhaka, November 2007.

Full or partial boycott. As noted, both the Awami League and BNP have quietly threatened to boycott the parliamentary elections unless their leaders are released first. An election boycott by one or either of the two parties would make credibility impossible.

Election rigging. Regardless of the military's presumed motives or methods for electoral malpractice, allegations of rigging are likely to be a flashpoint for conflict ahead of any election. Domestic and international observer missions, acceptable to both the parties and the CTG and deployed early could help ensure free and fair polls.

3. Prolonged military involvement

Extended military rule carries substantial risks. The political parties and civilians have been corrupt, and the country has faced numerous crises of governance, but this has not changed under military rule. Corruption and incompetence can only be tackled if parties are accountable to an electorate. Military rule in Bangladesh has never been shown to diminish corruption, but it does erode those institutions – an independent judiciary, an impartial civil service, a vibrant civil society and a free media – necessary to tackle graft.

Postponement of the elections beyond December 2008 would prompt domestic and international condemnation. A Western diplomat in Dhaka said, “[By December 2008], we will have given it [the military government] two years to make some necessary changes; we are unlikely to stomach much more than that”.²⁶¹ Bangladeshi journalists, already angry with the way they have been treated by the military, are unlikely to remain silent if elections are delayed further; countrywide public protests led by the political classes against the military are almost certain. Military rule could also become a catalyst for cooperation between the Awami League and BNP factions, as it was in 1990 when they allied to force General Ershad from power. A prominent Bangladeshi academic warned:

This military-backed government is not corrupt like Ershad's was or as ruthless as Musharraf's [in Pakistan]; it has clear public support. On the other hand, most of the Awami League and BNP leaders are discredited and do not have the same support they did in 1990 to bring down another government. But the danger is that both the military and the parties think they

have more support than they actually do, and both could try and prove it on the streets.²⁶²

Bangladesh is also the second largest²⁶³ contributor to UN peacekeeping missions, from which its military earns nearly \$400 million a year.²⁶⁴ A percentage of the revenue is given directly to individual soldiers who participate in peacekeeping operations; this is a powerful recruitment tool that the army would be loath to risk. “The money soldiers receive from peacekeeping [operations] is enough to raise their standard of living by half or more. They can buy a small house and put their kids in a good school”.²⁶⁵ Although Western and UN officials say it is unlikely that curtailing Bangladesh's participation in peacekeeping missions would be used as leverage to entice the military back to the barracks, it is, as one UN official said, “an option that always remains on the table”.²⁶⁶

4. Strengthened Islamist radicalism

Prolonged military rule in Bangladesh has historically favoured Islamist groups, directly or indirectly linked to violent extremists. Previous military rulers, Generals Zia and Ershad, both cultivated Islamists for political support. Even without direct support, undermining the mainstream secular parties as the military has done during the emergency creates more space for others. As a Western diplomat said, “by marginalising the political parties, the military is creating a vacuum that will be filled by the radical Islamists parties”.²⁶⁷

The legal Islamist parties have not been limited during the emergency to the same extent as the secular parties. During 2007 and 2008, activists from

²⁶² Crisis Group interview, Bangladeshi academic, Dhaka, October 2007.

²⁶³ As of March 2008, Bangladesh is the second largest troop-contributing nation to UN peacekeeping operations. Since 1998, Bangladesh has participated in 33 peacekeeping missions contributing nearly 75,000 peacekeepers. Currently it has 9,850 peacekeepers deployed in fourteen UN peacekeeping missions. See Statement by Brigadier General Ilyas Iftekhar Rasul, defence adviser, Permanent Mission of Bangladesh to the United Nations at the General Debate of the Special Committee on Peacekeeping Operations, New York, 11 March 2008, at www.un.int/bangladesh/statements/62/other_peacekeeping_c34_mar_08.htm.

²⁶⁴ Crisis Group interview, DGFI official, Dhaka, 29 November 2007.

²⁶⁵ Crisis Group interview, UN official, Dhaka, November 2007.

²⁶⁶ Crisis Group interview, UN official, New York, March 2007.

²⁶⁷ Crisis Group interview, Western diplomat, Dhaka, November 2007.

²⁶¹ Crisis Group interview, Dhaka, November 2007.

Shibir, Jamaat-e Islami's student wing, have carried out attacks on fellow students and journalists and destroyed a campus after the CTG decided not to upgrade the college to a university.²⁶⁸ Hizb ut-Tahrir has conducted violent demonstrations and continues to threaten small shopkeepers who sell the *Prothom Alo* newspaper. A new jihadi group, Jadid al-Qaeda Bangladesh (New al-Qaeda Bangladesh), surfaced on 1 May 2007 with simultaneous bomb attacks at three railway stations.²⁶⁹ The banned Jamaatul Mujahideen Bangladesh (JMB),²⁷⁰ which claimed responsibility for over 300 explosions throughout the country in 2005, may be recruiting new cadres. A Bangladeshi analyst reported:

Despite what is being reported in the newspapers, the JMB and others are working in places like Rajshahi. Since the CTG came to power, they have been able to move freely and are trying to recruit new members alongside the Jamaat-e Islami.²⁷¹ For example, Jamaat and the JMB are subsidising food for the people in Rajshahi. In other cases they are buying it outright. It is now apparent to me that the JMB and the Jamaat feel stronger now.²⁷²

In 2007 the CTG arrested over 250 alleged JMB and Harakat-ul-Jihad-al-Islami members.²⁷³ On one level this might suggest it has taken the threat of Islamic

militancy seriously and is acting accordingly; however, the number of arrests may imply a larger extremist threat than the government previously thought existed. A military officer commented: "Anyone who thinks that the arrest and hanging²⁷⁴ of a few JMB members has solved our terrorist problem is fooling themselves. We've not even scratched the surface".²⁷⁵

B. THE NEED FOR DIALOGUE

The government and the political parties need to reach an agreement to ensure a smooth return to democracy. Beyond the factors for renewed conflict discussed above, there are core legal and political issues, like the constitutionality of the state of emergency, that could derail the election process. Until recently, the chief adviser had ruled out direct dialogue with parties on these issues in favour of more technical talks between the parties and the Election Commission on specific electoral procedures. This approach has been publicly criticised by nearly every sector of the political classes and privately by CTG officials. A member of the chief adviser's staff explained:

This government is called a "non-political party caretaker" government, but it does not mean it can be non-political, especially when it will govern for two years. It must take political decisions for the sake of the country's stability, and that could mean settling on a political rather than a legal solution to the question of the two ladies [Sheikh Hasina and Khaleda Zia].²⁷⁶

The government has signalled its willingness to engage in dialogue with the parties on some of these issues, but only after the Election Commission completes a second round of talks with them on electoral matters. The first round, which began in October 2007, was never finished. If the second round also drags on, the government and the parties may not have sufficient time to resolve the more complicated and sensitive political issues that could directly impact the viability of polls before the election cycle is scheduled to begin in late 2008. There is also no guarantee that agreement can be reached on every issue the Awami League and BNP want to discuss. In

²⁶⁸ "18 Shibir men charged with vandalism", *The Daily Star*, 20 February 2008, available at www.thedailystar.net/story.php?nid=24180.

²⁶⁹ "Blasts rock Bangladesh Stations", *BBC*, 1 May 2007, at http://news.bbc.co.uk/2/hi/south_asia/6610667.stm.

²⁷⁰ For discussion of the JMB, see Crisis Group Report, *Bangladesh Today*, op. cit.

²⁷¹ A DGFI counter-terrorism officer said, "Jamaat's links to the JMB and to HuJI [Harakt-ul-Jihad-al-Islami] are rubbish". The official said that links between the Jamaat and illegal Islamists group were fabricated by the Awami League for political reasons. "Jamaat's relationship with the BNP became a sore spot for the Awami League. So the Awami League claimed that Jamaat is linked to the JMB and HuJI to weaken the BNP". Crisis Group interview, DGFI officer, Dhaka, 29 November 2007.

²⁷² Crisis Group interview, Bangladeshi analyst, November 2007.

²⁷³ The Harkat-ul-Jihad-al-Islami (HuJI) was established in 1992, reportedly with assistance from Osama bin Laden's International Islamic Front. The HuJI was outlawed by the government in October 2005. In 2006 members of the banned organisation formed a political party, Islami Gono Andolan. The party allegedly has a seven-member steering committee led by a self-proclaimed HuJI member, Maulana Abdus Salam. Party members have been meeting as recently as March 2008. "Huji operating in Bogra in new name", *The Daily Star*, 9 March 2008. See also the JMB, JMJB and HuJI sections, South Asia Terrorism Portal, at www.satp.org.

²⁷⁴ The CTG executed five senior figures from the JMB, including its leader, Siddique ul-Islam, popularly known as Bangla Bhai, by hanging on 30 March 2007.

²⁷⁵ Crisis Group interview, military officer, Dhaka, November 2007.

²⁷⁶ Crisis Group interview, government official, Dhaka, November 2007.

particular, the fate of Sheikh Hasina and Khaleda Zia promises to be difficult to resolve.

Addressing the trust deficit. Though elections are technically feasible by the end of the year, neither the military nor the political parties have enough trust in each other to hold or contest them fairly, and neither seems confident the other would accept an unfavourable result.²⁷⁷ There is also a trust deficit between the Awami League and BNP and their alliance partners that must be addressed to sustain a return to democracy. Although Awami League and BNP officials have expressed sympathy for each other's dealings with the DGFI, neither has addressed the roots of the animosity in their relationship.²⁷⁸

Starting point. Both the parties and the government should take steps to build mutual confidence. A threshold deal to create a more positive atmosphere for negotiations would help. For example, in return for a CTG commitment to lift the state of emergency and announce an election date, the parties might commit to a moratorium on *hartals* during the duration of the talks with the CTG. To underline their commitment to a stable return to democracy, both sides might then agree on further measures to limit the necessity of strikes, such as repealing Article 70 of the constitution (discussed below), which the parties could publicly agree to endorse as formal legislation once in the next parliament.

What to do. Discussions on political issues between the CTG and the parties should begin immediately, with an agreed-upon conclusion date, and should be conducted alongside the Election Commission talks. Starting at the earliest possible moment would allow each side to devote maximum time to resolving the most difficult issues; those left unresolved could put the elections at risk. There are also issues which should not be open to negotiation, such as the need to establish accountability for human rights abuses like torture committed during the CTG's time in office.

C. COMPROMISE OR CONFRONTATION

The issues that dialogue must address, the areas of disagreement and possible grounds for compromise include:

1. Election roadmap

The CTG will have difficulty completing the roadmap if it remains its unilateral project. Early buy-in from the political parties is essential.

What to do

- ❑ lift the emergency early enough to ensure an open environment for campaigns;
- ❑ agree on an election code of conduct; and
- ❑ forge consensus on benchmarks for credible elections involving requirements both for the government to create a suitable environment and for the parties to meet pledges on campaign finance reform and candidate selection.

2. High-profile trials

Lawyers familiar with the cases against Hasina and Zia say there is sufficient evidence to secure convictions but the prosecution has run into difficulties and may not be able to produce enough evidence to convince the public. Awami League and BNP supporters may be more loyal to their leaders than to party structures, making it difficult for current leaders to control them, particularly if street violence breaks out. Both parties would find it hard to go to the polls without their leaders. As noted above, a boycott is an option under discussion.

Conviction of one leader and not the other could have far reaching political implications such as a discredited judicial system, an electoral boycott and/or violence. There is no guarantee a guilty verdict for party figures delivered by a court under the current government would be honoured by the next, elected, government. A new government would likely seek to release Hasina or Zia immediately, but "the fastest route back to [the chaos of] 10 January [2007] is if the next party government releases only its leader".²⁷⁹

What to do

- ❑ make all evidence public if the government proceeds with the trials before the elections;
- ❑ ensure that the verdict is delivered in time for Hasina or Zia to stand for the election if acquitted; and

²⁷⁷ Crisis Group interviews, Dhaka, November 2007.

²⁷⁸ Crisis Group interviews, Awami League and BNP officials, Dhaka, November 2007.

²⁷⁹ Crisis Group interview, former parliamentarian, Dhaka, November 2007; see also Sobhan, "Exit Strategies", op. cit.

- the current party leaderships must be willing to accept a guilty verdict if the trials are impartial and encourage their rank and file to follow suit.

3. Constitutional endorsements

Both the Awami League and BNP have said they consider the state of emergency and the caretaker government illegal.²⁸⁰ The next parliament is likely to take a piecemeal approach to validating CTG ordinances. “By virtue of declaring all CTG acts illegal.... the parliament would technically invalidate itself”, a former parliamentarian said.²⁸¹ Constitutionally there is nothing that would prevent the next parliament from declaring the state of emergency and the elections invalid and mandating a fresh vote. However it would be financially and politically expensive and likely deeply unpopular with the public.

The government is considering bypassing the next parliament altogether and seeking approval for its reforms from the public through a referendum. Article 142 of the constitution allows the Election Commission to conduct a referendum on an amendment from “amongst the persons enrolled on the electoral roll prepared for the purpose of election to Parliament”.²⁸² A simple majority of votes is required to approve an amendment.²⁸³ The referendum being discussed would include an amendment to the constitution endorsing the dissolution of Iajuddin Ahmed’s caretaker administration and the formation of Fakhruddin Ahmed’s CTG and validating all the acts of the latter.²⁸⁴ The CTG has enough public support to pass the referendum, even against party opposition. However, a constitutional amendment can itself be changed or repealed subsequently by a two-thirds majority in parliament.²⁸⁵ Thus it is in the CTG’s interest to gain party support before any referendum.

The military, however, is likely to see a constitutional amendment also as a necessary protection against prosecutions by the next party government. While a constitutional amendment may be appropriate to endorse the CTG’s ordinances, it should not be used

to grant immunity to the security services and others from prosecution for human rights abuses committed during the emergency. There should be no impunity for human rights violations that carry criminal responsibility.

What to do

- repeal laws granting immunity from prosecution to the Joint Forces.

4. Sustaining institutional reform

Some reforms, such as judicial independence and establishing the ACC, were conceived by previous governments but never implemented. However, an endorsement of current reforms is not the same as a commitment for future governments to continue the process. The presidential ordinances authorising many reforms require parliamentary approval to retain validity.²⁸⁶ Any post-election parliament could dismantle many measures such as the reconstitution of the PSC, the Election Commission and the establishment of the ACC and human rights commission (which still exists only on paper). If the CTG wants to sustain these initiatives, it will have to engage with the parties to build broader political support for them. The popularity of many reforms may tempt the parties to back them, but this will not in itself protect the institutions from interference by future governments.

What to do

- seek consensus on essential immediate reforms for elections and longer-term steps that any future government should sustain; and
- agree on mechanisms for the post-election government to ratify CTG reforms and confirm their continuation, either by endorsement ordinances or constitutional amendments.

5. Boosting political pluralism

Both the military government and the parties have demonstrated little respect for peaceful political dissent. The CTG has clamped down on the media, civil society and the parties. The larger parties have branded members who support reforms army stooges. It is crucial that the government and the parties allow critical voices to be heard in the run-up to the elections.

²⁸⁰ “Awami League asks govt. to lift emergency by next month”, *The Daily Star*, 21 February 2008, at www.thedailystar.net/story.php?nid=24271.

²⁸¹ Crisis Group interview, former Awami League parliamentarian, Dhaka, 29 October 2007.

²⁸² Constitution, op. cit., Article 142(1B).

²⁸³ Ibid, Article 142(1C).

²⁸⁴ Crisis Group interviews, DGFI officer, CTG official, Dhaka, November 2007.

²⁸⁵ Constitution, op. cit., Article 142.

²⁸⁶ When parliament is adjourned (as it currently is) presidential ordinances have the same weight as acts of parliament and are valid until one month after an elected parliament begins to function.

The next parliament must also encourage plurality of opinion. Article 70 of the constitution provides that: “A person elected as a Member of Parliament at an election at which he was nominated as a candidate by a political party shall vacate his seat if he resigns from that party or votes in Parliament against the party”.²⁸⁷ The resulting rigid party discipline has contributed to Bangladesh’s political and economic instability. As a UN official in Dhaka said, “Article 70 ensures that the party in power is in absolute power”.²⁸⁸

Bangladeshi politicians and Western analysts have also suggested the creation of a bicameral legislature to give opposition parties and independent parliamentarians a greater say in policy formation and legislative deliberations. They argue institutional mechanisms to boost pluralism such as the formation of an upper house of parliament would limit the use of *hartals* as a political bargaining chip.

What to do

- consider ways to ensure pluralism in parliament, such as repealing Article 70 of the constitution and creating a bicameral legislature and ways to increase meaningful bipartisan participation in parliamentary committees and working groups, including the appointment of opposition chairpersons.

6. An exit strategy for the army

Extracting the military and the DGFI from their involvement in politics may be the biggest challenge to a return to democracy. Since 11 January 2007, the military has been involved in administering large parts of the country and the economy. Officers insist they have no desire to be entangled in politics. A DGFI officer in Chittagong explained: “We don’t want to govern. We don’t dictate who should be appointed to government positions; we just indicate to the CTG who is good and who is bad and the civil administration makes the decision”.²⁸⁹ But the same officer said he was intimately involved in determining import and export quotas of food stuffs.

There is speculation that engineering a sympathetic parliament is part of the military’s exit strategy. An analyst observed:

Much of what the military and their civilian agents have done over the past year has violated the constitution. They need the parliament to endorse what they have done and an Awami League or BNP parliament may not do that. One of the big parties is likely to win [the election] and the army is worried the parties will exact revenge on it for trying to destroy them.²⁹⁰

Another had a more benign view: “The government just wants to ensure the next parliament does not undo some of the positive changes and expectations it has produced”.²⁹¹ These analysts believe that the military is unlikely to resort to vote buying or ballot-box stuffing to produce its desired election outcome, but that the Joint Forces could detain potential candidates they disliked on fabricated corruption charges to prevent them from contesting the elections.

For the military to exit smoothly, it must feel confident that the next government will not return to politics as usual. That means the parties may have to demonstrate a commitment to more than merely continuing many of the CTG’s reforms. The military, however, will have to accommodate itself to a degree of uncertainty about the future political dispensation and accept civilian rule.

What to do

- discuss with the parties protections for CTG and military officials and officers against prosecution and other forms of political revenge for administering the state of emergency; all sides should agree at the outset that those accused of human rights abuses during the emergency will be investigated and tried in a transparent manner;
- the CTG and the military should clarify the military’s role in the proposed national security council, the extent to which retired officers would continue in key government positions, the future status of the Joint Forces and the powers of a strengthened president; and
- devise safeguards against any future prime ministerial monopoly on power, as well as against politicisation of military promotions and assignments.

²⁸⁷ Constitution, op. cit., Article 70.

²⁸⁸ Crisis Group interview, UN official, Dhaka, October 2007.

²⁸⁹ Crisis Group interview, DGFI officer, Chittagong, 21 November 2007.

²⁹⁰ Crisis Group interview, Bangladeshi analyst, Dhaka, November 2007.

²⁹¹ Crisis Group interview, Bangladeshi analyst, New Delhi, December 2007.

VI. CONCLUSION

The Bangladesh military seized power in reaction to fifteen years of mismanagement and corruption by both Awami League and BNP-led governments. The desire to reform the political parties, stamp out corruption and end undue political interference in the military is understandable, but the motives for military rule go further. The suspension of democratic functioning, the arbitrary and political nature of the anti-corruption drive and the military's intentions to embed itself into the country's political process threaten to create many more problems than they solve. The military government has been unable to advance reforms within the parties and is causing the economy to slow. The country's foreign supporters have done little to walk the military back from its failing agenda.

A senior U.S. official described democracy as Bangladesh's "default-mode government", whenever military regimes misjudge their time in power.²⁹² There are signs that Bangladeshis may be willing to take to the streets to rebuke another military government, but a return to democracy as in the past may not be so easy this time. Both the Awami League and BNP, the two parties most likely to lead the next government, have shown little in the way of readiness to initiate internal reforms necessary to sustain democracy in the long run. A reformed, secular Awami League and BNP that respect the democratic rules of the road both internally and externally are the best hope for democracy in Bangladesh and the best defence against religious extremism. The longer the parties resist this reality, the longer the military will continue to justify its role in politics.

Dhaka/Brussels, 28 April 2008

²⁹² Crisis Group interview, U.S. official, Washington DC, 28 March 2008.

APPENDIX A

MAP OF BANGLADESH



APPENDIX B

GLOSSARY OF TERMS AND PERSONALITIES

ACC	Anti-Corruption Commission
Ahmed, Moeen Uddin	Chief of Bangladesh's armed forces.
Ahmed, Fakhruddin	Current chief adviser to the caretaker government.
Ahmed, Iajuddin	Current president of Bangladesh. He served as both president and chief adviser to the caretaker government that the army dissolved on 11 January 2007 and replaced with Fakhruddin Ahmed's caretaker administration.
BBBF	Bangladesh Better Business Forum
BBC	British Broadcasting Corporation
BEI	Bangladesh Enterprise Institute
Bhuiyan, Mannan	Former secretary general of the united BNP and standing committee member of the BNP-Saifur faction. On 25 June 2007, Bhuiyan announced a fifteen-point proposal for internal party reforms, including one aiming to dislodge Khaleda Zia as party chairperson. Khaleda Zia expelled Bhuiyan for breaching party discipline and appointed Khandaker Delwar Hossain in his place.
BNP	Bangladesh Nationalist Party
CA	Chief Adviser
CEC	Chief Election Commissioner
Chowdhury, Hasan Mashhud	Army chief between 2002 and 2005 and current head of the Anti-Corruption Commission.
Chowdhury, Iftekhar	Foreign adviser to Fakhruddin Ahmed's caretaker government.
CPD	Centre for Policy Dialogue
CTG	Caretaker Government
DFID	Department for International Development (UK)
DGFI	Directorate General of Forces Intelligence
DSE	Dhaka Stock Exchange
DU	Dhaka University
EWG	Election Working Group
EPR	Emergency Power Rules
Hasina, Sheikh	Awami League president and former prime minister
Hossain, Khandaker Delwar	Acting secretary general of the Khaleda Zia faction of the BNP
Huda, Shamsul	Chief commissioner of Bangladesh's Election Commission
Hussain, Sakhawat	Retired general and current commissioner in Bangladesh's Election Commission
IOJ	Islami Oikya Jote, an Islamist political party
NCC	National Coordination Commission on Combating Corruption and Crime
NGO	Non-governmental organisation
NSC	National Security Council
RAB	Rapid Action Battalion

Rahman, Saifur	Acting chairperson of the reformist BNP-Saifur faction
Rahman, Tarique	The eldest son of Khaleda Zia and former joint-secretary general of the BNP
RU	Rajshahi University
Shah, Hannan	BNP party official and adviser to Khaleda Zia.
TIB	Transparency International Bangladesh
UNDP	United Nations Development Programme
Zia, Khaleda	Bangladesh National Party Chairperson and two-time former prime minister

APPENDIX C

ABOUT THE INTERNATIONAL CRISIS GROUP

The International Crisis Group (Crisis Group) is an independent, non-profit, non-governmental organisation, with some 135 staff members on five continents, working through field-based analysis and high-level advocacy to prevent and resolve deadly conflict.

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