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**Written statement submitted by the Asian Legal Resource Centre (ALRC), a  
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**The State of Emergency in Bangladesh**

1. Bangladesh has been under a State of Emergency since January 11, 2007. This is the fifth time this has happened since the independence of the country. The proclamation order issued by the President clearly declared that "the right to lodge cases with the courts in order to reinstate the fundamental rights ensured in the Part III of the Constitution shall remain suspended during the state of emergency," according to articles 141B & 141C of the Constitution of Bangladesh. Article 141B concerns the suspension of provisions of certain articles during emergencies and Article 141C concerns the suspension of enforcement of fundamental rights during emergencies. Since the proclamation of the State of Emergency, the President of Bangladesh has imposed the Emergency Powers Ordinance-2007, which was supplemented by the Emergency Powers Rules-2007, on 25 January 2007. Both the Ordinance and the Rules have empowered the "law and order maintaining force" to arrest citizens without a warrant. Around 55,000 military personnel were already deployed on December 9, 2006 - 33 days before the State of Emergency - to "aid the civil administration for the maintenance of law and order in the country" according to the Home Ministry's proclamation.

2. Since the proclamation of the State of Emergency, the Emergency Powers Ordinance-2007 along with the Emergency Powers Rules-2007 as well as the Special Powers Act-1974, have been being widely used to arrest and detain people arbitrarily.

3. The content of the Emergency Powers Ordinance is abnormal in that it incorporates the military, paramilitary forces, the police, intelligence agencies and other irregular forces, under one umbrella - the "law and order maintaining forces". According to section 16 of the Emergency Powers Rules 2007, all personnel of the law and order maintaining forces are empowered to arrest any person on suspicion without a warrant. On one hand, this law restricts political programmes including protests, demonstrations, strikes, processions, publishing any news concerning such activities, and any criticism of the actions of the government in the media. On the other hand, according to section 10 of the Emergency Powers Rules-2007, all crimes mentioned in this law are 'non-bailable', 'non-compoundable' and cognizable, and have sentences attached ranging from at least two years to five years rigorous imprisonment.

4. Evidently, the armed forces are currently playing the dominant role, and are engaged in arbitrarily arresting, torturing and detaining people using the Emergency

Powers Ordinance and Rules 2007, while the police are subservient to and follow the military's following the commands, suggestions or recommendations.

5. The Special Powers Act-1974 has been randomly used to arbitrarily detain persons for lengthy periods. According to section 3 of the Special Powers Act-1974, the Government may detain any person for a prejudicial act [according to section 2(f) of the Act] or remove any person from Bangladesh. The relevant sections of the Act are as follows:

Section 3. Power to make orders detaining or removing certain persons-

(1) The Government may, if satisfied with respect to any person that with a view to preventing him from doing any prejudicial act it is necessary so to do, make an order-

(a) directing that such person be detained;

(b) directing him to remove himself from Bangladesh in such manner, before such time and by such route as may be specified in the order;

Provided that no order of removal shall be made in respect of any citizen of Bangladesh.

(2) Any District Magistrate or Additional District Magistrate may, if satisfied with respect to any person that with a view to preventing him from doing any prejudicial act within the meaning of section 2(f) (iii), (iv), (v), (vi), (vii) or (viii) it is necessary so to do, make an order directing that such persons be detained.

(3) When any order is made under sub-section (2), the District Magistrate or the Additional District Magistrate making the order shall forthwith report the fact to the Government together with the grounds on which the order has been made and such other particulars as, in his opinion, have a bearing on the matter, and no such order shall remain in force for more than thirty days after the making thereof unless in the meantime it has been approved by the Government.

(4) If any person fails to remove himself from Bangladesh in accordance with the direction of and order made under sub-section (1)(b), then, without prejudice to the provisions of sub-section (5), he may be so removed by any police officer or by any person authorised by the Government in this behalf.

(5) If any person contravenes any order made under sub-section (1)(b), he shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

Section 4. Execution of detention orders- A detention order may be executed at any place in Bangladesh in the manner provided for the execution of warrants of arrest under the Code.

According to section 9 of the Act, the Government is authorised to 'constitute an Advisory Board for the purpose of this Act'. Another arbitrary section of the ACT is following below:

Section 12. Action upon the report of advisory board- (1) In any case where the Advisory Board has reported that there is, in its opinion, sufficient cause for the detention of a person, the Government may confirm the detention order and continue the detention of the person concerned for such period as it thinks fit:

Provided that the Advisory Board shall, after affording the person concerned an opportunity of being heard in person review such detention order, unless revoked earlier, once in every six months from the date of such detention order and the Government shall inform the person concerned of the result of such review.

Since the Special Powers Act seems to be extremely prejudicial to civil rights, and since it empowers the government with a wide range of powers for repression, the act has been under severe public criticism from its very inception. The opposition parties had always committed themselves to repeal it if they were voted into power. But in the last 33 years, the act has yet to be removed.

6. In reality, around one thousand persons are being detained at present by the "joint forces" [armed forces, paramilitary forces and the police together] under the Emergency Powers Ordinance-2007 in the country. According to a statistic by the local human rights group, more than 50 thousand people have been arbitrarily arrested in the month of January, 2007 by law-enforcement agents, causing 29 custodial deaths (for further details please see: <http://www.ahrchk.net/statements/mainfile.php/2006statements/923/>). Many of the arrested persons are being detained under the Special Powers Act-1974. All detentions are, primarily, for 30 days; the government extends this period according to its wishes. The Asian Human Rights Commission (AHRC), the ALRC's sister organization, has already issued a number of Urgent Appeals that have been brought to the notice of the relevant concerned United Nations Special Procedures for their prompt intervention concerning these massive arbitrary arrests and detentions

7. Under the circumstances mentioned above, the magistrate and judge's courts currently do not receive any complaints or petitions lodged by citizens who are challenging the actions of law-enforcement officers (military and police personnel) regarding the violations of their fundamental rights, as those rights have been suspended since the proclamation of the State of Emergency.

8. The High Court Division Benches of the Supreme Court are only hearing very few writ petitions these days, all of which are complainants made by influential political or business leaders in the country. Due to the established corruption in the offices of the courts, especially the offices of the bench clerks, Attorney General's department and record offices, and the high fees required by the practicing lawyers of the Supreme Court Bar Association, poor persons have no real recourse from the High Court Division Benches of the Supreme Court. There are no independent courts or even a National Human Rights Commission to allow such persons and avenue for making complaints in Bangladesh.

9. The State of Emergency is leading to random arbitrary arrests, torture, ill-treatment, detention, physical disabilities, psychological fear and panic, deaths in custody, deprivation of medical treatment, distortion and destruction of medico-legal evidences, concealment of the truth regarding cases of custodial torture, extreme suppression of the freedom of expression and absolute injustice to the victims.

10. The Asian Legal Resource Centre (ALRC) urges the Council to call on the Government of Bangladesh to withdraw the State of Emergency from the country without further delay. The Council must urge the country to reinstate the fundamental rights of its citizens, as enshrined in the Constitution of Bangladesh, as well as the international human rights instruments to which the country is party. Arbitrarily arrested citizens should be immediately released. Adequate compensation must also be provided to victims, in compliance with the international human rights laws and standards. At the same time, the laws that run contrary to the enjoyment of rights, such as the Special Powers Act-1974, the Emergency Powers Ordinance-2007 and the Emergency Powers Rules-2007, must be repealed without delay. Any human rights abuses must be investigated, prosecuted and result in the erosion of impunity and the upholding of justice, through adequate reparation, for the victims. The ALRC also recommends that an independent and effective national human rights institution be established in Bangladesh, which would provide for complaint-making, investigations and redress for victims of human rights abuses. The Council and the Special Rapporteurs on arbitrary arrests and detention, the question of torture and extrajudicial killings and summary executions must intervene into the situation immediately, in order to assist in the protection of the large number of victims of this devastating State of Emergency. The ALRC also urges the Office of the Secretary General of the United Nations, through the Council, to send a Special Envoy to Bangladesh to monitor the situation, in order to report back on the situation there. It is ironic that Bangladesh is a member of the Human Rights Council, but is flouting every acceptable norm and standard while occupying this position. The Council must address this problem, unless it wishes to swiftly join the Commission on Human Rights into the graveyard of the discredited.