

# Mapping Bangladesh's Political Crisis

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## *Executive Summary*

On 5 January, the first anniversary of the deeply contested 2014 elections, the most violent in Bangladesh's history, clashes between government and opposition groups led to several deaths and scores injured. The confrontation marks a new phase of the deadlock between the ruling Awami League (AL) and the Bangladesh National Party (BNP) opposition, which have swapped time in government with metronomic consistency since independence. Having boycotted the 2014 poll, the BNP appears bent on ousting the government via street power. With daily violence at the pre-election level, the political crisis is fast approaching the point of no return and could gravely destabilise Bangladesh unless the sides move urgently to reduce tensions. Moreover, tribunals set up to adjudicate crimes perpetrated at the moment of Bangladesh's bloody birth threaten division more than reconciliation. Both parties would be best served by changing course: the AL government by respecting the democratic right to dissent (recalling its time in opposition); the BNP by reviving its political fortunes through compromise with the ruling party, rather than violent street politics.

With the two largest mainstream parties unwilling to work toward a new political compact that respects the rights of both opposition and victor to govern within the rule of law, extremists and criminal networks could exploit the resulting political void. Violent Islamist factions are already reviving, threatening the secular, democratic order. While jihadi forces see both parties as the main hurdle to the establishment of an Islamic order, the AL and the BNP perceive each other as the main adversary.

The AL and its leader, Prime Minister Sheikh Hasina Wajid, emphasise that the absence from parliament of former Prime Minister Khaleda Zia and her BNP make them political non-entities. Yet, concerned about a comeback, the government is attempting to forcibly neutralise the political opposition and stifle dissent, including by bringing corruption and other criminal cases against party leaders, among whom are Zia and her son and heir apparent, Tarique Rahman; heavy-handed use of police and paramilitary forces; and legislation and policies that undermine fundamental constitutional rights.

The BNP, which has not accepted any responsibility for the election-related violence in 2014 that left hundreds dead (and saw hundreds of Hindu homes and shops vandalised), is again attempting to oust the government by force, in alliance with the Jamaat-e-Islami, which is alleged to have committed some of the worst abuses during that period. The party retains its core supporters and seems to have successfully mobilised its activists on the streets. Yet, its sole demand – for a fresh election under a neutral caretaker – is too narrow to generate the public support it needs to overcome the disadvantage of being out of parliament, and its political capital is fading fast as it again resorts to violence.

The deep animosity and mistrust between leaders and parties were not inevitable. Despite a turbulent history, they earlier cooperated to end direct or indirect military rule and strengthen democracy, most recently during the 2007-2008 tenure of the military-backed caretaker government (CTG), when the high command tried to remove both Sheikh Hasina and Khaleda Zia from politics. Rather than building on that cooperation, the two leaders have resorted to non-democratic methods to undermine

each other. In power, both have used centralised authority, a politicised judiciary and predatory law enforcement agencies against legitimate opposition.

Underpinning the current crisis is the failure to agree on basic standards for multi-party democratic functioning. While the BNP claims to be the guardian of Bangladeshi nationalism, the AL has attempted to depict itself as the sole author and custodian of Bangladesh's liberation. The International Crimes Tribunal (ICT), established by the AL in March 2010 to prosecute individuals accused of committing atrocities during the 1971 liberation war, should be assessed in this context. While the quest to bring perpetrators to account is justifiable, the ICTs are not simply, or even primarily, a legal tool, but rather are widely perceived as a political one, primarily for use against the government's Islamist opposition. In short, the governing AL is seen to be using the nation's founding tragedy for self-serving political gains.

The AL needs to realise that the BNP's marginalisation from mainstream politics could encourage anti-government activism to find more radical avenues, all the more so in light of its own increasingly authoritarian bent. Equally, the BNP would do well to abandon its alliances of convenience with violent Islamist groups and seek to revive agreement on a set of basic standards for multiparty democracy. A protracted and violent political crisis would leave Sheikh Hasina and Khaleda Zia the ultimate losers, particularly if a major breakdown of law and order were to encourage the military to intervene; though there is as yet no sign of that, history suggests it is an eventuality not to be dismissed. The opportunities for political reconciliation are fast diminishing, as political battle lines become ever more entrenched. Both parties should restrain their violent activist base and take practical steps to reduce political tensions:

- ❑ the AL government should commit to a non-repressive response to political dissent, rein in and ensure accountability for abuses committed by law enforcement entities, reverse measures that curb civil liberties and assertively protect minority communities against attack and dispossession of properties and businesses;
- ❑ the AL should invite the BNP, at lower levels of seniority if needed, to negotiations aimed at reviving the democratic rules of the game, including electoral reform. It should also hold mayoral elections in Dhaka, a long-overdue constitutional requirement that would provide opportunities to begin that dialogue; and
- ❑ the BNP should commit to non-violent political opposition; refrain from an alliance with the Jamaat-e-Islami that is enhancing the Islamist opposition's street power with little political return for the BNP; and instead demonstrate willingness to engage in meaningful negotiations with the AL to end a crisis that is undermining economic growth and threatening to subvert the political order.

**Islamabad/Brussels, 9 February 2015**

# Mapping Bangladesh's Political Crisis

## I. Introduction

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On 5 January 2015, a year after a violent and deeply disputed election, the conflict between Bangladesh's two main parties, Prime Minister Sheikh Hasina Wajid's Awami League (AL) and former Prime Minister Khaleda Zia's Bangladesh National Party (BNP), took a turn for the worse.<sup>1</sup> The government's provocative decision two days earlier to forcibly confine Zia to her party office in Dhaka, in anticipation of BNP protests marking the anniversary of the 2014 polls, triggered deadly clashes between AL and BNP activists.<sup>2</sup> In response, Zia called for an indefinite countrywide transport blockade that has sparked ongoing violence by both sides, with more than 50 deaths and arrests of scores of BNP activists.<sup>3</sup>

Prime Minister Hasina's rejection of the democratic rules of the game is eroding her government's political legitimacy. By opting for street power and agitation after boycotting the 2014 elections, the BNP has failed to achieve its primary goal of ousting the AL government well before the next elections, due in 2019, but it has undermined its public image as a credible alternative.<sup>4</sup> The resulting political vacuum is expanding opportunities for violent extremists and criminal groups. Jihadi organisations identify both major parties as enemies in their bid to establish Islamic rule, while the AL and BNP continue to view each other as the principle threat to domestic stability.

With the roots of confrontation going far deeper than the 2014 election or the end of the caretaker system, both parties evoke the inevitability of massive violence if the other retains or returns to power. The renewed clashes in January, after a year of relative calm, bode ill for political stability. While BNP efforts to forcibly oust the government provide opportunities for spoilers, including violent extremists, Sheikh Hasina's heavy-handed response might succeed in quelling the protests in the short term but will aggravate resentments. If the political crisis deepens, widespread violence could, in the worst case, spark a military intervention.

Mapping Bangladesh's political crisis, highlighting the role of the key players, this report assesses the political and security implications of a continued deadlock. It is

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<sup>1</sup> For earlier Crisis Group analysis on Bangladesh, see Asia Reports N°226, *Bangladesh: Back to the Future*, 13 June 2012; N°187, *The Threat from Jamaat-ul Mujahideen Bangladesh*, 1 March 2010; N°182, *Bangladesh: Getting Police Reform on Track*, 11 December 2009; N°151, *Restoring Democracy in Bangladesh*, 28 April 2008; and N°121, *Bangladesh Today*, 23 October 2006.

<sup>2</sup> Zia's confinement continued until 19 January 2015. "Cops withdrawn from Khaleda's office", *The Daily Star*, 19 January 2015.

<sup>3</sup> Opposition activists, trying to forcibly impose a transport blockade, were responsible for most of the deaths. "Ten burnt alive after BD bus firebombed", Agence France-Presse, 4 February 2015; "BD ends confinement of opposition leader Khaleda Zia", *ibid*, 20 January 2015; "No let-up in arson", *The Daily Star*, 19 January 2015; "U.S., EU and UK urge restraint", *ibid*, 14 January 2015.

<sup>4</sup> The BNP boycotted the election because the AL government refused to hold it under a neutral caretaker government (CTG). Adopted in 1996, the caretaker system to oversee elections had widespread public support and credibility. However, a CTG was unelected, so unaccountable and either vulnerable to pressure or amenable to undemocratic influences, as was evident in its lack of resistance to the military's 11 January coup (see below).

based on field interviews in 2014, primarily in Dhaka, with key political and civil society stakeholders. Given a volatile climate, curbs on dissent and the sensitivity of the issues, most interlocutors requested their names be withheld.

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## II. Anatomy of a Conflict

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### A. *A Bitter History*

Following the bloody civil war that led to Bangladesh's independence in 1971, in which the Jamaat-e-Islami and its armed fronts, such as Al-Badr and Al-Shams, supported the Pakistani military crackdown, the Awami League, led by Sheikh Mujib ur Rehman, formed the first government.<sup>5</sup> In 1972, it enacted a constitution that, like the party's founding ideology, drew on the principles of democracy, nationalism, socialism and secularism. Mujib and most of his family were killed by army personnel in the 15 August 1975 coup, inaugurating decades of authoritarian rule amid coups and counter-coups that lasted until 1990.<sup>6</sup> His daughter, Sheikh Hasina Wajid, took over the leadership and remains the head of the Awami League.

BNP leader Khaleda Zia is the wife of Bangladesh's first military ruler, Major General Ziaur (Zia) Rahman (1976-1981), who created the party as a civilian proxy and alternative to the AL.<sup>7</sup> Absorbing constituencies with little in common except their opposition to Mujib, including disaffected AL members, pro-Pakistan remnants of the Muslim League and Islamist groups, the Zia regime "found a competing national identity" to legitimise its rule and "to delegitimise the Awami League", by underscoring Bangladesh's religious and territorial – rather than ethnic – identity.<sup>8</sup> It replaced "secularism" in the constitution's preamble with "absolute trust and faith in the almighty Allah", and lifted the ban on religion-based political parties, enabling the Jamaat and other Islamist groups to re-enter mainstream politics, and Jamaat leaders, held responsible by most Bangladeshis for atrocities during the liberation war, to return from exile.<sup>9</sup>

The AL-BNP relationship under Sheikh Hasina and Khaleda Zia is shaped by this history, on which both draw to inflame a bitter rivalry. While the AL accuses Zia's husband of assassinating the country's founder and much of his family, the BNP blames Mujib's assassination on the AL's misrule and establishment of a hegemonic party system, under the Bangladesh Krishak Sramik Awami League (BAKSAL).<sup>10</sup> Both parties also dress their enmity in the garb of ideological differences over Bangladeshi identity, including questions of secularism, Bengali nationalism and the role of Islam.

Political expediency, however, largely dictates ideological choices. The BNP's emphasis on Bangladeshi nationalism did not prevent it from absorbing and allying with individuals and groups that opposed Bangladesh's independence, including the Ja-

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<sup>5</sup> Estimates of the number killed by the Pakistan army and allied militias vary widely, from under 30,000 to over three million; a "consensus figure given in most accounts is that close to a million people died during the conflict". David Lewis, *Bangladesh: Politics, Economy and Civil Society* (Cambridge, 2010). Gary J. Bass, *The Blood Telegram: India's Secret War in East Pakistan*, (New York, 2013).

<sup>6</sup> Craig Baxter, *Bangladesh: From a Nation to a State* (Boulder, 1998).

<sup>7</sup> Zia became chief martial law administrator on 29 November 1976 and president in April 1977. He was assassinated by disgruntled army personnel in 1981.

<sup>8</sup> William B. Milam, *Bangladesh and Pakistan: Flirting with Failure in South Asia* (London, 2009), p. 15.

<sup>9</sup> Proclamations (Amendment) Order, 1977. Rounaq Jahan, "Political parties in Bangladesh", Center for Policy Dialogue (CMD) – Chr. Michelsen Institute (CMI) working paper, August 2014.

<sup>10</sup> After the fourth amendment to the constitution in 1975, BAKSAL, an acronym derived from the amalgamation of the AL and the leftist Krishak Sramik party, became the only legally-recognised party. The term, BAKSAL, is now used to describe one-party rule.

maat-e-Islami. Despite avowed secularism, the AL had an electoral alliance with Jamaat in 1996. In the run-up to the aborted 2006 elections, it allied with another Islamist party, Khilafat Majlis, to tap its votes and in return pledged to declare Ahmadis non-Muslims, enact a blasphemy law and make *fatwas* (religious edicts) legally binding.<sup>11</sup> While the AL's June 2011 fifteenth constitutional amendment reasserted secularism as a basic principle and restored the prohibition on religion-based parties, it kept Islam as the state religion, a feature inserted into the constitution by General Hussain Mohammed Ershad's rubber-stamp parliament.<sup>12</sup>

Sheikh Hasina and Khaleda Zia joined to oppose military rule during the 1980s and achieved Ershad's ouster in 1990. With civilian rule restored, and the BNP forming the government after the 1991 elections, they continued to collaborate and compromise, including on the August 1991 constitutional amendment to revive parliamentary democracy. Their rivalry resumed, however, after the AL boycotted the February 1996 election and held demonstrations that paralysed Dhaka. Acceding to opposition pressure that March, the BNP supported the thirteenth constitutional amendment. It provided that a 90-day caretaker set-up rather than the incumbent government would oversee the vote, thus lowering, though not eliminating the likelihood of rigging.<sup>13</sup> Parliament was dissolved and the caretaker government oversaw the June elections that brought the AL to power for the first time since 1975. The second election under the caretaker system, in October 2001, returned the BNP to office (2001-2006) in coalition with the Jamaat and two smaller parties.

While each election was flawed, its results contested by the losing side, the swings against the incumbent conferred some legitimacy on and support for the caretaker system. Yet, electoral disputes also engendered tensions, resulting in sporadic countrywide violence, such as before the scheduled 2006 polls that resulted in military intervention on 11 January 2007 (referred to as "1/11"). The president was pressured to declare a state of emergency, and a military-backed caretaker government (CTG) was put in place that continued until December 2008.<sup>14</sup>

De facto military rule again gave Hasina and Zia common cause, particularly after the CTG's "minus two" formula to remove both from politics. CTG excesses and poor performance also revived the parties' fortunes, convincing a sceptical civil society that "the only option was to go back to the politicians".<sup>15</sup> Yet, cracks within the civil-

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<sup>11</sup> Taj Hashmi, "Islamism beyond the Islamic heartland: a case study of Bangladesh", in Ishtiaq Ahmed (ed.), *The Politics of Religion in South and Southeast Asia* (Oxon, 2011), pp. 26-44. On *fatwas*, particularly with respect to women's rights, see "Bangladesh: fundamental rights of women violated with impunity", Amnesty International, October 1994. Ahmadis, a Sunni minority sect, followers of Mirza Ghulam Ahmad, are considered non-Muslims by ultra-orthodox Sunni groups.

<sup>12</sup> Constitution (Fifteenth Amendment) Act, 2011. Ershad imposed martial law in 1982 and created the Jatiya Party to bolster his legitimacy.

<sup>13</sup> The caretaker proposal was introduced in parliament as an AL member's private bill, then supported by the BNP. It envisaged that the president would appoint the chief adviser and ten advisers within fifteen days of parliament's dissolution, to oversee elections within 90 days. The chief adviser would be either the last serving Supreme Court chief justice, a retired justice of the appellate division or "an appropriate citizen"; if none were available, the president would assume the role. He or she would also assume the defence ministry's executive powers and functions and have authority to promulgate ordinances, rules and, if needed, declare a state of emergency.

<sup>14</sup> Crisis Group Reports, *Restoring Democracy in Bangladesh*; *Bangladesh Today*, both op. cit.

<sup>15</sup> Crisis Group interview, retired senior government official, Dhaka, August 2014.



ian leadership soon reappeared; the BNP accused Sheikh Hasina of colluding with the military and said the December 2008 vote was rigged for the AL.<sup>16</sup>

### B. *Democracy Returns*

The BNP-led government's corruption and misrule had undermined its credibility; even BNP leaders and members acknowledge a defeat in December 2008 would have been likely in any free and fair election. In the party's view, however, the extent of its loss reflected a playing field tilted in the AL's favour.<sup>17</sup> Rather than transferring authority to a neutral set-up that could ensure a level field, a discredited military-backed government had overseen the election, refusing to revoke emergency rule until 17 December, roughly two weeks before the polls. Fundamental rights remained suspended, and cases against political leaders, including Khaleda Zia and Sheikh Hasina, continued; scores of AL and BNP members were convicted, and many were detained in military-led search and arrest operations.

Though both parties were targeted, BNP leaders believe the military was more sympathetic to the AL, interpreting Sheikh Hasina's 11 June 2008 release on parole for medical reasons and permission to leave for the U.S. as the result of a deal. In July that year, more cases were filed against Zia and her son, Tarique Rahman, for embezzlement of the Zia Orphanage Trust fund, and investigations against Zia and other BNP leaders were reopened in another embezzlement case related to a coal mine project. The two cases remain open, with life sentences possible.<sup>18</sup>

An AL-led alliance won a two-thirds majority. The BNP saw failure to win even one of 99 seats in two key divisions, Dhaka and Sylhet – almost a third of the total parliamentary constituencies – as clear evidence of rigging.<sup>19</sup> This influenced its decision to boycott the 2014 election. Its two-thirds majority gave the AL a significant opportunity to strengthen democratic governance, but it took a confrontational approach, including by passing the fifteenth constitutional amendment, which abolished the caretaker system, thus opening a new front in the conflict with the BNP.<sup>20</sup>

### C. *The Caretaker Model Ends*

Although the caretaker model enjoyed wide popularity,<sup>21</sup> a petition filed by a Supreme Court lawyer to the High Court division in 2000 and heard in 2004 challenged the thirteenth amendment. The BNP-led government's attorney general and the AL's advocate both backed the system. Though it upheld the amendment, the High Court

<sup>16</sup> Nizam Ahmed, *Aiding the Parliament of Bangladesh: Experiences and Prospects* (Dhaka, 2012).

<sup>17</sup> Crisis Group interviews, BNP members, Dhaka, Bogra, August 2014. Bogra is a BNP stronghold.

<sup>18</sup> All fifteen cases against Sheikh Hasina were dropped after she returned to power. "Bangladesh drops leader Sheikh Hasina corruption case", BBC News (online), 30 May 2010. Moudud Ahmed, *Bangladesh: Emergency and the Aftermath 2007-2008* (Dhaka, 2014), pp. 304-310.

<sup>19</sup> Crisis Group interview, Dr Abdul Moyeen Khan, BNP standing committee member, Dhaka, 13 August 2014. A unitary parliamentary democracy, Bangladesh is administratively divided into seven administrative units called divisions, each subdivided into districts and, at the lowest tier, *upazilas* (union councils). The seven divisions are Barisal, Dhaka, Chittagong, Sylhet, Khulna, Rajshahi and Rangpur.

<sup>20</sup> The approach was symbolised by the eviction of Khaleda Zia from her home in the Dhaka cantonment where she had lived for 38 years. "I am evicted", *The Daily Star*, 14 November 2010.

<sup>21</sup> An April 2013 AC Nielsen/Democracy International poll found 81 per cent support. David Bergman, "Popular support for caretaker system", *The New Age*, 11 September 2013.

gave the petitioner leave to appeal to the Supreme Court, which heard the case in March 2011. The system was again supported by the then-AL government's attorney general, but the court ruled that it violated the constitutional principle of the people's sovereignty by giving unelected officials control over the state for 90 days.<sup>22</sup> Conceding that it enjoyed political and popular support, however, it allowed parliament to retain it for the next two elections.

Instead of building consensus for a new model with the opposition, the AL government abolished the system through the fifteenth amendment in June 2011, justifying this on the Supreme Court judgment and abuses of power during the military-backed CTG. The BNP believed this was done to improve the AL's re-election prospects, given the advantages of incumbency, particularly control of the law enforcement apparatus. These perceptions were reinforced by the failure to introduce electoral reforms to prevent executive interference and strengthen the autonomy of the Bangladesh Election Commission (BEC). Transparency International Bangladesh (TIB) warned this would likely "jeopardise the level [electoral] playing field".<sup>23</sup>

#### D. *The 2014 Election*

The BNP's political fortunes had been rising as the 2014 elections approached, in part due to its opposition to the fifteenth amendment. In June-July 2013, it won all five major mayoral elections, including in AL strongholds, and several opinion polls suggested victory in the general election was possible.<sup>24</sup> Yet, Zia, insisting on restoration of the caretaker government, rejected AL proposals for an all-party cabinet with new limitations on the prime minister's power during the election cycle, opting first for violent protest to prevent the vote and then, in December, for a boycott. The EU's Election Observation Mission (EOM) cancelled plans to monitor the election, as did U.S., Commonwealth and other international missions.

Election-related violence made the 2014 polls the most violent in the country's history. Countrywide *hartals* (strikes), demonstrations and traffic blockades that stalled economic activity and travel outside the urban centres were accompanied by attacks on AL supporters and officials in the run-up to and on election day.<sup>25</sup> The High Court banned Jamaat from contesting the polls on the grounds that it violated the secular constitution; its activists reportedly committed some of the worst attacks.<sup>26</sup> An AL lawmaker said, "you can have a boycott, but it has to be peaceful. This was a very violent boycott, and [AL critics] should keep that in mind".<sup>27</sup> Yet, the government's response was equally extreme, as the elite paramilitary Rapid Action Battalion (RAB, discussed below), regular police and the Border Guard cracked down on the

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<sup>22</sup> A judge who had served on the panel said, "there can be no hiatus in the sovereignty of the people". Crisis Group interview, retired Supreme Court justice, Dhaka, August 2014.

<sup>23</sup> "Annual report: 2013", Transparency International Bangladesh, April 2014.

<sup>24</sup> A July 2013 AC Nielsen/Democracy International poll found 43 per cent of respondents favoured the BNP, against 32 per cent for the AL and 19 per cent undecided.

<sup>25</sup> "Democracy in the Crossfire: Opposition violence and government abuses in the 2014 pre- and post-election period in Bangladesh", Human Rights Watch, April 2014.

<sup>26</sup> Ibid. "Bangladeshi court bans Islamist party from elections", *The Guardian*, 1 August 2013.

<sup>27</sup> Crisis Group interview, Dhaka, August 2014.

opposition in BNP and Jamaat strongholds, reportedly resorting to torture, illegal detentions and extrajudicial killings of leaders and activists.<sup>28</sup>

Some opposition leaders, notably Jatiya Party (JP)'s Hussain Mohammed Ershad, the former military ruler, were coerced to participate in the process to create the appearance of a competitive contest. A BNP lawyer who opposed his party's boycott asked: "If the Awami League was capable of this, can you trust them to hold a free and fair election?"<sup>29</sup> Only twelve of 42 registered parties participated; 154 of 300 seats were uncontested, of which 127 went to AL candidates by default.<sup>30</sup> The election commission announced turnout was 40 per cent; the Fair Election Monitoring Alliance (FEMA), a local observer group, estimated it at 10 per cent.<sup>31</sup>

In the final assessment, the BNP's plan backfired, as the AL went ahead with the poll, ignoring domestic and international opinion. The U.S., UK and EU strongly criticised the election, but other influential states, including India, China, Japan and Russia appeared to endorse the result. Failing to galvanise opposition on the streets afterwards, the BNP participated in the six-phase *upazila* (local) elections, February-May 2014, scoring major victories in the first two rounds. It did less well in the later rounds, amid widespread allegations of rigging by AL workers and some security personnel.<sup>32</sup> Both parties believe the local elections vindicated their stance. The AL cites the early BNP victories as evidence that the government can hold a free and fair election; the BNP points to its losses in the last three rounds as proof that the ruling party cannot be trusted to oversee one.<sup>33</sup>

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<sup>28</sup> According to Human Rights Watch: "Before, during, and after the elections, Bangladesh's security forces launched a brutal crackdown on the opposition, unlawfully killing dozens of leaders and activists, carrying out widespread arbitrary arrests, and in some cases unlawfully destroying property belonging to opposition leaders and activists". "Democracy in the Crossfire", op. cit.

<sup>29</sup> After Ershad declared his party would boycott the polls, security personnel detained him on 12 December in a military hospital, while the government allegedly successfully pressured his wife to allow a faction of the JP to contest the polls. Crisis Group interview, Dhaka, August 2014. Also, "Bangladesh: Crackdown escalates ahead of election", Human Rights Watch, 3 January 2014.

<sup>30</sup> Overall, the AL won 234 seats and the JP 34, with the rest going to smaller parties.

<sup>31</sup> FEMA, a coalition of NGOs and local civil society groups, is Bangladesh's principal domestic election monitoring organisation. "FEMA sees low turnout", *The Independent* (Dhaka), 6 January 2014. Also, Eric Bjornlund, *Beyond Free and Fair: Monitoring Elections and Building Democracy* (Washington, DC, 2004).

<sup>32</sup> "Six months human rights monitoring report: 1 January-30 June 2014", Odikhar (a leading domestic human rights group); "Rigging, intimidation rampant in 6th phase of *upazila* polls", *New Age*, 22 May 2014; "Widespread rigging marks Lakshmirpur polls", *Prothom Alo*, 31 March 2014.

<sup>33</sup> Crisis Group interviews, AL and BNP leaders, Dhaka, August 2014.

### III. Political Dysfunction

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#### A. *Parliamentary Incapacity*

Bangladesh's political system has vacillated not only between military and democratic rule, but also between presidential and parliamentary forms of government. In 1975, the Mujib-led parliament amended the 1972 constitution to replace the parliamentary system with a presidential one. The Zia and Ershad regimes retained the presidential system, which tilted power to the head of state, with rubber-stamp parliaments "intended more to legitimise the military rule than to provide a framework for public participation in lawmaking or for redress of grievances".<sup>34</sup> These parliaments were also short-lived. The first to survive a full term did so in 1996, 25 years after independence.

During the democratic transition of the 1990s, legislatures passed important reforms to restore and strengthen the parliamentary system and enhance transparency. These included new rules in 1997 that required the scrutiny of bills in committees before a vote and that parliamentary standing committees be chaired by elected members rather than ministers. Yet, even inclusive parliaments were hampered by confrontational, zero-sum politics, marked by parliamentary resolutions against the opposition party and frequent opposition boycotts.<sup>35</sup> Passage of the fifteenth amendment was emblematic of the unwillingness to cooperate; the ruling party pushed it through without meaningful consultation. Likewise, the BNP opted to boycott polls, resorting instead to violent agitation and so undermining the legislature's ability to check executive overreach.

Inadequate resources, including personnel, logistical support and research and analysis capacity, limit parliament's ability to shape legislation, provide oversight of the executive branch and respond to public needs. Despite the restoration of parliamentary democracy, there is also still a considerable degree of centralised executive power. Article 55 of the constitution vests all executive authority in the prime minister rather than cabinet; many legal experts consequently describe the form of government as "prime ministerial" rather than parliamentary.<sup>36</sup>

Prime Minister Sheikh Hasina relies more on unelected advisers, who enjoy significantly more authority than her ministers and other elected officials. Her ministers have little or no control over their line departments. "Ministers don't want to make any calls on their own", a senior journalist said. "They check with the prime minister on every decision. Senior bureaucrats have her phone number and will call her directly rather than going through their ministers".<sup>37</sup> This centralisation of authority in the prime minister's office, which also happened under BNP governments, undermines the workings of departments. A prominent human rights campaigner, said, "the policeman doesn't know whether to take action against a particular perpetrator; the Anti-Corruption Commission doesn't know whether to pursue a particular case; and the information commission doesn't know whether to divulge a particular piece of information".<sup>38</sup>

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<sup>34</sup> Nizam Ahmed, *op. cit.*

<sup>35</sup> Crisis Group interview, Iftekhar Zaman, executive director, Transparency International Bangladesh, Dhaka, 10 August 2014.

<sup>36</sup> Crisis Group interviews, lawyers, political analysts, Dhaka, August 2014.

<sup>37</sup> Crisis Group interview, Dhaka, August 2014.

<sup>38</sup> Crisis Group interview, Sultana Kamal, Dhaka, August 2014. Kamal chairs Transparency International Bangladesh and is executive director of the civil rights group, Ain O Salish Kendra.

In September 2014, the sixteenth constitutional amendment restored parliament's authority to impeach Supreme Court judges, by a two-thirds majority, for incapacity or misbehaviour. It also gave parliament power to impeach holders of constitutionally-mandated offices such as the chief election commissioner. This move (see Section IV.C.1 below) nominally strengthened the balance of powers but has raised concerns of potential misuse under an AL government demonstrating willingness to politicise its actions and with parliamentary opposition defunct.

It also raises questions about "who guards the guards".<sup>39</sup> Former ministers and state ministers from the last parliament now standing committee chairpersons are unlikely to investigate their own conduct or that of their former ministries.<sup>40</sup> Such conflict of interest defeats the purpose of the parliamentary committee system, all the more so when, in effect, there is no parliamentary opposition.

### B. *An Opposition in Disarray*

The BNP's electoral boycott not only enabled the AL's electoral sweep but also deprived Zia's party of a meaningful role as the main parliamentary opposition. Its ability to act as an effective extra-parliamentary opposition depends on its own resuscitation. Khaleda Zia may believe that the January 2015 strikes and transport blockade will strengthen her party's bargaining position. Some in the BNP may also believe that continued violence will provoke the military to act. As in the past, however, such an intervention would debilitate the BNP as much as the AL, and possibly revive the military's "minus-two" formula.

Instead, the BNP should work to convince the public that it will not repeat its 2001-2006 performance in office, which was marred by rampant corruption, heavy-handed use of force, poor governance and alliances with Islamist parties that allowed extremist groups to expand their space. It was also marred by internal party divisions. A faction controlled by the prime minister's son, Tarique Rahman, ran what many close observers within and outside the party reportedly termed a "parallel government", antagonising many BNP parliamentarians and some sections of the party leadership.<sup>41</sup> In 2004, the government established the RAB, which it used against its political opponents and Tarique's internal rivals.<sup>42</sup>

The BNP also needs to shake its image as primarily an anti-AL alliance, rather than a party with a self-standing, coherent ideology. Even the "prioritisation of religion" in its portrayal of Bangladeshi identity appears to stem "from its inability to distinguish it from its arch-rival, the [secular] Awami League".<sup>43</sup> Nevertheless, AL weaknesses have repeatedly given the BNP a significant opportunity to revive its political fortunes. By 2013, as discussed above, it had regained much of its organisational strength and popular support, evinced in its victory in five mayoral elections. Yet, it has squandered such opportunities because of two fundamental problems: an over-centralised party structure and close ties with the Jamaat-e-Islami.

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<sup>39</sup> Crisis Group interview, AL parliamentarian, Dhaka, August 2014.

<sup>40</sup> "JS ignores issues of public interest: TIB", *New Age*, 8 July 2014.

<sup>41</sup> "Some civil servants and senior ministers would report directly to Tarique", a senior journalist said. Crisis Group interview, Dhaka, August 2014.

<sup>42</sup> Crisis Group interviews, BNP members, journalists, Dhaka, August 2014. The BNP government formed the RAB in 2004 to combat terrorism and other serious crime.

<sup>43</sup> Ali Riaz, *God Willing: The Politics of Islamism in Bangladesh* (Oxfordshire, 2004), p. 12.

## 1. BNP Politics

A senior BNP member claimed there was broad consensus within the party that boycotting the 2014 elections would undermine the AL's standing. "The Awami League has a shaky mandate only because BNP didn't take part in the election", he said.<sup>44</sup> However, according to several BNP members, a majority of party office holders and the rank-and-file opposed a boycott, even as they shared Zia's concerns about rigging. They failed, however, to influence her largely due to limited avenues for internal debate.<sup>45</sup> The BNP's original charter, which gave its founder, General Zia, "absolute power to control and run the party", has remained largely unchanged. Like the AL, it has highly centralised structures.<sup>46</sup> Where the parties differ is at the lower tiers, where, unlike the AL, the BNP is not strongly organised. In a majority of districts, it lacks effective party committees and rarely conducts voter registration or membership drives.<sup>47</sup> It has not had a permanent secretary general, the second most senior position after the chair (Khaleda Zia), since March 2011.<sup>48</sup>

An internal reorganisation is urgently needed if it is to strengthen its lower ranks and reinvigorate the middle – and even higher – leadership. The decision to again resort to agitation, disregarding the human and economic costs of violent protests, undermines its image as a responsible, democratic force. By restricting its campaign to the restoration of the caretaker system and fresh polls, the BNP is losing an opportunity to project itself as a credible alternative to the AL. While it should continue to urge an electoral framework that would reduce the chances of rigging, the party should be willing to engage in meaningful negotiations with the AL to end a crisis that undermines economic growth and poses grave threats to political stability. The onus would then be on the AL to reciprocate or lose credibility. The BNP also needs to focus on the needs of the electorate, such as education and health. Though out of parliament, it should position itself for a future election by adopting the posture of a government-in-waiting, appointing a shadow cabinet that formulates and communicates policy proposals.

## 2. Relations with the Jamaat

A BNP member who supported participating in the election contended that Zia decided on a boycott after the Jamaat had persuaded her its street agitation would pressure the AL – or persuade the military – to delay the vote and restore the caretaker system.<sup>49</sup> Yet, the BNP's relationship with the Jamaat has political costs because of the latter's propensity for violence, alleged links to extremist jihadi groups, and public image of involvement in atrocities during the 1971 liberation war.

A BNP leader justified the relationship as a solely political, not ideological alliance, like that between UK Conservatives and Liberal Democrats. "Just because there are contradictory ideals doesn't mean we cannot be in coalition", he said, not acknowledging that the relationship has benefited Jamaat out of proportion to its electoral

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<sup>44</sup> Crisis Group interview, Abdul Moeen Khan, BNP, Dhaka, 13 August 2014.

<sup>45</sup> Crisis Group interviews, BNP members, Dhaka, August 2014.

<sup>46</sup> "BNP: a party for the supremo", *Daily Star*, 1 September 2014. Also, Jahan, op. cit.

<sup>47</sup> Crisis Group interviews, journalists, political analysts, Dhaka, August 2014.

<sup>48</sup> Mirza Fakhurul Islam Alamgir has been the temporary secretary general since Khandaker Delwar Hossain's death in March 2011.

<sup>49</sup> Crisis Group interview, Dhaka, August 2014.

strength and BNP's costs have been high.<sup>50</sup> The 2001-2006 BNP-led government had included the Jamaat and a smaller Islamist coalition, Islamic Oikya Jote (IOJ),<sup>51</sup> some of whose constituent groups supported the Afghan Taliban and Gulbuddin Hekmatyar's Hizb-e Islami.<sup>52</sup> The Jamaat also reportedly had links with regional, including Afghan and Pakistani, jihadi groups. The Jamaat-run Islamic Bank Bangladesh Ltd. (IBBL) reportedly held the account of the monthly *Jago Mujahid*, a publication of the anti-India, jihadi Harkatul Jihad ul Islam (HUJI) group. In 2006, the central bank moved against the IBBL for militancy links (allegations it has repeatedly denied).<sup>53</sup> A July 2012 U.S. Congressional report referenced IBBL's and other Bangladesh-based Islamic banks' suspected terrorism links.<sup>54</sup>

Emboldened by the Jamaat-BNP government partnership, Islamist groups attacked the Hindu minority as well as Ahmadis. Instead "of clamping down on the perpetrators", the government "succumbed to their pressure and on 8 January 2004 banned all Ahmadiyya publications".<sup>55</sup> Facing domestic and international criticism, the government banned some radical Islamist groups, such as the Jamaat-ul Mujahideen Bangladesh (JMB) and Hizb-ut-Tahrir, and arrested scores of JMB operatives, especially after the JMB's countrywide terror attacks on 17 August 2005. The police reportedly found Jamaat literature exhorting jihad with arrested JMB members.<sup>56</sup> Many JMB cadres and top leadership were also found to have belonged to or enjoy close links with the Jamaat or its student wing.

The BNP's alliance with the Jamaat has much to do with the Islamist party's capacity to mobilise street power against the AL. While its vote bank is only some 5 per cent of the electorate, it has considerable resources, including IT companies, insurance firms, NGOs, charities and other social welfare entities, hospitals and real estate investments.<sup>57</sup> The BNP has again appealed to the Jamaat to support its post 5-January street agitation, and Jamaat appears to have responded. According to law-enforcement agencies, its activists were responsible for much of the violence in Dhaka and elsewhere.<sup>58</sup> Earlier, a retired senior bureaucrat, now a BNP member, noted: "If Ja-

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<sup>50</sup> Crisis Group interview, Abdul Moeen Khan, Dhaka, August 2014.

<sup>51</sup> The BNP won 193 seats, the Jamaat seventeen and the IOJ two in the October 2001 elections.

<sup>52</sup> An IOJ parliamentarian, Mufti Shahidul Islam, had previously fought alongside the Afghan mujahidin. The IOJ has since split into smaller groupings. Riaz, op. cit., pp. 30, 46.

<sup>53</sup> Shahriar Kabir, "Jamaat-e-Islami's link with Islamic militancy", South Asian People's Union Against Fundamentalism and Communalism (SAPUAFC), July 2007. A prominent journalist, documentary filmmaker and human rights campaigner, Kabir helped to found SAPUAFC, a coalition of South Asian civil society organisations to counter religious extremism.

<sup>54</sup> Majority and minority staff report, "U.S. vulnerabilities to money laundering, drugs, and terrorist financing: HSBC case history", staff report, Permanent Subcommittee on Investigations, U.S. Senate, 17 July 2012. IBBL strongly rejected the allegations and has also denied links with Jamaat. "Views of Islami Bank on the news relating to HSBC implicating with Islami Bank Bangladesh Limited" and "Clarification of Islami Bank Bangladesh Limited on the issues raised in the recent report of US Senate Permanent Subcommittee on Investigations 'U.S. Vulnerabilities to Money Laundering, Drugs, and Terrorist Financing: HSBC Case History'", IBBL website, 19 July 2012 and 16 August 2012.

<sup>55</sup> Riaz, op. cit., p. 34.

<sup>56</sup> JMB attacks hit 63 of 64 districts. Crisis Group Report, *The Threat*, op. cit.; Kabir, op. cit.

<sup>57</sup> Crisis Group interviews, political analysts, economists and journalists, Dhaka, August 2014.

<sup>58</sup> Trucks, buses and trains were firebombed, killing and injuring scores of passengers. "Molotov cocktail attacks zooming in on capital: Intelligence claims Jamaat-Shibir men behind most attacks", *Dhaka Tribune*, 21 January 2015; "Ten burnt alive after BD bus firebombed", *Agence France-Presse*, 4 February 2015.

maat is taken out of play, organised opposition on the streets will be very difficult”.<sup>59</sup> Pointing to the Jamaat connection, AL parliamentarians depict the BNP as an Islamist sympathiser, even alleging it has links to terror groups such as al-Qaeda.<sup>60</sup> Refuting this, a senior BNP member acknowledged that the AL had “succeeded in convincing Western governments that BNP is a fundamentalist party, and this has put us on the back foot”.<sup>61</sup>

The alliance has other significant political drawbacks. The Jamaat remains linked in the public mind with liberation war atrocities, even among a new generation whose knowledge of that period is increasingly drawn from ongoing war crimes trials. A social science researcher at BRAC University, a Dhaka-based private institution, asked: “What is the BNP’s brand? For example, why does it support Jamaat’s line on the war crimes trials? If its account of the liberation war is different from Awami League’s fine – but what is it? It has a female leader on the one hand, but the Jamaat has links with the Hefazat [Hefazat-e-Islam, a radical Islamist coalition], which wants to deny women’s right to work”.<sup>62</sup> The 2013-2014 election-related violence has also hardened public contempt for the party.<sup>63</sup> Yet, though the association undercuts its credibility, the BNP apparently still calculates that the political benefits outweigh the costs.

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<sup>59</sup> Crisis Group interview, Dhaka, August 2014.

<sup>60</sup> The agriculture minister branded Khaleda Zia as “lady Laden” and Tarique as “junior Laden”. “MPs link BNP-Jamaat with ‘Zawahiri’ statement”, *Dhaka Tribune*, 17 February 2014.

<sup>61</sup> Crisis Group interview, Dhaka, August 2014.

<sup>62</sup> Crisis Group interview, Dhaka, August 2014.

<sup>63</sup> Crisis Group interviews, BNP senior members, workers, civil society activists, Dhaka, August 2014.



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## IV. Assessing the Awami League Government

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### A. *Doubling Down against the BNP*

The AL frequently says the BNP has “missed the train”.<sup>64</sup> A senior legislator said, “our message to the BNP [is] you gave it your best shot, ... did everything to stop the election, and now you’re saying let’s have another election. Why should we agree?” An adviser to the prime minister argues: “The BNP has four years to regroup. The field will be open to them in 2019 [the next election]. If the BNP wants to take part, it should file its nomination papers, and then if voters vote [for it] we will respect that. There is nothing more to discuss”.<sup>65</sup> But while it downplays a BNP threat, the AL worries about losing political legitimacy. “This government, by its own reckoning, lacks a popular mandate”, said Transparency International Bangladesh’s executive director.<sup>66</sup> Its heavy-handed response to January protests, including excessive force, mass arrests of opposition activists and leaders and attacks on the press, reflect concern popular disenchantment could find a public channel.<sup>67</sup>

Anxious about declining support, the AL has yet to hold a mayoral election in Dhaka, in violation of constitutional obligations. Control over the capital has always been a major political trophy. Senior AL members acknowledged that the prolonged delay reflects fear that a loss would give the BNP an opportunity to re-enter the political mainstream.<sup>68</sup>

The anti-BNP rhetoric includes holding it responsible for violent attacks against the AL leadership. General Zia, Khaleda’s late husband, is blamed for Mujib’s 1975 assassination, and she and her heir apparent son, Tarique Rahman, are held responsible for the 2004 assassination attempt targeting Sheikh Hasina, then the opposition leader, that killed a senior party member and over twenty others.<sup>69</sup> Neither charge has been substantiated in court, and Zia denies involvement.<sup>70</sup> According to a senior journalist, “Sheikh Hasina, already convinced of General Ziaur Rahman’s role in the loathsome events of 1975, now looks at Khaleda Zia and her son ... not as political opponents but as her potential killers”.<sup>71</sup> An adviser to the prime minister said, “if Tarique comes to power, 70 per cent of our party will be butchered”.<sup>72</sup>

The anti-BNP campaign extends to the courts; several senior BNP members face charges from corruption, to election-related violence, to war crimes. Khaleda Zia and Tarique Rahman face embezzlement charges in a special anti-corruption court. On 8 January, the son was charged with treason, while the mother has been implicated in instigating two arson cases during the BNP-led January blockade.<sup>73</sup> Convictions in

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<sup>64</sup> “PM rules out dialogue with BNP”, *The New Age*, 27 July 2014.

<sup>65</sup> Crisis Group interviews, Dhaka, August 2014.

<sup>66</sup> Crisis Group interview, Iftexhar Zaman, Dhaka, 10 August 2014.

<sup>67</sup> “Bangladesh: crackdown on opposition, media”, Human Rights Watch press release, 8 January 2015.

<sup>68</sup> Crisis Group interviews, AL cabinet minister; Gowher Rizvi, international affairs adviser to Prime Minister Sheikh Hasina Wajid, Dhaka, August 2014.

<sup>69</sup> “Khaleda, Tarique involved in Aug 21 grenade attack: Hasina”, *BDnews24.com*, 21 August 2014.

<sup>70</sup> “Bangladesh ex-PM in murder probe”, *BBC News* (online), 5 June 2007.

<sup>71</sup> “‘Internment’ of BNP chief, a dangerous precedent”, *The Daily Star*, 9 January 2015.

<sup>72</sup> Crisis Group interview, Gowher Rizvi, Dhaka, August 2014.

<sup>73</sup> “Khaleda implicated in two arson cases”, *Dhaka Tribune*, 26 January 2015; “Bangladesh: crackdown on opposition, media”, op. cit.; “Tarique Rahman, ETV chairman Salam charged with sedition”, *BDnews24.com*, 8 January 2015.

any of these cases – which could result in at least life sentences – might even threaten the party's survival. Should that happen, Islamist hardliners like the Jamaat are well positioned to fill any vacuum. Some AL leaders contend that the Islamist opposition, while popular locally, would not be viable nationally.<sup>74</sup> Yet, the AL should realise that the Jamaat and its Islamist allies are far more of a threat than the BNP, given their propensity to violence and, above all, their opposition to the secular democracy and gender equality that the AL claims to represent.

### B. *Curbing Dissent*

In December 2014, the cabinet approved a draft law, the Foreign Donations (Voluntary Activities) Regulation Act, to regulate international NGOs and local ones that receive foreign funds. Among other provisions if passed by parliament, it would grant the NGO affairs bureau in the prime minister's office authority to approve or deny NGO access to foreign funding; and that bureau's director general and divisional commissioners, deputy commissioners and other local executives authority to "inspect, monitor and assess the activities" of NGOs receiving such funds. The director general could name an administrator to file cases against NGOs, and those responsible for violations could be fined or have registrations suspended or revoked. NGOs would not be allowed to challenge decisions.<sup>75</sup> Many Dhaka-based NGOs fear that the bill lends itself to rampant government abuse.<sup>76</sup>

In August 2013, the AL-dominated parliament amended the Information and Communication Technology Act 2006 to tighten controls on dissent in the electronic media, enhancing punishments for violators, including by giving police the authority to investigate and arrest offenders without warrant or court authorisation.<sup>77</sup> In August 2014, the AL government approved a policy to create an independent national broadcast commission to oversee the electronic media. The policy calls for prohibiting content contrary to the "public interest" that undermines the reputation of the army and law enforcement agencies or harms relations with "friendly countries".<sup>78</sup> It was announced amid widespread media condemnation of the RAB's heavy-handedness, including in the aftermath of a murder case in Narayanganj district (see Section V.B.1). Responding to broad criticism of the policy, the government said that it contained only "guidelines", with no mechanisms for enforcement or punishment.<sup>79</sup> Yet, the potential for misuse remains.

### C. *Politicising Justice*

#### 1. Superior courts and executive interference

In the past, the Supreme Court played an important role in democratic development, including by declaring unconstitutional military interventions, such as Zia's 1975 coup, and prohibiting any future imposition of martial law without the prime minister's con-

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<sup>74</sup> Crisis Group interviews, AL, Dhaka, August 2014.

<sup>75</sup> "Bangladesh: withdraw restrictive draft law on NGOs", Human Rights Watch, 6 July 2014; "Bangladesh: new NGO law aims at suppressing independent human rights work", International Federation for Human Rights, 18 June 2014.

<sup>76</sup> Crisis Group interviews, local and international NGO representatives, Dhaka, August 2014.

<sup>77</sup> "Human rights report: 2013", Odhikar, 15 April 2014.

<sup>78</sup> Text of the policy, on the AL website at <http://www.albd.org/~parbonc/index.php/en/updates/news/1430-cabinet-approved-the-draft-national-broadcasting-policy-2014>.

<sup>79</sup> "Broadcast policy will not curb press freedom: minister", *The New Age*, 11 August 2014.

sent.<sup>80</sup> In 2010, the High Court division similarly declared unconstitutional Ershad's martial law and the Seventh Amendment that validated it, a decision upheld by the Supreme Court's appellate division in 2011.<sup>81</sup> Yet, under the current government, the Supreme Court has failed to prevent executive interference in and politicisation of the courts; the higher judiciary is at best only nominally independent, as demonstrated by the High Court's January 2015 ban, amid BNP protests, on any media coverage of Zia's son, Tarique Rahman.<sup>82</sup>

The president appoints (additional) judges for a two-year probationary period on the prime minister's (binding) advice and in consultation with the Supreme Court chief justice. The president may confirm permanent appointments on the chief justice's advice. Yet, the prime minister has had the decisive role on appointments, largely ignoring higher court judgments calling for meaningful consultation with the chief justice. During its 2001-2006 tenure, the BNP government tried to stack the bench with loyalists, including by naming nineteen additional judges to the High Court division before the Supreme Court's 2004 summer recess. BNP attempts to politicise the judiciary were highlighted by the AL in its 2008 electoral campaign. Once in office, however, Sheikh Hasina also appears to have made judicial appointments on political grounds and without meaningfully consulting the chief justice that have undermined justice delivery.<sup>83</sup> Impartial senior judges now commonly share benches with additional judges with clear political leanings, or who are disinclined to challenge the government before confirmation.<sup>84</sup>

In 1978, the Zia regime transferred the power to take disciplinary action against judges and holders of constitutional offices from parliament to a Supreme Judicial Council (SJC), comprising the chief justice and the next two senior judges. In September 2014, the AL-dominated parliament passed the sixteenth constitutional amendment, restoring parliament's authority to impeach judges. This amendment has been almost unanimously criticised by bar leaders. Though in itself it provides a more transparent mechanism than a defunct SJC, the criticism reflects mistrust of the AL, given its track record of partisan appointments and propensity to curb opposition and dissent. A senior journalist said, "the problem today is that one can't distinguish between a power play and a sincere reform".<sup>85</sup>

The judicial appointment procedure still remains the prime minister's prerogative. Taking advantage of the AL's two-thirds parliamentary majority and constitutional limits on parliamentarians voting against party directives, the prime minister

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<sup>80</sup> "The Constitution (Fifth Amendment) Act's Case 2006", *The Bangladesh Law Times* (special issue), 21 May 2006. This did not apply to the president's imposition of a state of emergency, as on 1/11.

<sup>81</sup> *Siddique Ahmed (appellant) versus Government of Bangladesh and Others (respondents)*, civil appeal no. 48 of 2011. The Supreme Court has two divisions: a High Court that hears appeals from lower courts and tribunals and has original jurisdiction in some limited cases; and an appellate bench that hears appeals from the High Court.

<sup>82</sup> "Bangladesh media ban for opposition leader Khaleda Zia's son", BBC News (online), 7 January 2015.

<sup>83</sup> "Bangladesh" in "Countries at the Crossroads: An Analysis of Democratic Governance", volume 11, Freedom House, 23 February 2012, pp. 57-74.

<sup>84</sup> Crisis Group interviews, senior lawyers, Dhaka, August 2014.

<sup>85</sup> Crisis Group interview, Mizanur Rahman Khan, Dhaka, August 2014. The bar council passed a resolution for a 22 September 2014 boycott of the courts to mark lawyers' objections. "Lawyers to boycott courts tomorrow", *The Daily Star*, 21 September 2014. Also, "Senior jurists vehemently oppose impeachment bill", *The New Age*, 9 September 2014.

has sweeping powers to shape the bench.<sup>86</sup> Any mechanism to enhance accountability must not compromise judicial independence; a starting point for meaningful reform would be creation of a more transparent and consultative appointment process, including consultations with the bar councils and relevant parliamentary committees, followed by parliamentary endorsement.

## 2. The law enforcement apparatus

When in government, the AL (like the BNP) has tended to respond to civil agitation, even when grievances are legitimate, by using and strengthening the state's coercive arm. Responding to labour unrest in the four industrial hubs (Dhaka, Gazipur, Narayanganj and Chittagong), for instance, it created an industrial police in October 2010.<sup>87</sup> Exploitive businesses and factory owners with links to the government allegedly have significant sway over the force and have used it to confront labour groups.<sup>88</sup>

The RAB has come to symbolise heavy-handed, politically-motivated law enforcement. The AL had opposed its 2004 creation by the BNP government and called for its disbandment. Today, the 9,000-strong force, comprising fourteen battalions from the police, border and coast guards and other agencies, but especially the military, is the most prominent and feared security agency.<sup>89</sup> It is headed by the police inspector general, but, circumventing the home ministry, personnel are administratively controlled by their parent institutions.<sup>90</sup>

The force has been accused of illegal abductions, torture and extrajudicial killings, creating a "culture of fear, where anyone can disappear at any time".<sup>91</sup> In June 2014, nine RAB personnel were sued by the family of a businessman allegedly tortured and murdered at a RAB camp in Kishoreganj.<sup>92</sup> Since its creation, 2,000 RAB officers – roughly equal numbers from the military and police – have been punished, mostly through internal administrative action, for such crimes as theft, extortion, torture, rape and drug trafficking.<sup>93</sup> A September 2014 European Parliament resolution called on Dhaka to end RAB impunity for human rights violations.<sup>94</sup>

The U.S., which along with the UK has viewed the RAB as Bangladesh's most effective counter-terrorism body, has had to limit assistance to it because of a legislative prohibition on aid to any unit of a state's security forces committing gross human rights violations.<sup>95</sup> In March 2011, the UK ended its training program focused on

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<sup>86</sup> Inserted by the fifteenth amendment (June 2011), Article 70 of the constitution requires parliamentarians voting against their parties to vacate their seats.

<sup>87</sup> "Industrial police launched", *Daily Star*, 4 October 2010.

<sup>88</sup> Crisis Group interviews, human rights groups, Dhaka, August 2014.

<sup>89</sup> For details of the RAB's composition, see webpage [www.rab.bd.org](http://www.rab.bd.org).

<sup>90</sup> Major Michael J. O'Connor, "Bangladesh Rapid Action Battalion: satisfying the requirements of the Leahy amendment with a rule of law approach", *Military Law Review*, volume 215, 2013.

<sup>91</sup> Crisis Group interview, journalist, Dhaka, August 2014.

<sup>92</sup> RAB's director said the case was being internally investigated; its media director denied the allegations. After the government removed a local magistrate who had ordered a police probe, the businessman's family filed a petition in the High Court, which began hearing the case in December 2014. "9 RAB men sued for torture, killing", *The Daily Star*, 2 June 2014; "They want justice", *The Daily Star*, 11 December 2014.

<sup>93</sup> "2,000 RAB men punished in 10 years", [BDnews24.com](http://BDnews24.com), 11 May 2014.

<sup>94</sup> "Human rights: Azerbaijan; the case of Mbonimpa, in Burundi; Bangladesh", press release, plenary session, European Parliament, 18 September 2014.

<sup>95</sup> The U.S. legislative restriction on such aid is known as the Leahy Amendment. Statement of Assistant Secretary of State Robert Blake before the Tom Lantos Human Rights Commission, U.S.

human rights and ethnical policing.<sup>96</sup> The U.S. still supports RAB's internal inquiry cell and training related to human rights.<sup>97</sup> However, the human rights training has had no visible impact on the force.

The police are widely believed to have committed similar abuses. According to Odhikar, a leading domestic human rights organisation, they were responsible for over 80 extrajudicial killings from January 2001 to August 2014.<sup>98</sup> Several human rights activists and crime reporters alleged that officers regularly took bribes from detained political workers in return for release and that those who failed to pay might be tortured or even killed.<sup>99</sup>

The government should recognise the costs of such practices to its domestic and international standing. Abolishing the RAB and forces such as the industrial police would send the right signal to critics and supporters alike. Until then, the parliamentary standing committee on home affairs should respond to credible allegations of arbitrary force by holding regular hearings, and the 2013 Torture and Custodial Death (prevention) Act should be effectively enforced.

### 3. War crimes trials

Experience with the International Crimes Tribunal (ICT), a national court, demonstrates how politicised justice undermines the criminal justice system and, by fuelling a sense of injustice, creates opportunities for extremists.<sup>100</sup> It was created in 2010 under the International Crimes (Tribunals) Act of 1973 to prosecute Bangladeshis who had committed atrocities in collusion with the Pakistani military during the 1971 liberation war. Because the process presented an important opportunity to address major unaddressed injustices, the ICT initially enjoyed wide public support.<sup>101</sup> It has, however, lost much of its legitimacy due to the absence of due process and other international fair trial standards, political interference and opacity.

The tribunals have better facilities than even the Supreme Court and a much slimmer case load, but the weaknesses of the criminal justice system hamper their work, particularly the dearth of qualified trial judges and prosecutors. A tribunal typically has a manageable docket of twenty matters pending judgement, while the Supreme Court often has over 500, with overcrowded courtrooms and chaotic proceedings. Unlike trial courts, the tribunals award bail, despite the gravity of the crimes, and some witness protection.<sup>102</sup> Yet, the process lacks transparency. Access to observe the tribunals at work is restricted, requiring written requests and long waits for approval; requests other than from the media are often denied.<sup>103</sup>

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House of Representatives, 19 July 2012. In a January 2009 cable made public by Wikileaks, the U.S. ambassador to Dhaka described the RAB as the "enforcement organisation best positioned to one day become a Bangladeshi version of the U.S. Federal Bureau of Investigation". "U.S. embassy cables: Ambassador said controversial paramilitary force could become 'Bangladeshi FBI'", *The Guardian*, 21 December 2010.

<sup>96</sup> Crisis Group email correspondence, UK official, London, 4 February 2015.

<sup>97</sup> Crisis Group telephone interview, February 2015.

<sup>98</sup> "Total extra-judicial killings from January 2001-August 2014", Odhikar, undated.

<sup>99</sup> Crisis Group interviews, Dhaka, August 2014. Also Crisis Group Report, *Getting Police Reform on Track*, op. cit.

<sup>100</sup> The ICT has two tribunals, with separate rules of procedure. See website at [www.ict.bd.org](http://www.ict.bd.org).

<sup>101</sup> An April 2013 AC Nielsen poll found 86 per cent wanted the trials to proceed, though two-thirds deemed them "unfair" or "very unfair". "Final sentence", *Economist*, 17 September 2013.

<sup>102</sup> Crisis Group interviews, lawyers, ICT prosecutors, retired judges, Dhaka, August 2014.

<sup>103</sup> Crisis Group observations of ICT procedures; interviews, ICT staff, Dhaka, August 2014.

As in regular courts, journalists and others who criticise proceedings can face charges of contempt of court. In August 2013, ICT prosecutors charged Human Rights Watch with contempt after it described the ongoing trial of former Jamaat head Ghulam Azam as “deeply flawed”, citing credible reports of “collusion and bias among prosecutors and judges”.<sup>104</sup> Calling for a withdrawal of the charges, an International Commission of Jurists (ICJ) representative said:

It is paramount that those responsible for committing atrocities – notably unlawful killings and the widespread and systematic use of rape as a form of torture – during Bangladesh’s war of liberation in 1971 should be prosecuted before competent, independent and impartial courts in proceedings that meet international fair trial standards .... Muzzling voices that highlight the deficiencies of the ICT and prosecutions before it distract from that enormously important task.<sup>105</sup>

A Dhaka-based British journalist who used a blog post to question aspects of proceedings, including possibly exaggerated claims of numbers killed in the liberation war, was charged with contempt in April 2014 and convicted in December.<sup>106</sup>

Though prosecutors, historians and researchers believe most defendants had a well-documented role in the crimes, the gravest risk to ICT credibility is lack of due process and other international fair trial standards that lends credence to Jamaat claims it is being targeted on political grounds. Twelve of sixteen verdicts have involved death sentences as of January 2015, most for Jamaat members, including party chief Motiur Rahman Nizami, senior member Mir Quasem Ali, and Assistant Secretary General ATM Azharul Islam.<sup>107</sup> On 3 November 2014, the Supreme Court upheld the 2012 death sentence for Jamaat leader Muhammad Kamaruzzaman. Ten days later, a tribunal sentenced to death BNP member M.A. Zahid Hossain Khokon, the third BNP figure convicted of war crimes. A former Jatiya Party minister, Syed Mohammad Kaiser, received a death penalty in December.<sup>108</sup>

The current AL government has yet to conduct an execution, possibly fearing a violent Islamic backlash. Yet, reversing course has its own risks. The February 2013 death sentence for Jamaat Vice President Delwar Hossain Sayeedi, a popular preacher, led to violent demonstrations and clashes with police that left over 40 dead, including several police. In September, the Supreme Court commuted that sentence to life imprisonment, sparking major protests by those who wanted it to be upheld.<sup>109</sup> In February 2013, after another Jamaat leader, Abdul Quader Mollah, was sentenced to life imprisonment, protesters in Dhaka’s Shahbagh square demanded a death sentence.

<sup>104</sup> “Bangladesh: Azam trial concerns”, Human Rights Watch, 13 August 2013.

<sup>105</sup> “Bangladesh: drop charges of contempt of court against Human Rights Watch”, International Commission of Jurists, 23 August 2013.

<sup>106</sup> “Contempt charge against David B.”, *The Daily Star*, 10 May 2014; “Unsolved atrocities in Bangladesh”, editorial, *The New York Times*, 15 May 2014. In the verdict, the presiding judge said that “freedom of expression” can only “be exercised in good faith and public interest”. “UK journalist convicted for doubting 1971 war toll”, Agence France-Presse, 3 December 2014.

<sup>107</sup> “Death sentence for Bangladesh Islamist leader Mir Quasem Ali”, BBC News (online), 2 November 2014; “Major verdicts pronounced in 2014”, *bdnews24.com*, 31 December 2014. One death sentence (Delwar Hossain Sayeedi) was commuted to life in September 2013.

<sup>108</sup> Khokon is believed to be a fugitive in exile in Sweden. “Death for Khokon Razakar”, *The Daily Star*, 13 November 2014; “Former Bangladeshi Minister Syed Mohammad Kaiser sentenced to death for war crimes”, *The Economic Times*, 23 December 2014.

<sup>109</sup> “Bangladesh Islamist Delwar Sayeedi death sentence commuted”, BBC News (online), 17 September 2014.

The protests eventually became “the biggest mass demonstration the country has seen in 20 years”.<sup>110</sup> In response, the government amended a law prohibiting the state from challenging ICT verdicts. On appeal, the court raised the sentence to death in September 2013. A Supreme Court advocate who supported bringing war criminals to justice said:

The Shahbaghis [protesters] do not appreciate how worrying it is that a mob could change a procedure related to a process of justice. They had never attended a hearing, had no idea what evidence was presented. They said, “hang him, hang him”, without caring about due process and accountability.<sup>111</sup>

Quader's hanging in December 2013 was grist for the propaganda mill of Hefazat-e-Islam, hitherto an extreme but marginal Islamist coalition, supported by the Jamaat, BNP and some of the media. Fed by a mushrooming *qaumi* (privately run) madrasa sector that, unlike government-run madrasas, escapes regulation, and portraying the ICT as anti-Islam, it held major demonstrations in Dhaka and elsewhere. A journalist commented: “Shahbagh disappeared, and suddenly Hefazat was the main social movement in Bangladesh”.<sup>112</sup> The campaign was a departure from the Hefazat's original program that focused on curtailing women's freedom, including a workplace bar. It also demonstrated rising Islamist influence in rural areas. In negotiations to end the protests, the AL government agreed, among other concessions, to abandon intended reforms to regulate the *qaumi* madrasa sector.<sup>113</sup>

The flawed ICT process has thus undermined the government's ability to hold war criminals responsible and meet demands for justice, while making it easier for Islamist groups to portray it as an attack on Islam or Bangladesh's Muslim identity. The tribunals should ensure that international fair trial standards are met and that tribunal and appellate court judges are not influenced by populist demands. A more fundamental problem is that true national reconciliation will remain elusive as long as Bangladesh is unable, decades after independence, to discuss its 1971 war of liberation openly. Instead, the AL appears to be using the ICT process to depict itself as the custodian of the independence struggle, while denying others the right to challenge its account for fear of retribution.

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<sup>110</sup> “Shahbagh protesters versus the Butcher of Mirpur”, *The Guardian*, 12 February 2013.

<sup>111</sup> Crisis Group interview, Dhaka, August 2014.

<sup>112</sup> Crisis Group interview, Dhaka, 18 August 2014.

<sup>113</sup> “Hefazat chief helped draft policy, then opposed it”, *The Daily Star*, 19 March 2014.

## V. Warning Signs

### A. Economic Instability

The BNP's post-5 January countrywide *hartal* and traffic blockade, amid rising violence, is taking its toll on the economy, with properties destroyed and businesses, particularly the transport and the garment sectors, crippled.<sup>114</sup> The opposition refuses to recognise the consequences of its actions for the economy and hence the livelihoods of citizens. Yet, the longer the AL depends on forcibly suppressing dissent, instead of beginning dialogue with the BNP, the more it is likely to undermine its economic stabilisation goal. The government has hoped, as some AL members acknowledge, to gain support via economic development, as opposed to democratic governance.<sup>115</sup> However, weak political institutions and eroding checks and balances are enabling corrupt practices that aggravate grievances and discourage growth.

Currently, close to a third of the budget goes to public procurement, the largest portion for infrastructure, with tenders allegedly used to reward political allies and cronies. Extortion, backed by powerful local political figures, is allegedly mushrooming, including for protection money, and bribes are demanded for everything from permission to build homes to garbage collection.<sup>116</sup> Oversight bodies, such as the auditor general's office and the anti-corruption commission, are dysfunctional, while parliamentary scrutiny is virtually non-existent.<sup>117</sup>

Agriculture, foreign remittances and garment exports sustain the economy. Although remittances have contributed around 12 per cent of GDP,<sup>118</sup> they are inherently volatile, since Middle Eastern countries are restricting Bangladeshi labour migration.<sup>119</sup> In September 2012, the United Arab Emirates joined Saudi Arabia in imposing limits on Bangladeshi labour migration, affecting all but unskilled females. Dhaka has had limited success in exploring alternatives, such as legal labour migration to Malaysia, and remittances have already slowed.<sup>120</sup> If Middle Eastern governments further reduce intake of Bangladeshi workers, because of a lessened demand for unskilled workers or because of allegations some were engaged in criminal activities, rural constituen-

<sup>114</sup> "Cost of hartal and oborodh: The long and the short of it", *The Financial Express*, 19 January 2015.

<sup>115</sup> An AL parliamentarian described this as a quest for a "Singapore model". Crisis Group interviews, AL legislators, senior advisers, Dhaka, August 2014.

<sup>116</sup> Crisis Group interviews, politicians, lawyers, economists, academics, Dhaka, Bogra, August 2014.

<sup>117</sup> Crisis Group interviews, parliamentarians, senior lawyers, prominent NGO representatives, Dhaka, August 2014.

<sup>118</sup> World Bank data at [www.worldbank.org](http://www.worldbank.org).

<sup>119</sup> A.K.M. Abdus Sabur, M. Jashim Uddin and Razia Sultana, "Foreign policy of Bangladesh: reflection on some crucial challenges", in Golam Mohammad (ed.), *National Security Bangladesh: 2009*, Bangladesh Institute of International Strategic Studies (BISS), 2010. According to the government's Bureau of Manpower, Employment and Training (BMET), Saudi Arabia accepted at least 100,000 Bangladeshi workers yearly since 1998, peaking at 204,000 in 2007. In 2009, it accepted only 14,600; in 2013, 12,600. [www.bmet.org.bd](http://www.bmet.org.bd). Also, "UAE labour market not to open", *Dhaka Tribune*, 28 October 2014; "Bangladeshi workers to get scope to change jobs in Saudi Arabia", *Dhaka Tribune*, 14 February 2014; "Bangladesh and Saudi Arabia: revenge of migrants' employer?" *Economist*, 26 March 2013.

<sup>120</sup> The UN High Commissioner for Refugees (UNHCR) said some 87,000 workers went to Malaysia through illegal routes in 2014. Crisis Group interviews, government officials, international trade advisers and economists, Dhaka, August 2014. "A year of stunted labour and remittance flow", *The Daily Star*, 1 January 2014; "Unsafe labour migration on rise", *Prothom Alo*, 10 January 2015.



cies that rely on remittances and could be most vulnerable to Islamic opposition rhetoric, would be worst affected.

The AL government's economic challenges are compounded by Bangladesh's poor performance on labour rights and workplace safety. In February 2012, over 117 workers were killed in the Tazreen Fashion factory fire near Dhaka, one of the country's deadliest industrial disasters. In April 2013, over 1,100, mostly workers, were killed in the collapse of the Rana Plaza near Dhaka. In June 2013, the U.S., Bangladesh's largest importer, suspended its eligibility for tariff benefits under the Generalised System of Preferences (GSP), as Trade Representative Michael Forman stressed the importance of improving the "worker rights' environment".<sup>121</sup> With exports to the U.S. decreasing by some 1.4 per cent in the first half of 2014, export growth slowed to its lowest rate in fifteen years.<sup>122</sup>

Yet, the government has reportedly failed to improve labour rights and conditions, beyond some nominal measures.<sup>123</sup> A January 2015 U.S. interagency review, led by Forman's office, concluded that Bangladesh had ameliorated safety conditions in garment factories, but more was needed, "including to address serious worker rights issues, before reinstatement of Bangladesh's trade benefits under the Generalised System of Preferences (GSP) can be considered".<sup>124</sup>

Though GDP has grown steadily since the 1991 return to democracy, domestic and foreign direct investment (FDI) is stagnant and will likely remain so in 2015, largely due to concerns about political stability and labour standards. As in 2013, the BNP's violent shutdown and the government's hardline response are undermining the economy. Both should understand that failure to compromise is eroding their legitimacy among citizens who are the most affected by economic and physical insecurity. If the stalemate continues, the economic fallout could fuel more unrest, which would be exploited by Islamist extremists to gain recruits. Violence, however, is not the sole preserve of the Islamists. The BNP appears to rely on it increasingly to strengthen its bargaining position with the government, while the AL appears to feel no reluctance to forcibly suppress political opposition.

## B. *Law and Order*

### 1. *Unchecked criminality*

Along with reliance on the security apparatus to counter dissent, the AL has used violent elements of its student and labour wings, the Chhatra League and Jubo League respectively, and other front organisations against the opposition, including in January 2015, in anticipation of and in response to BNP protests.<sup>125</sup> Given Sheikh Hasina's propensity to centralise all power in her person, the AL leadership has little control over these groups. An AL parliamentarian said that the long leash they had to do the government's bidding was creating rifts within the party.<sup>126</sup> The Chhatra League and Jubo League allegedly run extortion rackets within and outside campuses,

<sup>121</sup> "U.S. Trade Representative Michael Forman comment's on president's decision to suspend GSP benefits for Bangladesh", press release, Washington, DC, June 2013.

<sup>122</sup> Siddiqui, *op. cit.*

<sup>123</sup> These include allowing the formation of trade unions and collective bargaining.

<sup>124</sup> "GSP review of Bangladesh recognises progress, urges that more to be done on worker safety and rights", Press release, Office of the U.S. Trade Representative, 16 January 2015.

<sup>125</sup> "4 hurt as Jubo League men attack journos in city", *The Financial Express*, 4 January 2015.

<sup>126</sup> Crisis Group interview, Dhaka, August 2014.

often forcibly extracting donations for political activities, such as the annual commemoration of Mujib's murder. Local chapters of the student wing compete, often violently, for campus control, while labour-wing factions quarrel equally violently. Such practices are also common among BNP and Jamaat student and other associated groups, but the scale of violence within AL factions is far higher, given the stakes involved in competition over state resources.<sup>127</sup>

Odhikar reported 31 incidents of intra-AL violence in August 2014, with two killed and some 350 injured; and three killed and some 290 injured the next month.<sup>128</sup> The April 2014 Narayanganj killings, including of a local AL mayor, are widely believed to have resulted from internal conflict, given reported links between an AL minister and one of three arrested RAB personnel, and accusations by the mayor's family that an AL ward council member, Nur Hossain, was behind them.<sup>129</sup> In May 2014, an AL *upazila* chairman was shot and burnt to death by a mob in Feni district; a current and an ex-AL lawmaker, along with their local AL factions, traded accusations over planning the murder. Neither was arrested, but police charged 56 people with involvement, including scores from the local Jubo League.<sup>130</sup>

The government's failure to enforce the law is undermining its credibility; and its alleged reliance on violent elements is alienating the AL's support base.<sup>131</sup> Beyond the risks of losing ground to the opposition, it should realise that the growing, politically-linked underworld will become increasingly difficult to counter if the climate of impunity is not checked.

## 2. Religious extremism

Sheikh Hasina's previous government (2009-2013) was relatively successful in confronting extremist groups. In August 2013, the leader of the Ansarullah Bangla Team, Mohammed Jasimuddin Rahmani, and around 30 other members were arrested, and an assassination hit list was recovered.<sup>132</sup> Hundreds of other extremist leaders and footsoldiers were arrested and convicted and some executed. Others were killed in law-enforcement "encounters".<sup>133</sup> As a result, the space for prominent homegrown jihadi groups, many with links to transnational networks such as JMB and Harkatul

<sup>127</sup> Jahan, *op. cit.* "Human rights monitoring report: 1-31 August 2014", Odhikar.

<sup>128</sup> "Human rights monitoring report: 1-31 August 2014", *op. cit.*; *ibid.*, 1-30 September 2014.

<sup>129</sup> Hossain was arrested in India in June 2014 for illegal entry. In an Indian court, he denied involvement in the murders. India agreed to extradite but has yet to do so. A December 2014 RAB probe report denied that its top officials were involved in the killings, contradicting testimony from the three RAB personnel who were arrested and later dismissed. "Nur Hossain denies 7-murder link", *bdnews24.com*, 7 July 2014; Ashif Islam Shaon, "7-murder charge sheet in a month after Nur's extradition", *Dhaka Tribune*, 22 December 2014; Shaon and Ahmed Zayeeef, "RAB report denies HQ involvement in Narayanganj seven murders", *Dhaka Tribune*, 10 December 2014.

<sup>130</sup> Mohammad Jamil Khan, "Police implicate 56 in Ekram murder, dropping Nizam Hazari", *Dhaka Tribune*, 29 August 2014.

<sup>131</sup> Crisis Group interviews, AL parliamentarians, Dhaka, August 2014.

<sup>132</sup> The Ansarullah Bangla Team is a JMB-allied extremist group that recruits relatively well-educated people from universities and enterprises, such as small IT and telecommunication firms. Many JMB members joined after their organisation was banned. "Splinter terrorist groups: emerging trends of terrorism in Bangladesh", Bangladesh Centre for Terrorism Research, a specialised part of the Bangladesh Institute of Peace and Security Studies (BIPSS), September 2013; Tipu Sultan, "JMB militants now in Jamayatul Muslemin", *Prothom Alo*, 17 August 2014.

<sup>133</sup> The term, "encounter", or "encounter killing", is shorthand for extrajudicial killings.

Jihad Al Islami-Bangladesh (HUJI-B), has shrunk. Yet, these jihadi groups are “down but not out”, according to a security analyst who works closely with the government.

Journalists and security analysts contend that jihadi groups now operate in smaller, less visible splinter cells.<sup>134</sup> A 2013 report concluded: “It seems that the older strategy of bigger groups, rapid expansion of networks and spectacular terrorist acts to capture immediate media and public attention has been abandoned for the time being”. Low-profile successor groups use small arms instead of explosives and isolated targeted assassinations rather than large, coordinated attacks.<sup>135</sup>

According to a well-informed observer, with their leadership decimated and no central command, JMB members join smaller groups: “Day by day, new groups are emerging”.<sup>136</sup> On 17 August 2014, the ninth anniversary of the JMB’s countrywide terrorist attacks, the home affairs state minister acknowledged that JMB was attempting to rebuild links with transnational terrorist groups such as al-Qaeda.<sup>137</sup> In January 2015, police arrested four suspected sympathisers, including an apparent “local coordinator” of the Islamic State in Dhaka, aiming to “attack important officers of the government”.<sup>138</sup> Other groups such as the Ansarullah Bangla Team are also reportedly reviving and recruiting.<sup>139</sup> The transnational Hizb-ut-Tahrir, which, despite a ban, has a major presence in the port city of Chittagong, has called on supporters to demolish the “Hasina-Zia regime”, showing that like other jihadi groups it does not distinguish between the two parties.<sup>140</sup>

The BNP should realise that its violence creates space for violent extremists, while the government should realise that the crackdown on dissent and continued marginalisation of the BNP could result in anti-AL activism finding far more radical channels. Yet, an activist noted, “the Awami League and BNP see the other as their main problem, not the extremists, not Hefazat, not Jamaat”.<sup>141</sup>

Pressure from India could prompt Dhaka to take more concerted action, particularly after the 2 October 2014 blast in the West Bengal city, Burdwan, allegedly planned by the JMB.<sup>142</sup> On 28 October, senior Indian security officials said they had uncovered a JMB plot to assassinate Prime Minister Hasina and carry out a coup. They reiterated concerns raised by Prime Minister Narendra Modi, during his September 2014 U.S. visit, to both the Obama administration and, on the sidelines of the UN

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<sup>134</sup> Crisis Group interviews, Dhaka, August 2014.

<sup>135</sup> “Splinter terrorist groups”, op. cit.

<sup>136</sup> Crisis Group interview, Dhaka, August 2014.

<sup>137</sup> “JMB patrons still unpunished”, *The Independent* (Dhaka), 17 August 2014.

<sup>138</sup> “BD arrests four IS suspects”, Agence France-Presse, 20 January 2015.

<sup>139</sup> “Splinter terrorist groups: emerging trends of terrorism in Bangladesh”; “JMB militants now in Jamayatul Muslemin”, both op. cit.

<sup>140</sup> “Oh Muslims! Dying under the Hasina-Khaleda regime is a death of *Jahiliyya* [the period of ignorance before the arrival of Islam] and removing this *kufri* [infidel] regime is an obligation”, Hizb-ut-Tahrir website, 4 July 2014: <http://www.ht-bangladesh.info/oh-muslims-dying-under-hasina-khaleda-regime-death-jahiliyyah-and-removing-kufri-regime-obligation>. Crisis Group interviews, journalists and security analysts, Dhaka, August 2014. Also, “Banned Hizb-ut Tahrir reawakening”, *Dhaka Tribune*, 25 May 2014.

<sup>141</sup> Crisis Group interview, Shahriar Kabir, prominent journalist, documentary filmmaker and human rights campaigner, Dhaka, 9 August 2014.

<sup>142</sup> “Burdwan blast saw deep-rooted module of JMB unearthed”, *Deccan Herald*, 2 January 2015; Dwaipayan Gosh, “Burdwan blast: Dhaka police arrest two JMB members”, *The Times of India*, 26 December 2014.

General Assembly, to Sheikh Hasina.<sup>143</sup> On 17 November, a team of India's National Investigation Agency (NIA) arrived in Dhaka to explore mechanisms to jointly fight terrorism, particularly JMB activities. The sides planned simultaneous raids along the border against the group, while investigators exchanged lists of criminals and militants allegedly hiding in each other's territory.<sup>144</sup> In late October and early November, Bangladeshi detectives arrested members of the extremist Harkatul Jihad al Islami (HUJI), who reportedly admitted that the Lashkar-e-Tayyaba trained them in Pakistan to conduct attacks in Bangladesh.<sup>145</sup>

Mutual concerns over extremism are helping cement the AL's relationship with New Delhi, following replacement of the Congress government, a traditional ally, by Modi's Bharatiya Janata Party (BJP). The BNP has also tried to engage the new Indian government, notably in Zia's 27 June 2014 meeting with visiting External Affairs Minister Sushma Swaraj.<sup>146</sup> Ahead of the 2014 polls, BNP leaders had implicitly acknowledged giving sanctuary while in office to Indian insurgent groups, such as the United Liberation Front of Assam (ULFA), and pledged to reverse course if they regained power.<sup>147</sup> Close ties to the Jamaat could thwart such efforts with New Delhi, however, especially since the Jamaat reportedly has links with groups aligned to Pakistan-based anti-India jihadi groups such as Lashkar-e-Tayyaba.<sup>148</sup>

### 3. Attacks on minorities

The spread of Islamist extremism and activism particularly threatens minorities. The Hefazat's 2013 demonstrations were accompanied by attacks against Hindu communities, including temples, shops and homes.<sup>149</sup> Given their size (some 9 per cent of the population) and support for AL, Hindu communities have been targeted during elections; hundreds of their homes and shops were vandalised before the 2014 polls.<sup>150</sup> Unusually, attacks have continued afterward, as mobs incited by religious extremists increasingly target Hindu women.<sup>151</sup>

Attacks on minorities are also economically driven. While land seizures are common countrywide, Hindu communities are especially vulnerable because of the 1974 Vested and Non-resident Property (Administration) Act. Though its ostensible purpose was to "identify and take over the properties of those residents who left Bangladesh during/immediately after [the] liberation war and/or took foreign citizenship,

<sup>143</sup> "Modi to brief Hasina on threats", *BDnews24.com*, 23 September 2014.

<sup>144</sup> "NIA looking for 11 suspects; RAB hands over list of 51 fugitives", *BDnews24.com*, 18 November 2014; "NIA hands over list of Burdwan suspects to Bangladesh", *ibid*, 17 November 2014.

<sup>145</sup> "Cops hunt for HUJI gang", *The Daily Star*, 6 November 2014.

<sup>146</sup> "Khaleda to Sushma: Bangladesh lacking democracy", *The Dhaka Tribune*, 28 June 2014.

<sup>147</sup> During an October-November 2012 New Delhi visit to meet the top Indian leaders, Zia pledged that if returned to power, her government would deny Indian insurgents sanctuaries. "What lies beyond this U-turn?", *The Hindu*, 17 November 2012; "BNP 'firm' on handling insurgents", *BDnews24.com*, 26 August 2013.

<sup>148</sup> Crisis Group Report, *The Threat*, *op. cit.*

<sup>149</sup> "Bangladesh: wave of violent attacks against Hindu minority", press release, Amnesty International, 6 March 2013.

<sup>150</sup> Joseph Allchin, "The Hindus of Bangladesh fear for their future", *Time*, 14 January 2014; "Democracy in the crossfire", *op. cit.*

<sup>151</sup> Crisis Group interviews, Crisis Group interviews, Shahriar Kabir, and academic Afsan Chowdhuri, Dhaka, August 2014.

this [act] was practically used widely against the minority”.<sup>152</sup> In April 2001, the AL government passed the Vested Property Repeal Act (VPRA), setting a 180-day target to publish a list and return vested properties to original owners. The subsequent BNP-led government amended the VPRA in November 2002 to remove the time limit, and the AL has not reversed this, though few if any properties have been returned to Hindu owners. Evictions and dispossessions also continue, undermining Hindu economic interests and fuelling communalism.<sup>153</sup> The dangers of this go beyond one party losing a major constituency and threaten the basic principles of diversity, equality and secularism that undergird the constitution.

### C. *Fragile Civil-Military Relations*

The AL and BNP formerly opposed military rule and struggled, collectively and individually, to restore democracy. Yet, with the stalemate poisoning the waters, BNP leaders have implicitly expressed support for another military intervention as the only way to unseat the AL. “The army’s role will be the final click for change”, said a senior figure. “The only reason Hasina is in office is because the army didn’t intervene, so the real issue going forward will be: where is the army at?”<sup>154</sup> The AL government has made large concessions to the military to pre-empt an intervention.

Military-AL relations have been problematic in the past and still shape perceptions of the party and Sheikh Hasina, particularly in the context of the 25 February 2009 Bangladesh Rifles (BDR) mutiny in which hundreds of rebelling soldiers killed more than 70 officers and their family members.<sup>155</sup> Her decision to negotiate, despite high-command pressure to use force, resolved the crisis without further bloodshed but caused intense resentment within some military circles that even accused her of complicity in the plot. Several senior officers were dismissed. In 2010, five officers were convicted of trying to murder her nephew, an AL parliamentarian, for involvement in the negotiations that ended the mutiny. In January 2012, the military announced it foiled a coup attempt by mid-level officers.<sup>156</sup>

The AL government then adopted a carrot-and-stick approach. It purged the military of AL critics, BNP and Jamaat supporters, and officers who had close contact with Pakistani counterparts and were critical of India. “In one stroke, more than 50 officers who could have been a threat to the Awami League were gone”, said a former official then a senior Sheikh Hasina adviser. Simultaneously, according to an informed observer, the prime minister opted “to over-compensate the military”.<sup>157</sup> That over-compensation now characterises the government’s relationship with the military leadership, including salary increases; creation of more top posts; support for new divisions and cantonments; and allocation of valuable residential land to senior of-

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<sup>152</sup> Abul Barkat, “Political economy of deprivation of Hindu minority in Bangladesh: living with the Vested Property Act”, in Abhijit Dasgupta, Masahiko Togawa and Abul Barkat (eds.), *Minorities and the State: Changing Social and Political Landscape in Bengal* (New Delhi, 2011), p. 93.

<sup>153</sup> Crisis Group interviews, parliamentarians, human rights activists, scholars, Dhaka, August 2014.

<sup>154</sup> Crisis Group interview, Dhaka, August 2014.

<sup>155</sup> The casualties included the BDR commander, Major General Shakil Ahmed. Randeep Ramesh, Maloti Monsur, “Bangladeshi army officers’ bodies found as death toll from rebellion rises”, *The Guardian*, 28 February 2009. The Bangladesh Rifles were a paramilitary border security force, under army command.

<sup>156</sup> Crisis Group Report, *Back to the Future*, op. cit.

<sup>157</sup> Crisis Group interviews, retired government and military officials, political analysts and journalists, Dhaka, August 2014.

ficers. In May 2014, the prime minister announced that personnel of the military's main intelligence agency (the Directorate General of Forces Intelligence, DGFI) would receive a special monthly allowance of 30 per cent of salary.<sup>158</sup>

The AL also supports the military's growing business interests, awarding its entities major infrastructure and other government contracts.<sup>159</sup> The military's corporate stakes, via trusts and foundations, reportedly include the commercial Trust Bank, where the army chief serves as chairman of the board of directors; insurance businesses; power plants and gas stations; and even hotels and food and taxi services.<sup>160</sup> The AL believes that a military whose corporate interests are closely intertwined with the ruling party will be less inclined to any intervention.<sup>161</sup>

Sheikh Hasina's relations with the institution are also informed by the 21 August 2004 attempt on her life, for which she accused both Khaleda Zia and military elements. A former close adviser said she felt compelled to pre-empt not only a coup, but also other attempt on her life through overtures to the security establishment. Another informed observer described her as "cordoned by the generals".<sup>162</sup> Given this uncertain relationship, her government is unlikely to pursue any policy that contradicts the military's interests.

It has even ceded some important policy ground to the military, such as allowing it to consolidate control over the Chittagong Hill Tracts (CHT) and other hill districts where it has been accused of illegal abductions, extrajudicial killings, torture and death in custody, rape, and land grabbing.<sup>163</sup> This is in sharp contradiction to earlier AL governments' support for the CHT's tribal inhabitants, embodied in the 1997 CHT Peace Accord that pledged to enhance their "political, social, cultural, educational and financial rights and to expedite [the region's] socio-economic development process".<sup>164</sup> The government's increasing reliance on the RAB has also strengthened the military's role. Nevertheless, whether the prime minister's concessions would avert an intervention is debatable. One of her top advisers said, "if before, the animosity between the military and us was at 95, now it is at 25". Yet another senior adviser acknowledged the threat to democracy from "ambitious generals" and the difficulties of "keeping an eye on them".<sup>165</sup>

The military's decision to remain on the sidelines during the 2013-2014 election violence is no guarantee it will do so in future if a political crisis assumes more serious dimensions. Its growing economic clout arguably makes it more, not less, disposed to intervening if it perceives risks to its corporate interests, as could be prompted should the present standoff result in a major economic crisis or the breakdown of law and order. Nor can a mid-level coup or assassination attempt be ruled out, given history and the weak chain of command. There are deep divisions within the military.

<sup>158</sup> "PM announces special allowance for DGFI", *Prothom Alo*, 14 May 2014.

<sup>159</sup> "Two more power purchase contracts to get extensions", *The New Age*, 9 June 2014; "Army gets Padman supervision job", *The Daily Star*, 15 October 2013; "PM to open 50MW army power plant tomorrow", *The Daily Star*, 12 January 2011.

<sup>160</sup> "Bangladesh army's advancing business interests", BBC News (online), 15 August 2010.

<sup>161</sup> Crisis Group interviews, senior AL members, Dhaka, August 2014.

<sup>162</sup> Crisis Group interviews, Dhaka, August 2014.

<sup>163</sup> Crisis Group interviews, human rights activists, Dhaka, August 2014; and a scholar on the CHT, Dhaka, August 2014. Also "Human rights monitoring report: 1-31 August 2014", op. cit.

<sup>164</sup> Text of accord at [https://peaceaccords.nd.edu/site\\_media/media/accords/Chittagong\\_Hill\\_Tracts\\_Peace\\_Accord.pdf](https://peaceaccords.nd.edu/site_media/media/accords/Chittagong_Hill_Tracts_Peace_Accord.pdf).

<sup>165</sup> Crisis Group interviews, Dhaka, August 2014.

Mid-tier officers are reportedly less supportive of the government than the high command.<sup>166</sup> The rank-and-file, generally more religiously conservative than the officers, are said to be more opposed to the AL's secular ideology, as well as its close ties with India. Generally more closely aligned to the BNP, some speculate they might even move in response to AL efforts to quash the party.<sup>167</sup>

Moreover, the military's growing business interests are proving divisive, since the benefits are seen to be shared only among the top ranks. The BDR mutiny was provoked by longstanding grievances over pay and facilities and "resentment among the BDR's rank-and-file over the corruption of army officers".<sup>168</sup> "The gap between the haves and the have-nots is widening", said an informed observer, which could provoke a backlash from the lower ranks in the armed services or other security agencies. According to a retired senior military official, "the military has never fully recovered from the BDR mutiny. Generals are facing subordinates who accuse them of betraying them during the mutiny, and they hesitate before issuing major orders. A breakdown of the chain of command could see bloody reprisals".<sup>169</sup>

#### D. *The Role of Civil Society*

The crisis in Bangladesh's democracy should have spurred pro-democracy civil society groups, regardless of party loyalties, to push against unconstitutional policies and actions and for constructive AL-BNP re-engagement. Instead of pressing both sides to exercise restraint, however, they are as deeply divided as the rest of the polity. A prominent academic said, "there is an AL civil society and a BNP civil society", a description echoed by several journalists and national and international NGO representatives. According to an NGO head, "civil society groups represent the liberal and secular voices; they believe that an Awami League government is their government. Had a BNP government done exactly the same things, these groups would have been much more vocal; they would have skewered it". Such divisions exist even within single organisations. A human rights worker admitted that some in his organisation prefer prioritising minority rights, an issue historically favoured by the AL, and resist colleagues' calls to shift focus to enforced disappearances and extrajudicial killings that would likely show the AL in a worse light.<sup>170</sup>

Student activism, which spearheaded past pro-democracy movements, such as against General Ershad's regime in the 1980s, is either constrained by the state or dominated by the parties' violent student and youth wings. Government intolerance of dissent also discourages civil society from being too openly critical. Nevertheless, government overreach, such as the national broadcast policy, could encourage push back. "The media was more sympathetic to the Awami League than to the BNP and Jamaat; now it is alienated", said a BRAC University researcher.<sup>171</sup> If the draft NGO bill becomes law, it could galvanise pro-democracy voices.

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<sup>166</sup> According to a security analyst, officers below the top "do not hesitate to identify themselves as being aligned with a particular party" – often the BNP. Crisis Group interview, Dhaka, August 2014. Also, Crisis Group Report, *Back to the Future*, op. cit.

<sup>167</sup> Crisis Group interviews, retired military officials, security analysts, and journalists, Dhaka, August 2014.

<sup>168</sup> The commission probing the incident recommended that the military and civil defence forces be prohibited from commercial or business activities. Kamal Ahmed, op. cit.

<sup>169</sup> Crisis Group interviews, Dhaka, August 2014.

<sup>170</sup> Crisis Group interviews, Dhaka, August 2014.

<sup>171</sup> Crisis Group interview, Dhaka, August 2014.

The legal community might potentially play a constructive role in challenging the erosion of checks and balances but is constrained by deteriorating education standards. The law departments at all four public universities are poorly resourced, and few graduates go on to practice.<sup>172</sup> Like the larger polity, the legal community is deeply divided. A Supreme Court advocate said, “had a BNP government passed the fifteenth amendment, we would have all been out on the streets”.<sup>173</sup>

There are, however, growing concerns within legal circles about executive encroachment on and politicisation of the judiciary. The threat of contempt of court citations has muted criticism, but the bar appears increasingly restive. Since 2009, elections to the bar council and key bar associations have brought pro-BNP lawyers to leadership posts, reflecting in part concerns, also among AL sympathisers, about declining judicial independence and the undermining of democratic rights. As noted, the sixteenth amendment, giving parliament power to impeach judges, has also antagonised lawyers. But the legal community can become an important check on executive and judicial excesses only if it abandons partisanship for rule-of-law.

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<sup>172</sup> Of 500 law graduates annually, a senior Supreme Court advocate said, “typically, around 100-150 pursue further qualification and practice abroad; around 100 may quit practice; another 100 soon become lower court judges. Crisis Group interview, Shahdeen Malik, Dhaka, 16 August 2014.

<sup>173</sup> Crisis Group interview, Dhaka, August 2014.



## VI. Conclusion

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In mid-2014, a retired senior military official predicted: “Unlike 2013, when we saw a steady build-up of a crisis, we could now see a sudden meltdown of law and order. It could take just one knock”.<sup>174</sup> As the clashes that began in January 2015 escalate, Sheikh Hasina and Khaleda Zia should recognise that without constructive gestures that risk will increase, with both sides the ultimate losers. For this reason, it is in their interests to restrain their party activists, resume dialogue and, in the government’s case, rein back the law enforcement apparatus.

Sheikh Hasina’s efforts to win popularity via economic development or war crimes trials as her government stifles dissent might seem a good way to consolidate power. But they threaten the AL’s internal coherence, domestic stability and potentially the government’s future. A significant part of the electorate will continue to oppose the AL, and attempts to forcibly suppress opposition would exacerbate social and political divisions. Sheikh Hasina should also know that if she loses the next election, the tools her government uses against political opponents today (and that were put in place by prior BNP administrations) could be used against her party.<sup>175</sup>

The BNP’s many supporters again are being swayed by calls for *hartals*; another prolonged period of street clashes could either end, as the earlier one, with forceful suppression of protests, or result in a complete breakdown of law and order, possibly sparking military intervention. Neither outcome would help the BNP to revive its fortunes. The party should instead reopen dialogue with the government if it is to regain the support of citizens suffering economically from the ongoing shutdown and concerned about growing political instability.

Both parties should urgently search for ways out of the impasse. Since some BNP leaders have appeared open to considering alternatives to the caretaker model,<sup>176</sup> the government could revive its proposal for an all-party cabinet to oversee elections, with limited policy- and appointment-making powers and a strong election commission. This would at the least present an opportunity to begin long-overdue negotiations for defusing political tensions. Much depends, however, on the willingness of both leaders to reach out to each other, instead of continuing to rely on undemocratic forces, including the security establishment, to quash dissent, or on violent street protests and dubious alliances with those on extremist fringes.

**Islamabad/Brussels, 9 February 2015**

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<sup>174</sup> Crisis Group interview, Dhaka, August 2014.

<sup>175</sup> A third AL term would be unprecedented. Except when it has boycotted the polls, the main opposition party has defeated the incumbent in every election since 1991.

<sup>176</sup> Crisis Group interview, BNP leader Abdul Moyeen Khan, Dhaka, August 2014.

Appendix A: Map of Bangladesh



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Department of Peacekeeping Operations  
Cartographic Section

## Appendix B: Glossary of Terms

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AL	Awami League, currently the ruling party, led by Prime Minister Sheikh Hasina Wajid.
BDR	Bangladeshi Rifles, a paramilitary force that guards Bangladesh's borders.
BNP	Bangladesh National Party, led by former Prime Minister Khaleda Zia.
CHT	Chittagong Hill Tracts.
CTG	Caretaker government.
GSP	Generalised System of Preferences.
<i>Hartal</i>	strike.
HUJI	Harkatul Jihad ul Islam, an anti-India jihadi group.
IBBL	Islamic Bank Bangladesh Ltd.
ICT	International Crimes Tribunal.
JMB	Jamaat-ul Mujahideen Bangladesh, Bangladesh's most prominent jihadi group.
RAB	Rapid Action Battalion, an elite paramilitary force.
SJC	Supreme Judicial Council.
VPRA	Vested Property Repeal Act.