

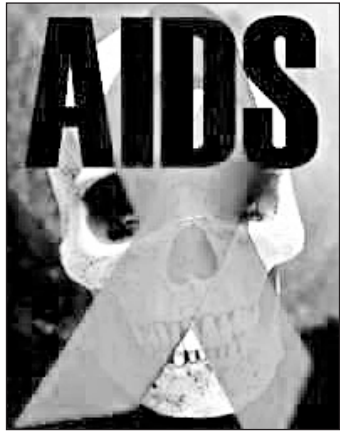


LAW news



Libya death sentence for medics

Medics given death penalty
 Kristiana Vulcheva - nurse
 Nasya Nenova - nurse
 Valentina Siropulo
 Valya Cherveniyashka - nurse
 Snezhana Dimitrova - nurse
 Ashraf al-Hajuj - doctor
 Source: BTA news agency



Libya has sentenced five Bulgarian nurses and a Palestinian doctor to death by firing squad for deliberately infecting some 400 children with HIV.

Prosecutors demanded the death penalty, claiming the accused gave patients HIV in a bid to find an AIDS cure.

The medics, who worked at a children's hospital in the city of Benghazi, were arrested five years ago.

Bulgaria's government, which had been lobbying for their release, condemned the "unfair and absurd" verdicts.

Packed court

The Libyan court found the six health workers guilty of having caused the death of 40 children and of infecting almost 400 others with HIV.

Another Bulgarian, Dr Zdravko Georgiev, was initially reported to have received the death penalty but has in fact been given a four-year sentence and may be released soon, Bulgaria's ambassador to Libya said.

Nine Libyans who worked at the same hospital were acquitted.

The courtroom in Benghazi was surrounded by 100 armed police, Bulgaria's BTA news agency reported.

Inside it was packed to capacity, with 15 foreign diplomats among those attending the session which was the culmination of a trial stopped and started several times over the years.

At one point, the Libyan leader, Colonel Muammar Gaddafi, had accused the health workers of acting on orders from the CIA and the Israeli secret service, Mossad.

Libya later rowed back on this allegation. The medics had always protested their innocence and said they had been tortured by the police, with daily beatings, sexual assault and electric shocks.

They called expert witnesses, including one of the team which discovered the AIDS virus, who said this was an epidemic caused by poor hygiene at the hospital, not by any international conspiracy.

Relatives celebrate

Western diplomats say the prosecutions arose because the authorities simply needed someone to blame for a tragedy which caused outrage in Libya.

Gaddafi's Libya has not executed anyone in nine years

With Col Gaddafi recently moving to improve Libya's international standing, Bulgaria had hoped the court would be lenient.

"I'm shocked by the verdicts... We're not going to accept them," said Bulgarian Justice Minister Anton Stankov.

The government in Sofia is calling for a strong reaction from the international community.

The European Union has already voiced its extreme concern.

Bulgaria's parliamentary speaker, Ognyan Gerdzhirov, said he was confident the death sentences would not be carried out.

"I expect Gaddafi to act like a humanist to win certain political credit, which he needs from public opinion," he told Bulgarian radio.

But relatives of the infected children were celebrating.

"The verdict is fair. What they did is a crime against humanity. They planted a bomb inside our children," Ramdane Ali Mohamed, whose sister died of AIDS, told Reuters

Source: BBC News.

RIGHTS investigation



THE CASE OF BANGLADESH

Towards a rights-based approach for child labour migrants

DR. SUMAIYA KHAIR

Research on migrant children has just been concluded by the Refugee and Migratory Movements Research Unit (RMMRU) of the University of Dhaka. Titled Children's Migration for Livelihood: The Bangladesh Experience, the study attempts to examine the specificities of the position of child migrants and analyse the dynamics of migration and its effect on them. Based on findings from interviews with children who have migrated without their immediate families and families of migrant children, the study looks at different aspects of children's migration experience.

While the practice of rural-urban movement by children with their families is not a new phenomenon, there is growing evidence of children's migration without the company of their immediate families. This trend is perceived as being precipitated by structural changes and a breakdown in traditional kin systems. As children migrate to cities they are hurled from rural obscurity to congested urban centres where they begin a life fraught with uncertainty and fear. For the newly arrived migrant children work constitutes an essential part of their survival strategy. They work in highly diversified conditions in the informal labour market where they are compelled to deal with various exigencies.

Notwithstanding widespread migration by children, there is no pragmatic policy measure to cope with the phenomenon in Bangladesh. Rather, migration, whether by adults or children, has always been viewed as a nuisance to the urban way of life. Although the focus of policy planners has remained riveted on



PHOTO: TAMILNADU SERVICE CENTER

children in the labour market in the last decade or so, and that, too, on account of international pressure to eliminate child labour, there has virtually been no attempt to examine the means and ways in which they get there. This is manifest in the void within the policy and legal regimes in respect of protecting child labour migrants from harm and exploitation, inherent characteristics of the informal sector where the majority of them work. In the absence of adequate policy and legal framework and institutional support, child labour migrants are obliged to devise their own strategies for surviving the odds.

It is important for policy makers to acknowledge that like adults, children, too, migrate and when they do move, they are not

necessarily forced into the process. The decision is more often central to the livelihood of their families. It is equally important to recognise that children constitute a separate constituency with rights and entitlements that are derived from national and international legal regimes. Certainly, children should not be made to work in conditions that are detrimental to their health, safety and intellectual development. However, until the time when there will be no more child labour, efforts should be made to formulate concrete guidelines or safety nets to protect child labour migrants in the short run. In the absence of an enabling environment, child labour migrants will continue to run the risk of exploitation not only in terms of wage

rates, health, safety, and minimum standards in their workplaces but discrimination, abuse and deprivation of educational and other amenities in the places of destination.

Professor H K S Arefin, Professor Munirul Islam Khan were the designated discussants of the workshop that was chaired by Professor Firdous Azim and Dr. Shahdeen Malik. Advisor to the Caretaker Government Ms. Rokia Afzal Rahman was present as the Chief Guest. The sessions were attended by members of children and women's organisations as well as representatives of international organisations such as ILO, IOM.

The author is Professor of Law, University of Dhaka.

RIGHTS column



U.S. operated secret 'Dark Prison' in Kabul

ACCOUNTS from detainees at Guantanamo reveal that the United States as recently as last year operated a secret prison in Afghanistan where detainees were subjected to torture and other mistreatment, said Human Rights Watch.

Eight detainees now held at Guantanamo described to their attorneys how they were held at a facility near Kabul at various times between 2002 and 2004. The detainees, who called the facility the "dark prison" or "prison of darkness," said they were chained to walls, deprived of food and drinking water, and kept in total darkness with loud rap, heavy metal music, or other sounds blared for weeks at a time.

The detainees offer consistent accounts about the facility, saying that U.S. and Afghan guards were not in uniform and that U.S. interrogators did not wear military attire, which suggests that the prison may have been operated by personnel from the Central Intelligence Agency.

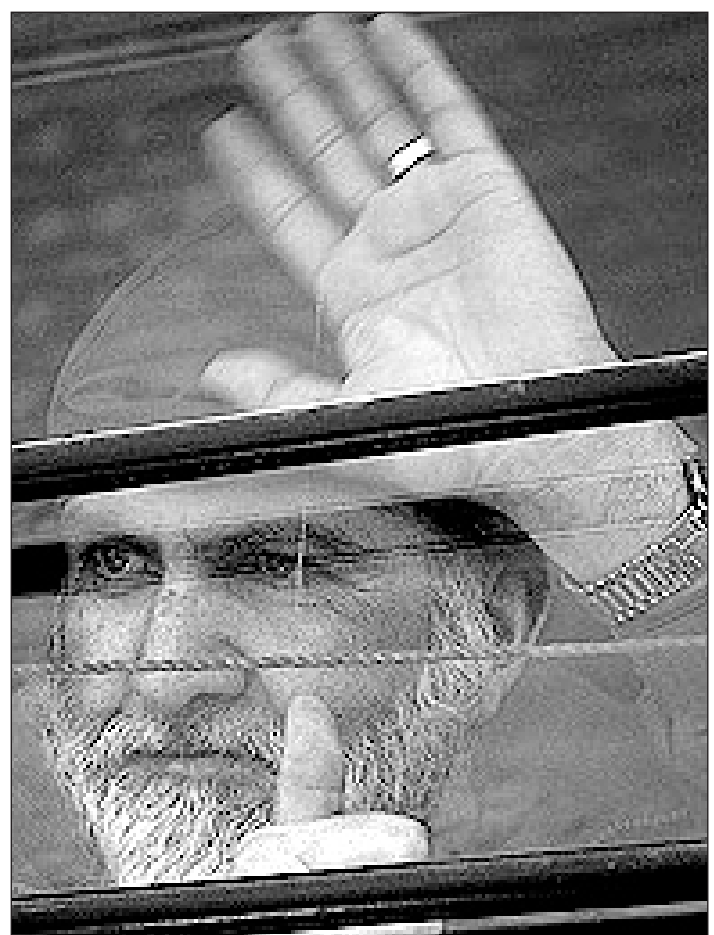
The detainees said U.S. interrogators slapped or punched them during interrogations. They described being held in complete darkness for weeks on end, shackled to rings bolted into the walls of their cells, with loud music or other sounds played continuously. Some detainees said they were shackled in a manner that made it impossible to lie down or sleep, with restraints that caused their hands and wrists to swell up or bruise. The detainees said they were deprived of food for days at a time, and given only filthy water to drink.

The detainees also said that they were held incommunicado and never visited by representatives of the International Committee of the Red Cross or other independent officials.

"The U.S. government must shed some light on Kabul's 'dark prison,'" said John Sifton, terrorism and counterterrorism researcher at Human Rights Watch. "No one, no matter their alleged crime, should be held in secret prisons or sub-

jected to torture."

The detainees' allegations were communicated to Human Rights Watch by their attorneys and are contained in attorneys' contemporaneous notes. Human Rights Watch was unable to interview the detainees directly, since the United States has not allowed human rights organisations to visit detainees at Guantanamo or other detention sites abroad. However, Human Rights Watch believes that the detainees' allegations are sufficiently credible to warrant an official investigation. The detainees are of different nationalities and have different attorneys. None claimed



to have been detained at the secret facility for more than six weeks at a time, and did not otherwise make extraordinary claims.

Most of the detainees said they were arrested in other countries in Asia and the Middle East, and then flown to Afghanistan. Detainees who arrived by airplane said they were driven about five minutes from a landing field to the prison. Afghan guards told some of them that the facility was located near Kabul. Some detainees who were kept at the facility were transferred at various times to and from another secret facility near Kabul. The detainees said they were later

transferred to the main U.S. military detention facility near Bagram, where many other Guantanamo detainees said they were initially held.

Human Rights Watch said that the "dark prison" may have been closed after several detainees were transferred to the Bagram facility in late 2004.

M.Z., a detainee arrested in another country in 2002 (name and identifying details withheld at his attorney's request), said he was held at the "prison of darkness" for about four weeks. He says he was sent to "an underground place, very dark" where there was "loud music" playing continuously. He said he was held in solitary confinement, where it was "pitch black... no light." M.Z. said that when he was interrogated he was taken to a room with a strobe light, and shackled to a ring on the floor. During the interrogations, he says, an interrogator threatened him with rape.

Benyam Mohammad, an Ethiopian-born Guantanamo detainee who grew up in Britain, said he was held at the "dark prison" in 2004 and described his experience to his attorney in English:

It was pitch black no lights on in the rooms for most of the time.... They hung me up. I was allowed a few hours of sleep on the second day, then hung up again, this time for two days. My legs had swollen. My wrists and hands had gone numb.... There was loud music, [Eminem's] "Slim Shady" and Dr. Dre for 20 days.... [Then] they changed the sounds to horrible ghost laughter and Halloween sounds. [At one point, I was] chained to the rails for a fortnight.... The CIA worked on people, including me, day and night.... Plenty lost their minds. I could hear people knocking their heads against the walls and the doors, screaming their heads off.

J.K., another detainee (name withheld at attorney's request), also alleged that he had been held in the dark, shackled to the wall and subjected to weeks of sleep deprivation and constant loud music and noise,

as well as being beaten during interrogations. "People were screaming in pain and crying all the time," he told his attorney.

Abd al-Salam Ali al-Hila, a Yemeni whose arrest and transfer to Afghanistan was previously documented by Human Rights Watch Guantanamo: New "Reverse Rendition" Case, said he was kept at the "dark prison" at various times in 2003. He told his lawyers he had been chained to the wall, kept in almost constant darkness, and subjected to sleep deprivation and constant noise.

Similarly, attorneys for Hassin Bin Attash, Jamil of Banna and Bisher al Rawi, three other detainees who said they were previously held at the "dark prison," said their clients made allegations about constant darkness, shackling, sleep deprivation, inadequate food and water, and beatings during interrogations. One other detainee provided similar information through his attorney, who requested that the client's name and nationality be kept confidential.

On November 18, ABC News reported that several CIA officials told ABC that the CIA had operated a secret facility in Kabul, and voiced concerns about interrogations there. The CIA officials, who requested anonymity from ABC, said that CIA officials authorized six techniques for use against detainees with "high-level" intelligence value, including long-term sleep deprivation, exposure to cold for more than 40 hours, and "waterboarding," in which interrogators poured water over the detainee's face until he believed he would suffocate or drown. The officials told ABC that the CIA had authorized these techniques in March 2002 and that they were used at the Kabul facility and elsewhere.

The accounts given by the Guantanamo detainees about the Kabul facility are also consistent with stories told by four detainees, who in July escaped from U.S. military custody at Bagram, on a

videotape obtained by ABC News and Al-Arabiya. On the videotape, the detainees said they were held at "the dark prison" before being sent to Bagram, and describe being subjected to loud music and total darkness, as well as physical abuse.

Human Rights Watch has previously identified 26 "disappeared" persons believed to be held in secret facilities operated or used by the U.S. A "disappearance" is an unlawful detention in which the detaining authorities deny holding the person or refuse to disclose his or her whereabouts. Human Rights Watch said today that the U.S. may have used the facility near Kabul to hold "disappeared" detainees at various times.

Human Rights Watch said that the alleged torture and other mistreatment of detainees, if proven, would amount to serious violations of U.S. criminal law, such as the War Crimes Act and the Anti-Torture Statute, as well as the laws of Afghanistan. The mistreatment of detainees also violates the Convention against Torture and the International Covenant on Civil and Political Rights, both of which the United States has ratified, and the laws of war. (Summary of statutes)

Human Rights Watch has long called for a special prosecutor to investigate alleged mistreatment of detainees in U.S. detention facilities abroad.

"We're not talking about torture in the abstract, but the real thing," said Sifton. "U.S. personnel and officials may be criminally liable, and a special prosecutor is needed to investigate."

Human Rights Watch called on the United States to move "disappeared" persons into known detention facilities, articulate the legal basis under which detainees are held, and allow access to all detainees by independent monitors.

"It's time for the Bush administration to shut the secret prisons and stop holding people illegally," said Sifton.

Source: Human Rights Watch

LAW week



SC Bar accuses CEC of violating constitution

The Supreme Court Bar Association (SCBA) accused Chief Election Commissioner (CEC) Justice MA Aziz of violating the constitution by not taking into confidence the two other election commissioners in the matter of preparing the voter list. "The CEC's initiative to make a fresh voter list ignoring the opinions of the two other election commissioners is a suicidal step for democracy and future elections in this country," SCBA Secretary M Enayetur Rahim told a press briefing at the South Hall of the SCBA.

The two other election commissioners are being excluded as per the ruling alliance blueprint for the next elections, Rahim said in a written statement, adding, "The controversial process by the controversial individuals is being done under the suggestions and influence of a sinister force within the commission secretariat." The CEC's attempt to expedite the fresh voter listing process, before the disposal of the two writ petitions, expresses lack of confidence in and disrespect for the court, the SCBA secretary said. -- The Daily Star, January 1.

Enumeration starts amid agitation

Work for the controversial fresh voter list by the manpower appointed mostly on political consideration began amid demonstrations by the main opposition Awami League (AL). Over two lakh enumerators started collecting information about the prospective voters across the country while in the capital at least 25 people were injured in a clash between police and the activists of AL's youth front trying to lay siege to the Election Commission (EC) secretariat. According to our correspondents from across the country, the first day's business was marked by confusion and lack of co-ordination among the enumerators as well as the public. People showed little interest to be on the list of would-be voters while there were hardly any campaign by the commission to generate public awareness to this end. In some places, up to 40 percent of voters were reported to be enlisted while in many other areas no enumeration staff was found to be in the field. Especially the uncertainty stemming from two writ petitions pending over the preparation of a new list seems to have dampened the enthusiasm of the enumerators. Allegations of excluding individuals belonging to minority communities were also rife, report the correspondents. -- The Daily Star, January 1.

HC Rule on Govt. why EC Secretariat under PMO won't be illegal

The High Court issued a rule on the government and the Election Commission (EC) asking them to explain why the functioning of EC Secretariat under the jurisdiction of Prime Minister's Office (PMO) will not be declared illegal. The court also asked them explain in three weeks why government's formulation of rules for the EC will not be declared illegal and unconstitutional as the Constitution and the Representation of the People Order 1972 empower the EC to formulate its rules. The HC rule came after hearing of a writ petition filed by Awami League General Secretary Abdul Jalil challenging Election Commission (Officers and Staff) Rules 1979, its amendments and the provision that put the EC Secretariat under the PMO. Barrister Amir-UI Islam moved the petition in the court. The respondents in the rule are the Election Commission, chief election commissioner, election commissioners AK Mohammad Ali and M Munsif Ali, secretaries of the EC Secretariat and the Ministry of Establishment. -- Prothom Alo, January 3.

No plan yet to make EC independent

The government has no plans to make the Election Commission (EC) secretariat independent and separate from the prime minister's office (PMO) while the chief election commissioner (CEC) has yet to put forth the reform proposals that he had announced to do. The six-point reform proposal submitted by the former CEC to the president remains shelved for the last seven months. The proposals include the all-important one -- an independent secretariat for the commission. The EC, which on numerous occasions had faced difficulties in conducting polls freely due to interference from the executive, drew up the reform proposals in last May. But recently, the government has dismissed the possibility of bringing about any reforms in the electoral system. Law Minister Moudud Ahmed last month made it clear again that the government has no plans for reforms. -- The Daily Star, January 3.

Progress in Bomb Blast Probes

Govt gives flimsy report to HC

Government is playing hide-and-seek, as it makes public almost nothing of the probe findings into the bomb attacks and keeps the High Court (HC) in the dark about the key features of the progress in investigations violating an HC order. On a writ petition an HC bench on November 30 ordered the government to submit progress reports on the investigations into the bomb attacks since August 17 to it every two weeks. Accordingly, the government did submit two reports on December 13 and 27. But, the almost identical reports contain some statistics only. In no way they describe or facilitate getting a picture of the progress made in the probes. The petitioner, Bangladesh Bar Council Human Rights Committee Chairman ZI Khan Panna, said they are considering taking legal steps against what he termed the incomplete reports. "We'll ask the court to judge whether the reports are acceptable at all," he told The Daily Star. -- The Daily Star, January 4.

Brac engineer gunned down in Afghanistan

Gunmen shot dead a Bangladeshi aid worker after his prayers at a mosque in volatile southern Afghanistan, a provincial official said. Mir Wais was gunned down Monday in Lashkargah, the capital of insurgency-hit Helmand province, deputy governor Moheedin Khan said. The victim was an engineer with the Brac (Bangladesh Rural Advancement Committee), which builds schools, roads and clinics in rural areas of the poverty-stricken country. Details about the dead could not be known. The Afghan interior ministry said the area had been sealed off by intelligence agents and the police. No one claimed responsibility for the attack but similar killings in the past have been blamed on remnants of the hardline Islamic Taliban regime. -- Agencies, Kandahar, Afghanistan, January 4.

Huge arms haul in Bandarban forest

Security forces captured three Arakan rebels and seized a big cache of arms and ammunition, including light machine gun (LMG), AK47 and M16 automatic rifles, from a den in the remote forests of Naikkhongchhari in the district. The cache includes one British-made LMG, one AK47 and five M16 rifles, two .303 rifles, seven Pakistan-made guns, 32 magazines and 7,000 bullets, said an official. All the three members of the Arakan Liberation Party -- Ka Aong, 40, Aong Theong, 25, and Tcha Thoang Ching, 25 -- hailing from Ghayagong village of Mongdu thana under Akiyab district of Myanmar, the handset said. This is the first time the law enforcers have disclosed the identity of any rebel although they have so far arrested around 30 foreign nationals from the Bangladesh-Myanmar border areas. Acting on a tip-off, a joint team of army and Bangladesh Rifles (BDR) raided the terrorist den on a hill of Bakkhali area, some 12km away from Bandarban sadar, and made the recovery. -- The Daily Star, January 4.

Corresponding with the Law Desk

Please send your mails, queries, and opinions to: Law Desk, The Daily Star 19 Karwan Bazar, Dhaka-1215; telephone 8 1 2 4 9 4 4, 8 1 2 4 9 5 5, fax 8 1 2 5 1 5 5; e mail <dslawdesk@yahoo.co.uk, lawdesk@thedailystar.net