



RIGHTS investigation



Nepal: Police on 'Sexual Cleansing' drive

A string of police attacks on transgender people reflects the vulnerability of Nepalis in a climate of violence where civil liberties remain restricted, Human Rights Watch said today in a letter to Nepalese authorities.

"Police in Kathmandu are violently attacking and even sexually abusing transgender people to clear the streets of people they deem immoral," said Scott Long, director of the Lesbian, Gay, Bisexual, and Transgender Rights Program at Human Rights Watch. "Nepali human rights groups are calling this crackdown 'sexual cleansing.' This amoral campaign has to stop."

In the latest reported incident, on January 3 at about 10 p.m., three metis were walking in the Thamel district of Kathmandu. A local slang term for transgender people, a meti is a man by birth who identifies as a woman. Four uniformed police from Durbar Marg police station reportedly saw them and shouted, "Metis! Kill them!"

One meti was beaten with a baton on her back; one policeman pulled his gun and pointed it at her, threatening that "These hijras pollute the society and must be cleaned out" ("Hijra" is a common term for a transgender person). The two other metis were also beaten severely. All three reportedly have bruises on various parts of their bodies.

The Blue Diamond Society, a Nepalese nongovernmental organisation defending sexual rights and sexual health, has documented numerous such incidents. On December 31 at about 11 p.m., also in Kathmandu's Thamel district, a meti was detained by police from Shore Khutte police station. One policeman beat her with a bamboo baton, calling her derogatory names. She escaped, but her right hand is reportedly swollen and badly bruised.

On December 28 at about 1:30 a.m., a meti called Sahiba was arrested in the Thamel district. She was taken to the Shore Khutte police station. There police verbally abused her and commanded her to strip. When she refused, they stripped her forcibly of her clothes and checked her genitals while mocking her. They threatened to cut her hair off as punishment for wearing women's clothes. She was released the next day.

"The police are using brutal harassment and detention without charge to clear transgender people off the streets," Long said. "These attacks reflect a law enforcement system that is unchecked and operating outside the law."

The Blue Diamond Society's very existence has been under attack since 2004 by a lawsuit before Nepal's Supreme Court which would ban it on the grounds that it is "advocating homosexual rights." Such an action would violate basic freedoms of expression and association. Hearings before the Supreme Court have been deferred six times, most recently on November 11, 2005.

Civil society organisations in Nepal have faced mounting harassment and restrictions since last February when King Gyanendra dismissed the government, assumed direct power and suspended many civil liberties in the country.

Source: Human Rights Watch.

LAW watch

Ahmadies are suffering badly in Brahmanbaria district

One old lady died in the remote village of Shahbazpur under Nabinagar Thana. The ahmadi lady was named Majlisun Nesa (70). Few villagers instigated by fanatic Ulama (religious scholars) took a stand not to allow the dead body to be buried in Muslim Graveyard. A tense situation started mounting in the locality. The TNO (Thana Executive

Officer) and OC (Officer in charge of Police)-Nabinagar rushed to the spot this morning to tackle the situation. Ultimately the authorities bowed down to the fanatics' demand and asked

Ahmadies to bury their dead in a separate place. The TNO and the local district authorities allotted a three(3) decimal tiny Govt land for Ahmadiyya burial and asked Ahmadies to bury their body there. The matter was dealt to ease the tension but this has created a bad precedence for the agitators. Ahmadies were practically forced to bury their dead in a separate place. It's hard to believe that this is happening in Bangladesh to a community which has been here for 95 years!

Source: Ahmadiyya Muslim Jamaat, Bangladesh.

LAW campaign

Women's Say no to War

We, the women of the United States, Iraq and women worldwide, have had enough of the senseless war in Iraq and the cruel attacks on civilians around the world. We've buried too many of our loved ones. We've seen too many lives crippled forever by physical and mental wounds. We've watched in horror as our precious resources are poured into war while our families' basic needs of food, shelter, education and healthcare go unmet. We've had enough of living in constant fear of violence and seeing the growing cancer of hatred and intolerance seep into our homes and communities.

This is not the world we want for our children or ourselves. With fire in our bellies and love in our

hearts, we women are rising up - across borders - to unite and demand an end to the loodshed and the destruction. We have seen how the foreign occupation of Iraq has fueled an armed movement against it, perpetuating an endless cycle of violence. We are convinced that it is time to shift from a military model to a conflict-resolution model that includes the following elements:

- The withdrawal of all foreign troops and foreign fighters from Iraq;
- Negotiations to reincorporate disenfranchised Iraqis into all aspects of Iraqi society;
- The full representation of women in the peacemaking process and

- A commitment to women's full equality in the post-war Iraq;
- A commitment to discard plans for any foreign bases in Iraq;
- Iraqi control of its oil and other resources;
- The nullification of privatization and deregulation laws imposed under occupation, allowing Iraqis to shape the trajectory of the post-war economy;
- A massive reconstruction effort that prioritizes Iraqi contractors;
- Draws upon financial resources of the countries responsible for the invasion and occupation of Iraq;
- Consideration of a temporary international peacekeeping force that is truly multilateral and is not

composed of any troops from countries that participated in the occupation. To move this peace process forward, we are creating a massive movement of women - crossing generations, races, ethnicities, religions, borders and political persuasions. Together, we will pressure our governments, the United Nations, the Arab League, Nobel Peace Prize winners, religious leaders and others in the international community to step forward to help negotiate a political settlement. And in this era of divisive fundamentalisms, we call upon world leaders to join us in spreading the fundamental values of love for the human family and for our precious planet.

Source: www.oaklandinstitute.org

LAW education

Copyright law in Bangladesh

MOHAMMAD MONIRULAZAM

Assignment and license
The owner of the copyright in an existing work or the prospective owner of the copyright in a future work may assign or can grant license to any person the copyright of the work. It may be applicable either for the whole work or partial work. Again assignment or license may be either in general (without limitations) or subject to limitations and either for the whole term of the copyright or any part thereof.

Mode of assignment
Section 18-23 of the Copyright Act, 2000 laid down the nature and procedure of the assignment of copyright. Section 19 laid down the mode of assignment in the following manner-

- 1) It shall be in writing signed by the assignor or by his duly authorized agent.
- 2) It shall identify the specific works and specify the rights assigned and the duration and territorial extent of such assignment.
- 3) It shall also specify the amount of royalty payable, if any, to the author or his legal heirs during the existence of the assignment.
- 4) The assignment shall be subject to revision, extension or termination based on terms mutually agreed upon by the parties.
- 5) Where the assignee does not exercise the rights assigned to him within a period of one year from the date of assignment, the assignment in respect of such rights shall be deemed to have lapsed after the expiry of the said period unless otherwise specified in the assignment.
- 6) If the period of assignment is not specified, it shall be deemed to be five years from the date of assignment. If the territorial extent of assignment of the rights is not specified, it shall be presumed to extend within the whole of Bangladesh.

However, the author of a work may also relinquish all or any of the rights comprising the copyright in the work by giving notice in the prescribed form to the Registrar of Copyrights, which is laid down in section 22. As per section 20 of the Act, the Copyright Board is authorized to deal with any dispute regarding the assignment of copyright. The Board is empowered to cancel any assignment provided that this kind of order will not be given within 5 years of assignment.

License
Like an assignment of copyright, a license will be in writing and can be limited in terms of either the scope or the duration or both. A license may be exclusive (to the exclusion of all others including the owner) or non-exclusive (when the licensor may grant the copyright to more than one person). If duration and geographical limit is not mentioned in the license deed, then it will be presumed for 5 years and limited within Bangladesh. It also provides for issuing of compulsory licenses in respect of works withheld from the public e.g., due to unreasonable price, non-publication as per demand and necessity. Compulsory license is also granted for reproduction or translation of original works of foreign origin, but only for the purpose of promoting teaching, research and scientific development etc. Such foreign works and their translation can then be published in Bangladesh. Section 48-54 of the Copyright Act, 2000 laid down the procedure of granting license for copyright.

Duration/Term of Protection
The term of copyright varies according to the nature of the work and whether the author is a natural person or a legal person e.g. a Corporation, Government

institution, etc., or whether the work is anonymous or pseudonymous. Section 24-32 of the Copyright Act laid down the term of protection as follows-

1. In the case of literary, dramatic, musical or artistic work (other than a photograph) when published during the lifetime of the author, copyright subsists during the lifetime of the author plus sixty years from the beginning of the calendar year next following the year in which the author dies.
2. Where the work is of joint authorship the sixty years period will start after the death of the author, who dies last.
3. In the case of anonymous or pseudonymous works the terms of copyright is until sixty years from the beginning of the calendar year next following the year in which the work is first published. If the identity of the author is disclosed before the expiry of the sixty years period, copyright shall subsist until sixty years from the beginning of the calendar year next following the



year in which the author dies.

4. In the case of posthumous publications the term will be sixty years from the beginning of the calendar year next following the year in which the work is first published.
5. The period of copyright for a photograph is sixty years from the beginning of the calendar year next following the year in which the photograph is published.
6. For cinematography film and record also the term is sixty years from the beginning of the calendar year next following the year in which the work is published.
7. Where the Government or a public undertaking is the first owner of copyright, the term of copyright is sixty years from the beginning of the calendar year next following the year in which the work is first published.
8. Copyright works of International Organisation also have a term of sixty years from the beginning of the calendar year next following the year in which the work is first published.

Apart from the protection of above mentioned works, Copyright Act 2000 also provides for the protection of broadcast reproduction rights for a term of twenty five years from the beginning of the calendar year next following the year in which the broadcast is made [section 33(2)]. Again, protection of performers' rights is also ensured for a term of

fifty years from the beginning of the calendar year next following the year in which the performance is made [section 35(2)].

Moral Rights/Author's Special Right

The copyright besides conferring economic benefits also confers moral rights on the author. The moral rights of the author includes following rights-

1. The right to decide whether to publish or not to publish the work i.e., the right of publication
2. The right to claim authorship of a published or exhibited work (i.e., right to paternity or maternity)
3. The right to prevent alteration and other actions that may be harmful for the author's reputation (i.e., the right of integrity)

However the copyright Act of Bangladesh did not use the term moral rights rather it has given similar rights to authors under the term of authors special right, which

country's membership in international conventions, the copyright societies may also be able to have reciprocal agreements with similar societies in other member countries. Therefore, it is undeniable that it will be in the interests of copyright owners to join in a collective administration organization to ensure better protection to the copyright in their works and for reaping optimum economic benefits from their creations. Users of different types of works also find it easy to obtain licenses for legal exploitation of the works in question, with the assistance of the collective administrative society.

Copyright society

A copyright society is a registered collective administration society, which as a separate legal entity safeguards the interests of the owners of the works in which a copyright subsists. In fact, the author of a creative work is assured of commercial management of his/her work by these societies. Section 41-47 of the Copyright Act, 2000 provides for the formation and management of the copyright society in Bangladesh. As per section 41(3) of the Copyright Act, 2000, ordinarily, only one society is registered to do business in respect of the same class of work. Copyright society can issue or grant licenses in respect of any work in which copyright subsists or in respect of any other right given by the Copyright Act.

Functions of a copyright society
As per section 42 (3) of the Copyright Act, 2000, a copyright society may:

- i. Issue licenses in respect of the rights administered by the society.
 - ii. Collect fees in pursuance of such licenses.
 - iii. Distribute such fees among owners of copyright after making deductions for the administrative expenses.
- Unfortunately there is a complete absence of the concept of collective administration of copyright in Bangladesh and till date no registered copyright societies in Bangladesh working effectively.

International laws:

Copyright as guaranteed by the Copyright Act of Bangladesh is valid only within the territory of Bangladesh. To secure protection to Bangladeshi works in foreign countries, Bangladesh has become a member of the following international conventions on copyright and neighbouring or related rights:

- i. Berne Convention for the Protection of Literary and Artistic Works, 1886 (accepted by Bangladesh on May 4, 1999).
- ii. Universal Copyright Convention, 1952 (accepted by Bangladesh on May 5, 1975).
- iii. Trade Related Aspects of Intellectual Property Rights (TRIPS Agreement), 1994 under the World Trade Organisation (WTO) (accepted by Bangladesh on January 1, 1995 as part of the WTO package of agreement).

Therefore all the works of Bangladeshi creators will get copyright protection in any of the member countries of the above-mentioned international conventions and agreement. It is also noteworthy that the Copyright Act of Bangladesh under section 68-70 guaranteed protection to the works of other member countries and international organisations on the basis of reciprocity.

Concluding part of the story will be published on February 4, 2006.

The Author is Assistant Professor, Department of Law, University of Chittagong.

LAW week

72 including 12 journos hurt as cops swoop on opposition march

At least 20 Awami League (AL) activists and 12 journalists were injured as police swooped on an AL procession supporting dawn-to-dusk hartal called by the 14-party opposition alliance. Forty others were injured in separate clashes between the police and opposition activists. Police attacked an AL procession with batons and lobbed at least 50 teargas shells when the procession tried to break through a police barricade enclosing the AL central office. The 14-party opposition alliance, comprising the AL, 11-party alliance, Jatiya Samajtantrik Dal (JSD) and National Awami Party, will observe the countrywide hartal demanding Chief Election Commissioner (CEC) MA Aziz's immediate resignation and cancellation of two new election commissioners' appointments. The clash erupted when AL activists started to hurl bricks at the police, refused to open the barricades letting the procession out of Bangabandhu Avenue. -- Prothom Alo, January 22.

EU worried over rights abuse

A high powered EU delegation expressed concern over human rights abuse while a section of the civil society urged the team to monitor the whole election process in the next general polls instead of the voting day only. "The [EU delegates] were concerned over human rights issues in the country and said they feel it creates an environment of human rights abuse. This, in turn, affects both good governance and the electoral process," said Sharmeen Murshid, chief executive officer of Brotee, who was present at the meeting. The troika sat with the civil society members to be briefed about the current political climate in the country and to understand what should be their role in Bangladesh as a significant member of the international community. The Troika arrived in Dhaka led by Nikolaus Scherk, director for Asia Pacific at the Austrian foreign ministry, representing the EU Presidency. Pekka Metso, director for Asia and Oceania, representing the incoming Finnish presidency of the EU, and Michael Swann representing the High Representative for Common Foreign and Security Policy are accompanying him. -- The Daily Star, January 23.

7 killed as cops fire on electricity hungry mob

Seven people were killed and more than a hundred injured when police opened fire to disperse a mob in Kansat Bazar in Chapainawabganj, 19 days into a similar incident that left two people killed in the same area. The firing took place when locals were demonstrating for the release of three leaders of Palli Bidyt Sangram Committee (PBSC), an organisation of local electricity subscribers, arrested in connection with January 4 violence in the area. Of the dead, six were identified as Anwar, a rickshawpuller and son of Anij Uddin, Nasir, son of Ayej Uddin, Mannan, a day labourer and son of Mosahak, Garibullah, son of Nizam Uddin of Kansat, Chowdhury of Chitra Krishnachandrapur and Rashid. Another unidentified juvenile injured in the incident died at Rajshahi Medical College and Hospital. -- The Daily Star, January 23.

Arms Smuggling

Dhaka to ask Delhi to help block routes

The government will ask the Indian government to help block the routes used by the militants to smuggle in explosives from India for subversive acts across Bangladesh in the last few months. Sources also said the government will request its Indian counterpart to conduct an investigation to verify the information obtained from some arrested militants about an Indian arms ring involved in selling explosives to the Bangladeshi militants, and take measures to trace the syndicate and stop its activities. Law enforcers and intelligence agencies are preparing a detailed report on their findings about the networks of explosives smugglers both in Bangladesh and India. The report will include among other things the detained militants' statements in this regard. "The report will be completed in a few days," a top official of an intelligence agency told The Daily Star recently on condition of anonymity. -- The Daily Star, January 24.

President urges all to root out fanaticism

President Iajuddin Ahmed appealed to the people and political parties to root out extremism and fanaticism from Bangladesh's soil and build a welfare state by institutionalising democracy, as the nation passes through a trying time. In his address to the House at its first sitting of the new year, the president also urged the lawmakers for constructive, effective and active participation in the process of establishing democracy, rising above jealousy, malice, and petty personal and party interests. President Ahmed, who made his last formal address to the present parliament that completes its five-year tenure in October, urged the people to exercise their franchise in the next parliamentary elections and thus help nourish democracy. -- UNB, Dhaka, January 24.

Govt not sure about arrest of

Abdur Rahman in India

The government could not confirm the local media reports that police in the Indian state of West Bengal had arrested Shaekh Abdur Rahman, chief of banned Jama'atul Mujahideen Bangladesh (JMB), in 24 Parganas. Indian police, meantime, confirmed they had detained a man in West Bengal but did not say whether he was the hunted Bangladeshi militant kimgin, reports Reuters. State Minister for Home Affairs Lutfozzaman Babar told reporters that he came to know of the developments from local newspapers. He said they are trying to be sure through the foreign ministry and diplomatic channels about what in fact has happened. But they have not got any such information confirming the reports yet. Two Bangla and an English daily yesterday reported that police picked up Abdur Rahman, supreme leader of the banned Islamist militant group responsible for countrywide bomb blasts since August 17, from a hideout in Barasat. -- The Daily Star, January 25.

Grafts can be halved in a year: ACC chief

Identifying political will as the key to address the issue of corruption, Chairman of Anti-Corruption Commission (ACC) Justice Sultan Hossain Khan said corruption in the country can come down to a half within a year. The offenders should be punished without wasting any time and awareness should be created among all concerned against corruption, he said, adding, "Unless there is a national consensus brought about by political will, anti-corruption measures can not succeed." He was speaking as the guest of honour on 'Role of the Anti-Corruption Commission in Shaping the Future of Bangladesh' at the January monthly luncheon meeting of the American Chamber of Commerce in Bangladesh (AmCham) at Dhaka Sheraton Hotel. -- The Daily Star, January 25.

Curb terror finance, militancy

to skirt US sanctions

The US asked Bangladesh to take several steps including curbing militancy and terror financing so that it does not face sanctions under the US Terrorist Financing Act. The visiting US State Department Assistant Secretary for South Asian Affairs Christina Rocca said Washington is deeply concerned about the rise of militancy and human rights scenario in Bangladesh and wants to see quick and positive solutions to the problems. Rocca conveyed the concerns of her government to the prime minister, foreign minister and state minister for home affairs during separate meetings. She said the United States also wants to see that the next general elections are held in time. She categorically asked State Minister for Home Affairs Lutfozzaman Babar to immediately arrest Jama'atul Mujahideen Bangladesh (JMB) chief Shaekh Abdur Rahman and his associate Siddiquil Islam alias Bangla Bhai, operations commander of Jagrata Muslim Janata Bangladesh. -- The Daily Star, January 27.

Erratum

In the book review titled "Ratification of Rome Statute" published on January 21, 2006, the name of the writer Muhammad Zamir was inadvertently not printed there.

Corresponding with the Law Desk

Please send your mails, queries, and opinions to: Law Desk, The Daily Star 19 Karwan Bazar, Dhaka-1215; telephone 8124944, 8124955; fax 8125155; email <dslawdesk@yahoo.co.uk, lawdesk@thedailystar.net

