

FOCUS

Law and Our Rights

Jagannath Hall Incident: Total Denial of Civil Rights and Liberties

by Isaac Robinson

WHO are the police? For the government, they are the lawful force dedicated to the cause of maintaining rights of the citizen. But for the recently assaulted students of the Jagannath hall, they are nothing but the armed agent of a communal government.

We shouldn't be oblivious of the fact that police are the servants of the law and not of any elected body. But unfortunately police in Bangladesh are always subjected to political pressures. This is one of the major causes of the violations of the constitutional rights of the citizen by the law enforcement forces. Jagannath hall incident is the naked violation of citizen's rights in the recent years. When police act under the pressure of

the ruling party, we can't expect impartial administration of law by them.

One thing must be made clear to every body, that police has no power to physically assault any person. Law has not given power to the police to manhandle the people. It is right from the beginning of the British administration that distrust had been placed on the efficiency of the local constabulary. It is not only distrust that police is not given the power to use force upon a person, rather it is civil rights and human dignity which demand that no person shall be manhandled by the police. Moreover, it is the constitutional right of every person that no punishment shall be inflicted on him unless he has been convicted by a competent Court.

Contrary to that, what happened in the Jagannath hall on 31st January is a clear abuse of the police power. Almost 200 students of the East Building of the Jagannath hall were severely beaten up. 96 of them were arrested. The sole ground of police attack was that it was provoked by some students who pelted stones from the top of the building. But it is equally true that at the time of the police attack, some of the students were sleeping, some of them were preparing for the exam and some of them were taking their lunch. Even some guests who came to visit their friends and relations were seriously beaten up. Some of them were arrested too. Canteen boys, and laundry men were not kept outside the police arrest and torture.

where are the rights of the citizen.

Unfortunately people of Bangladesh do not and cannot take police as their friends for obvious reasons. The rights of the people of this unfortunate land are repeatedly trampled by the armed forces. It appears now that civil rights and liberties are mere words of the constitution. Government and its armed force have become the authority to decide to whom they will grant civil rights and liberties. Apart from their mercy nobody has any guarantee of his constitutional rights.

What can be done against the unlawful action of the police? In law many things are possible. Law does not exempt any person from any of-

fence merely because he is a member of law enforcing agency.

Departmental action is the first thing which could be carried on against the delinquent police. But such an action is unlikely inasmuch as the government doesn't even think that any sort of wrong had been done by its law enforcing agents.

Secondly, criminal cases can also be filed under the penal laws of the land. It appears from the statement of the victims that the police has committed a series of criminal offences like unlawful arrest, criminal trespass, hurt, grievous hurt, theft, extortion, mischief etc.

Although there is a provision in the Criminal Procedure Code for obtaining sanction for proceeding for such action, it is suggested by senior lawyers that criminal cases should be instituted against police's unlawful actions.

And thirdly, civil suit for damage can be maintained for the unlawful actions. It may seem that it is highly ambitious to go for criminal cases or civil suits for damages. But these are the norms of a civilized legal system, spirit of the law. We are not acquainted with these kind of action simply because we do not exercise them. There are practical limitations too. But we must endeavour to overcome these limitations.

Lawyers and human rights organisations should come

forward for this purpose. Mere statements of condolence do not solve the problem. What we need at this moment is pure action in law.

Isaac Robinson — General Secretary Law Review, member Atin O Saitsh Kendra.



Maintaining law and order! 96 style

Now the question is how police will justify their action? Was the action necessary for the maintenance of law and order situation? If so, then why beating up innocent students, guests and students who were sleeping, eating or studying? Was it for recovery of arms and explosive? If so, then where are the arms and explosives? Not a single piece of arms was recovered from the raid.

There are laws and courts to identify who the offenders are. The offenders would be convicted according to law. Police can't act according to their whim and caprice. That is the violation of the doctrine of rule of law. Isn't ours a democratic state? Then

Instances of some mode of torture			
Room No	Name	Academic status	Injury
365	Marioz Kumar Dev	Philosophy (2nd year)	Fell from the wall while trying to escape and later was stamped on the chest
361 (KA)	Bimal Biswas	Science teacher of Kandi High School, Gopalganj	Breaking both the knees falling from the 2nd floor as was pushed by the police while trying to escape through the window
365 (KHA)	Jhontoo Kundoa	Philosophy (Masters)	Beaten by 'bed-stand' and rifle and is badly hurt in the left hand and the right leg can not move the left hand without considerable pain.
386	Bidhan Krishna Das	Mathematic (Masters)	Shot in the right ankle
335	Kartik	Law (2nd Year)	Severely beaten by rifle
310	Rotan Sotradhar	Physics 2nd year	Severely beater up being covered with blanket.

Source: Law Review Media Cell



From teacher's custody to police custody

Nation's Future Under Police Boot

by Ahmad Fayaz Uddin Setu

"WE have failed to run the administration of the hall. Police indiscriminately, tortured our students and picked them up despite our repeated appeals," said the Provost of Jagannath Hall of the Dhaka University, after the raid on 31st January.

"200 hurt, 95 held as police raid DU halls" was the headline of the newspapers of the day. At a press conference the Dhaka University Teachers Association (DUTA) informed "the students who rushed to the hospitals for donating blood for the injured were also arrested".

These are some the glimpses of the incident happened on 31st January after the crackdown made in consequence of the tense situation prevailing at the campus centering the PM's scheduled programme on 1st February.

Police arrested near about hundred students and injured more than two hundred. They lathicharged ferociously all the student who fall in front of them. They entered the canteen where students were taking their meal. Throwing away their plates, glasses they beat them without any question. They took out a student from the dining and shoot on his leg. They entered the rooms of the students without asking.

ransacked their rooms. The hour was like a nightmare to the students.

All these happened in the University which was known as the Oxford of the East, our pride, pride of the sub-continent, University of Dhaka is the highest academic centre, where the best of all the students of the country come to enrich themselves with the highest degree, to be the enlighten citizen of the country, to become the future leader of our nation. They are the future teachers, future scientists, virtually the architect of the future Bangladesh. After the happening, can't we say the nation is under a dire straits?

A student, who wants to be admitted in this university must be competent to enlighten the glory, the tradition of the institution. He is that person, who is best among all the students of the country. They come here to read, learn, and build up himself and the nation under the reliable university authority. But the aforementioned quote of the Provost reminds us that students are no longer in the safer hands of the teachers. Isn't our law enforcing agency crossing the bar, the limit of their authority. They were there to keep peace, to enforce law, to serve the community. They raided, but they were not

empowered to break down the rooms of innocent students, students who were preparing for the exam. They were not authorised to damage the properties of the students, to injure innocent students, to shoot them, to steal their properties. But the reality speaks in alternative way, they did all these and arrested the student without any warrant.

Now-a-days there are terrorism in the society, and the society is badly affected by the terrorists. And who doesn't know that these few member of terrorists are within the reach of the police force? Then why arresting students of a particular hall?

Police were entering room after room, what does it imply? All the student of the university are criminals? Then what the university is producing? Criminals? Should the university authority ask the police to run the university? One of the house tutors regretfully said "Being a teacher we do not even think of inflicting the slightest physical assault to a student for whatever wrong they do. They are the future of the nation, we do not have the right to do so. But you see how mercilessly the police tortured them in front of us."

Ahmad Fayaz Uddin Setu — Publication Secretary Law Review

GOODS STOLEN OR EXTORTED DURING THE POLICE RAID				
Room No.	Owner's Name	Academic status	Mode of theft	Goods stolen/extorted
380	Amal Kumar Chakraborti	Masters Final marketing	Breaking the drawer	1) Wrist watch 2) Cash 2000.00
338	Subrato Poddar	Applied physics 3rd year	(1) Breaking the drawer (2) Extorting from the pocket	(1) Calculator (2) Cash 170.00
338	Kalyan Saha	Advocate LLB LLM (DU)	Breaking the lock of the drawer	Cash 5,100
332	Bishnu Chatterjea	Finance, Masters	From the table	Wrist watch (Casio)
332	Sandyp Rudra	Mathematics Masters	From the table	Wrist watch
324	Tapan Karmakar	Sociology (2nd year)	Breaking the lock	Wrist watch (citizen quartz)
334	Ashit	Hons student	From the Room	Deck-set (Audio player)
336	Sanjeeb Chatterje	Journalism (3rd year)	Breaking the Door	Electric Iron
331	Joyanto Kundo	Masters History	Breaking the lock	Wrist watch
383	Sujon Chandrapal	Management (Masters)	Breaking the drawer	(1) Calculator (2) Cash-111.00
361 (KHA)	Tapan Mandal	Public Add. (3rd year)	-Do-	Wrist watch (Casio)
385 (KHA)	Shubhankar Dev Bappa	Marketing (Masters)	-Do-	(1) Calculator (2) 4,200.00

Source: Law Review Media Cell



In some cases police lathicharged even after the victim had become unconscious

Section 54 Strikes Again

by Iftequar Mahmood

rested whoever was found inside. There was no question of suspicion. Let alone reasonable suspicion.

Not only in the Jagannath Hall case, Section 54 has been used for long time to harass innocent people. The notion of "reasonableness" is not observed in such cases.

This is not a case under which police arrested 96 student. The word "reasonable suspicion" requires that the suspicion must be based upon definite facts and materials placed before the police.

Thus it can't be said that the police suspicion was reasonable inasmuch as the police arrested every person irrespective of their identification. Police arrested 96 students from the same building. Can it be said that it is reasonable to suspect that 96 offenders resides in only one building of a hall out of the 15 residential halls of the University of Dhaka?

Police broke the doors of the students without knowing whoever were inside the rooms. And then they ar-

then police can arrest without warrant. Such a provision also doesn't allow police to arrest indiscriminately. Because police suspicion must be reasonable and based on credible information.

Under section 54 police can arrest a person without any warrant or without any order from a Magistrate. Apparently it seems that the section gives wide power to the police to arrest any person without warrant. But that is not true. There are limitations of such power. There are only nine grounds upon which police can use this power in the Jagannath hall raid. There was none of such grounds on which police could arrest 96 students.

One of the nine grounds is that if any person has committed cognizable offence (offence of a very grievous nature) or the police has reasonable suspicion that he has committed such offence.

Little, in fact nothing, can be practically done against the unreasonable arrest of the police. Experience shows that no departmental action or other action was taken against the police force who arrested people without warrant under section 54, with a very apparent unreasonable suspicion. This led to widespread use of section 54 in recent years.

Lawyers and human rights organization are demanding amendments in the police power under section 54. The incident of Jagannath Hall and the mass arrest once again justify the demand.

Iftequar Mahmood — Executive Member, Law Review

GUESTS INJURED/ ARRESTED DURING THE HALL RAID				
Room No	Visitors Name	Visitor of	Profession of the visitor	Injury and torture
385 KHA	1. Provat Biswas	1. Sudeep Sharker	Diploma Engineer	Beaten up with baton and rifle indiscriminately
	2. Rasod	2. Utpal Kurargaha	Student of BM College Barisal	Do
361 KA	Bimal Biswas	Khagendranath Adhikari	BSc Teacher of Kandi High School, Gopalganj	Beaten with rifle and baton
339	Binoy Shaha	Gaotom	Engineer, passed from BUET	Struck by hand-cuff on head

Source: Law Review Media Cell

Communal Harmony: A close Uncertainty

by Shahed Altaf Bijon

the general students have a very 'pathetic' explanation behind all that is perhaps related to their communal stand. Perhaps because they are the Hindu minority of our society.

What is the basis of such an allegation? The general students say that while the assault was going on they were badly rebuked mentioning their religious stand. While the ransacking was going on the police men were verbally abusing the students striking their religious sentiment. It is important to note that the police identified them not as students but as 'Hindu students'. The police were heard shouting at the students saying "how dare you bloody Hindus eat in the ramazan?"

While the students were at

the dining table having their lunch the police deliberately threw the dishes calling them, malaon's sons (bad slang). The policemen repeatedly told the students to show their force while beating them. While hand cuffing the students the police threatened the students several times and some of the were heard saying "now we'll teach you what police means!" — using very mean words. Some students got emotional recalling "The words in Bengali they were used upon by the police. These words are mostly not publishable."

Bangladesh had a reputation as the land of communal harmony. Although there had been some communal tension at some places but they were mostly incidental. But when the police force of the government strikes the students

who are non-Muslim and mostly of the Hindu religion the question arises, does the government really believe in communal harmony that existed in this land for thousands of years? The students of Jagannath Hall who are the honours and masters students of Dhaka University once known as the Oxford of the East, are now being treated as 'Hindu students' and 'malaon's sons' in the country in a bitter position. But such assaults will certainly pave this way to a different direction. Which direction? We don't know. It is an uncertainty. Uncertainty of the future of Bangladesh perhaps.

Shahed Altaf Bijon — Executive Member Law Review



Dragging student from their room

As one recalls his history he finds himself trembling with fear on the night of march on the 25th, 1971. On that night Pakistani army attacked the Jagannath hall students with the truest intention to kill them. It is perhaps more shocking to think of such 'action' after 25 years of independence in the same Jagannath hall by the armed force of democratic Bangladesh. But reality bites. No matter how we feel, it has taken place with the same charismatic way on 31st January 1996, and provided the general students of Jagannath Hall with unknown fear. Unknown - because they simply did not know what they have done or what they had to do with the beating, looting, shooting automatics, by the armed forces.

On the 31st of January, 1996, the students of Jagannath hall were at their usual mood. Some reading, some sleeping, some having a chat

with guests and a good deal of them having the daily meal. Suddenly hundreds of 'tear-shell' and 'rubber bullet' was fired at them. Before they could figure out anything, the police entering the hall rooms started to beat them up. Some were strangled, stamped by the heavy boots, shot at the leg. About 96 of them were arrested by the police under sec 54 of code of criminal procedure, at the same day.

Considering the scale of violence and physical assault by the armed forces, the question arises why Jagannath Hall? There were such action on SM and Jahurul Haq Hall but the scale of violence was not that much high. Only two rooms were raided. There might be some political explanation or some excuse relating to arms recovering but accidentally or not even a single arm was therefore realized from Jagannath hall. Whatever might be the reason of such action



Moment before they are picked up in the police van.

Legal Opinion

You have legal problems? Write to us. We have a panel of lawyers who would give you opinion on legal and human rights issues. Tell us about the legal problems that you face and topics that interest you. Feel free to ask our panel of lawyers for clarification on the law.

Photographs: A K M Mohsin and SK Enamul Haq