

## Law and Our Rights

## The Culture of Violence

HE found his body in a Jute sack on 16th November at the Malibagh corner. Rahim was her husband and father of her two children. His throat was choked with stones. He was strangled with a gamcha.

Why was Rahim killed? Neither of the family members had any answer. Why didn't they ask for justice? Cynical of the ways of Justice in our country and afraid of repercussions, Rahim's family suffered this loss in silence. Hundreds of others have been killed like Rahim and often in more brutal ways than this. Information in the press shows examples of violence (and humiliation) through stripping, gouging eyes, slit veins, amputated limbs etc. and all this with primitive tools of execution such as the Chinese axe, kitchen knives and the 'dao'.

The obvious purpose being the gratification of using sadistic methods for a lingering death. Violence can be oral or physical. Examples of the former have recently formed a part of political routine strategy in the use of insulting lan-

guage against rival parties. The recent political turmoil has highlighted the frequency of such incidences, creating losses in human, lives and emotional trauma that are irreparable even more so than the economic losses enlisted with the recent movement of non-cooperation.

The cultural essence of a noncooperation movement was characterised by nonviolence in the subcontinent as inspired by Mahatma Gandhi whose memorable dedication has left a significant impact among leaders and movements of peace in the world. His non-cooperation or 'satyagraha' required a voluntary resignation of official duties, a visible symbol of protest. That in no way violated the laws of the country or encouraged destruction of public or private property.

The inspiration of this great leader has led to many peaceful protest marches in the world for various causes of justice. The same spirit was shown when professionals and government officials of Bangladesh led a noncooperation movement against the

government of Islamabad in 1971 as a peaceful protest against discrimination and injustice. Its impact was instant because of its voluntary and nonviolent nature.

Bangladesh has been created on the martyrdom of millions of freedom fighters forced to violence by the brutality of the Pakistan army. Post liberation speeches of leaders reiterated these incidences, enlisting the heroes and condemning the unforgivable violations of human rights. Revenge and vindictive killings were resisted by the post liberation government. The clear evidence of this was the departure of 90,000 Pakistani soldiers that left Bangladesh for Pakistan via India in accordance to the Geneva Convention.

People talked of peace and mourned collectively for their individual losses. Yet there was something missing in the vast emptiness felt by the bereaved. In the loudness of victory songs, the weeping of mourners were choked into a symbolism of brave and heroic stillness. They remained unconsoled. This state of mind as further aggravated by the absence of recognition to those who deserved the nations unqualified adulation. The catharsis of 1971 never really took place.

That is itself may not be the factor for the resurrection of violence that hurt the country in 75 with the mass assassination of the national founder, his family and four ministers of the cabinet, in the post '75 and '80s the military coups, the executions of young military officers, killings of activists and in the '90s the torture of the anti autocracy fighters. More horrendous, the increase in child abuse and brutality against women. Each time the violations have exhibited a sadism that is inexcusable in face of the fact that bullets and rifles have become more easily accessible, continuing up to date, the press is replete with incidence of violence that effect men, women and children with equal brutality organised by a coterie of vested interests.

Baffling still is the phenomena of violence associated with its perpetrators who are often the educated rather than the non-educated or the working class, occupied in the ordinary life of wage earning. In contrast to the daily horror stories of deaths during the 'Political upsurge' the public on the street including the rickshaw pullers showed a remarkable sense of responsibility and peaceful behaviour.

On stepping out of a bank one day, the rickshaw puller requested me to hold my money bag carefully for "these days one can never tell..." In this simple evidence of care by a poor man who has more cause for anger and looting, I see the quintessence of Bengali culture as essentially nonviolent and humane.

Khurshed Erfan Ahmed —  
Ain-O-Salish Kendra

## Charter of Human Rights Demands for Inclusion in Election Manifestoes of Political Parties in the Forthcoming Parliamentary Election

A caretaker government led by former Chief Justice Muhammad Habibur Rahman was established on 30 March following amendment of the Constitution. According to the Constitution, following an election held within ninety days under the auspices of the caretaker government, an elected government will take office. The caretaker government will announce the election schedule shortly. We expect that the political parties preparing to participate in the election will then begin their campaigns.

One objective behind the demand for holding elections under a caretaker government was to strengthen the democratic process and to further democratic practices and human rights. Another critical aspect of strengthening the democratic process, little addressed so far, is to abandon traditional political practices, which have caused incalculable loss of life and economic devastation throughout the country. We feel that it is unfortunate that while politicians frequently speak of democracy, they rarely refer to human rights. In our view, the failure to assert the interconnection between human rights and democracy lies at the root of our failure to consolidate democracy.

Considering these factors, we urge political parties to include in their election manifestoes a commitment to democracy, freedom of thought and conscience, freedom of speech and the press, development and economic freedom, the elimination of discrimination, justice and the rule of law and human rights. We call upon political parties to commit themselves to:

1. Repealing the Special Powers Act 1974 and all 'black' laws providing for direct and indirect censorship of the press; ensuring autonomy of radio and television;
2. Ratifying and incorporating in domestic law all UN human rights conventions, in particular the International Convention on Civil and Political Rights, the International Convention on Economic, Social and Cultural Rights and the International Convention against Torture; withdrawing reservations to the International Convention on the Elimination of Discrimination against Women and the International Convention on the Rights of the Child;

3. Repealing discriminatory and repressive laws, in particular the Vested Property Act 1974 and eliminating discrimination against and repression upon minorities; adopting a uniform personal code in place of the prevailing personal laws which discriminate against women;

4. Establishing the rule of law and ensuring the separation of the judiciary from the executive;

Taking effective steps to provide redress against state, administrative, political and family violence;

Holding trials of those directly or indirectly involved in genocide, war crimes and crimes against humanity during the War of Liberation, and of those implicated in all political killings after independence;

Repealing sections of the 2nd, 4th, 5th, 7th and 8th amendments to the Constitution which violate human rights or deter democratization;

Ensuring that the administration is free from political influence;

Taking effective steps to prevent loan defaulters from participating in the election;

Ensuring access to and proper distribution of resources among the people; Separating religion from politics;

5. Appointing an Ombudsman and establishing a Law Reform Commission;

6. Providing human rights education in all educational institutions including schools, colleges and universities, and to all members of the administration, the law enforcing agencies and the security forces in the light of the UN Decade for human rights education.

## List of organizations and signatories:

1. ODHAKAR
2. Ain O Salish Kendra (ASK)
3. Nagorik Uddoyog
4. Bangladesh Mahila Parisad
5. Jatiyo Ainjibi Parisad
6. Bangladesh Environmental Lawyers Association (BELA)
7. Bangladesh Manobadhikar Sangstha
8. Bangladesh Legal Aid and Services Trust (BALLAST)
9. Resource Integration Centre (RIC)
10. The Law Centre
11. Madaripur Legal Aid Association
12. Bangladesh National Women Lawyers Association (BJMAS)

- Mr. A. F. Hassan Arif
- Dr. Hameeda Hossain
- Mr. M. M. Hassan
- Ms. Ayesha Khanam
- Mr. Syed Mahbubur Rahman
- Dr. Mohiuddin Farooque
- Mr. M. R. Mahbub
- Mr. Fazlul Huq
- Mr. Abdul Hasib Khan
- Barrister Ahm. Lutfur Rahman
- Mr. Khan Mohammad Shahid
- Ms. Hasina Rashid

## The Virgilian Violation of 12 Months

Better late than never, Ekram Kabir reviews the CCHRB 1995 Report and explains why the umbrella body needs to be more assertive

HUMAN beings are tortured, imprisoned without trial, discriminated against, kept in permanent poverty and so on. It's necessary to uphold rights in order to protect human persons — men, and children — from various cruel and degrading treatments. In fact, the very basis of human rights is not simply human dignity as such, but the fact that this human dignity is so often denied in practice.

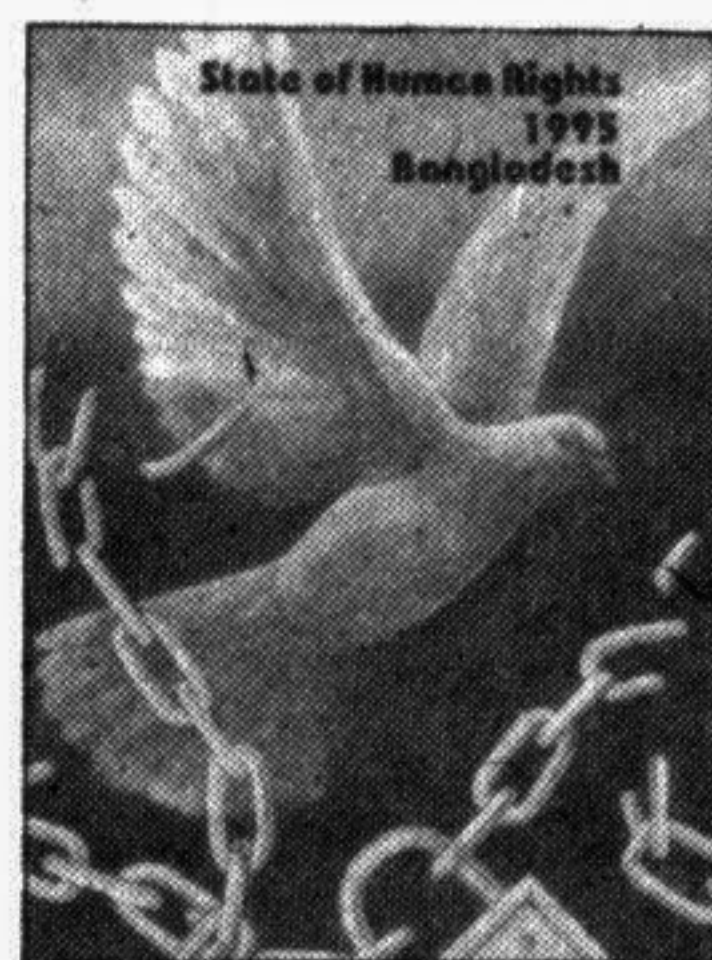
Human rights are not merely civil and political rights; they also include economic, social and cultural rights. The concept is much broader, but is hardly fathomed — that also ropes in the activists partially — by the common people of Bangladesh, even by those who claim themselves as 'educated'.

Bangladesh is a signatory to the UN Convention of Human Rights. The government machinery, in this regard, usually does some routine homework before being chartered to any international congregation and demonstrates — as experience indicates so far — towering enthusiasm in front of the global community with promises of implementing the same at the homefront. Ironically, the promise — or commitment, one may call it — takes a nosedive when back at the nest.

Viewed in the context of Bangladesh, the rights of women and children are to get priority, and ensuring rights to the 'people' at large is another sad tale to tell. In spite of some steps taken by the authorities concerned and workers at the grassroots, women in the rural areas are still not well-placed, they are being oppressed in worst possible ways. The reason is well understood: the law of the land fails to help this 'hapless half' of the country.

Similarly, the rights of children remain unrecognized. Poverty compels the majority of them to earn their livelihood at an age when they 'should' go to school. Despite these, there are many other areas that need rapid improvement. The 1995 Report of the Coalition Council of Human Rights in Bangladesh (CCHRB) reveals some frapping features of human rights state of affairs of the country.

Though the Report emphasises on civil and political rights, it's heartening to see that it carries, for the first time since CCHRB started keeping records, an article on health-related rights where medical practitioners are involved. The chapter is encouraging because it gives information on healthcare situation in the country. The writer says: "The diagnostic centres in Dhaka and in major cities have started an obnoxious practice of giving physician a percentage of the total money taken from the patient". But the reporter doesn't do justice to the patients who receive low-quality treatment from the clinical



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which, without a scintilla of doubt can be termed as 'malpractice' on the part of the physicians.

Majority of the patients in Bangladesh are poor; and that's the reason why they become so easy prey for the doctors to drain out money and aren't treated properly. Though the Report doesn't give any case studies like it gives in the chapters that deal with violation of women's rights — yet a question looms large: isn't there any law by which patients — who received ill-treatment — can claim realisation of their rights from the benches?

Well, there are still persons who regard the law relating to medical practice as merely involving the application of the general law of torts, or criminal law or whatever, to some particular facts. But the number in Bangladesh is negligible. The CCHRB Report doesn't suggest any approach to the law regulating the practice of medicine which treats it as if it were just another application of the law of battery, or negligence, seriously neglects a dimension which can broadly be called human rights. And when it comes to that, it's not only those rights declared in international conventions or set down in the constitutions of particular countries, but also those inchoate rights which are the product of reasoned moral analysis.

Trust, for example, has to be earned and is not the birthright of physicians or any other professionals. On the other hand, the history of mankind — and even of doctors — is that some sort of social system overseeing the activities who enjoy privilege (here, the medical practitioners) as regards others (people) is appropriate, indeed, is essential. Any such system must inevitably consist of principles and rules-guiding conduct.

Among others, the CCHRB Report doesn't do justice to the 'consumer rights'. In a politically volatile year, consumers of the country had to pay through the nose for their essentials. After many years of speculation, the Bangladeshi consumers came psychologically very close to be relieved by a consumers protection law

— an Act that will safeguard them from a multiplicity of problems. These problems, in other words, are 'violation' of their rights. The problems range from unfair practices of the manufacturers and retailers to poor quality goods and services.

In Bangladesh, the debate over consumer rights is a fairly recent phenomenon, but is a 'very' important one. One of the problems experienced in the country has been the lack of an effective 'voice' for consumers. This vacancy of 'voice' was alluded to by the then finance minister M Saffur Rahman, while speaking at a seminar organised by the Consumers' Association of Bangladesh (CAB) on May 31, 1995.

Although the CAB has been in existence for some years, yet the association never seem to have the teeth to make any kind of legal intervention necessary to establishing consumers' rights. On the other hand, the CCHRB couldn't notice that consumers still have to suffer poor quality goods, atrocious behaviour from 'sales assistants' while shopping, lack of warranty, arbitrary pricing that are often based on gullibility of shoppers, adulteration of 'food-items' and many more.

The country report of CCHRB is truly important. One of the loopholes of the Report — apart from its editing weaknesses — is the absence of an abridged article on the overall situation of the state of the human rights in '95. In spite of that — as it usually does — it contains an introduction and executive summary which, sad to say, gives only an elaboration — an index-like reading for the general readers. This makes the Report very difficult for a layman-reader who has to browse through all the articles to get the big picture.

On the other hand, the 1995 Report 'attempts' to orient the readers some new areas of human rights with some oddness, like family planning, flood action plan etc. These seem outlandish, to an extent, because they don't seem to have been written from clear-cut human rights point of views. Despite these, the Report should — next time, of course — contain an editorial commentary, including suggestions for upgrading the state of the human rights, which will definitely serve the purpose of an eye-opener for the authorities and agencies concerned.

One more suggestion won't be possibly too imposing for the CCHRB to accept is that to print the yearly country report in Bengali. It is so, because there are a number of wide circulated Bengali dailies and weeklies who might serialise the articles of the Report. After all — and doubtlessly so — they are the ones who can easily reach the majority of the people and make the teeming millions of the country conscious of their own rights.

## Muslim Personal Law Judiciary Opens a New Horizon in Hanafi Law on Past Maintenance

IN a recent landmark decision delivered in *Jamila Khatun Vs Rustum Ali's Case*, Appellate Division of the Supreme Court has held that a Muslim woman of Hanafi Subsect is entitled to her past maintenance from her husband. She can also claim past maintenance for her child if she has maintained the child without her husband's contribution.

The facts show that on 3-8-1972, one Jamila Khatun was given in marriage with one Rustum Ali and out of the wedlock Jamila gave birth to a male child. On 18-1-1975, she and the child were driven out by her husband from this lodge and she took shelter in her father's house. After a long time, she sued against her husband in Family Court for her past maintenance for more than eleven years, past maintenance of the child supported by her, unpaid dower money as also for dissolution of marriage. The Family Court decreed the suit granting all the reliefs prayed for fixing past maintenance for her and the child at a certain monthly rate. On appeal by her husband the Appellate Court affirmed the trial Court's decision.

Before the Appellate Division the question arose whether a Muslim wife of sunni sect belonging to Hanafi School, is entitled to past maintenance in the absence of a prior written agreement as she is guided by the Traditional Hanafi law particularly in view of enunciation of law on the subject depicted in DF Mulla's 'Principles of Mohammad Law' and 'Baillies Digest,' which do not permit

wife's past maintenance as per traditional Hanafi Law.

The Apex Court of the Country examined a number of Statutes namely, Muslim Family Laws Ordinance, 1961, Family Courts Ordinance, 1985, The Limitation Act, 1908, The Code of Civil Procedure, 1908, The Code of Criminal Procedure, 1898 and several legal Authorities on Mohammad Law Viz Baillie's Digest, Hamilton's Translation of Hedays, Syed Amir Ali's Mohammad Law and Principle of Mohammad Law by DF Mulla. The Court also examined a number of pronouncements of the superior judiciary of the subcontinent in India and Pakistan on the issues.

The Court further pronounced that it is not only the wife who can file a suit in Family Court for her own past maintenance but also for the past maintenance of her child and the Court will consider the overall needs, but the claim is subject to Article 120 of the Schedule of the Limitation Act. The Court allowed past maintenance for the wife and the child for six years prior to the filing of the suit on 6-1-86 and affirmed all other reliefs granted by the trial Court.

The Court's pronouncement is bound to have far reaching consequences in resolving the problems of married women in Bangladesh.

Barrister Rabia Bhuiyan appeared as learned counsel for the appellant. She was instructed by Mvi Md. Wahidullah, Advocate on Record. The judgement was written by Mr. Justice Mustafa Kamal on behalf of the Court.

## The Daily Star Entertainment Guide

**Sunday 21st April**  
(All programmes are in local time.  
We recommend programmes  
printed in bold. There may be  
changes in the programmes.)

## BTV

3:00 Opening Announcement Al-Duran  
Programme Summary 3:10 Resurrection  
from the Bible 3:15 Cartoon: Woody  
Woodpecker 3:45 Re-release of  
weekly drama 4:00 News in Bangla  
4:45 Abu Farmanat: Science  
Programme 5:00 News in Bangla  
5:25 Sports Programme 6:00 News  
in Bangla 6:30 Aqar Dakar 7:00  
News in English 7:05 Open University  
7:25 Tagore Songs 8:00 News in  
Bangla 8:25 Jamnathum 8:30  
Shipa-Banga-Artha: Programme on  
Industry 9:00 Film Series: Dark  
Justice 10:00 News in English  
10:30 Shantaratna 10:35 Sur Lathi  
11:30 News in Bangla 11:35  
Monday's programme 11:40 Close  
down

## BBC

6:00am BBC World News 6:30 India  
Business Report 7:00 BBC World  
News 7:25 This Week 8:00 BBC  
World News 8:30 India Business  
Report 9:00 BBC World News

## CHANNEL V

7:00 News Vision 9:00 The Ride VJ  
Trey 10:00 Pantajan Fashion Police  
10:30 The Best of Ek Ka Tam 11:00  
BPL Oval 12:00 Sanju Mangia Hai

## STAR PLUS

6:30am Transformations 7:00 King  
Artha 7:30 Classic Cartoons 8:00  
Terry Toons 8:30 Take Off 9:00 Ek  
The Cat 9:30 India Business Week  
10:30 The Road Show 11:00 Amul  
India Show 11:30 Family Pride 12:30  
The Fall Guy 1:30 Vegas 2:30 Best  
Seller's "Stay The Night" 4:30 The  
Love Boat 5:30 World Around Us  
"Archipelagos: Paradise Regained"  
Part 5:10 6:30 Amul India Show  
7:00 The Road Show 7:30 Snowy  
River "The McGregor Saga" 8:30  
Beverly Hills 9:30 Picket Fences  
10:30 Burke's Law 11:30 21 Jump  
Street 12:30 Star Trek: The Next  
Generation 1:30 India Business Week  
2:30 Amul India Show 3:00 The  
Quintessential Show 4:00 Hard Copy  
4:30 Home And Away 5:00 The  
Sullivans 5:30 Gabrielle

## STAR Sports

6:30am Asia Sports Show 7:00 The  
Asian Football Show 8:00 Live 1996  
Asian Judo, Motorcycle, Championship  
Japan Grand Prix From Suzuka, Japan  
9:00 12:00 Powerboat World 12:30  
Asia Sports Show 1:00 Same Day  
Delay NBA Indiana @ Chicago 3:00  
Inside PGA Tour 3:30 WJAF HIT 4:00  
Live Chinese National Football League  
Guangzhou v GZ Songzi 6:00 Same  
Day Delay US PGA Tour MCI Classic  
Day 3 8:00 World Wrestling Federation  
Action Zone 9:00 Live New  
Zealand v West Indies 1st Test Match  
11:00 Lunch 12:00 Live New Zealand  
v West Indies 1st Test Match Day 3  
3:00 NBA Indiana Chicago

## STAR MOVIES

7:30am Comedy Carry On Up The  
Khyber 15 (Hindi Subtitles) 9:30  
Family Family Secrets (Hindi  
Subtitles) 11:30 Adventure March  
Or Die (Hindi Subtitles) 1:30 Comedy  
Carry On Doctor 15 (Hindi Subtitles)  
3:30 Sunday Show Time All About  
The Movies Ep 3 & 4 (English  
Subtitles) 4:30 Sunday Show Time

9:30 Horizon 10:00 BBC World News  
10:30 Britain in View 11:00 BBC  
World News 11:25 India Business  
Report 12:00am BBC World News  
12:30 This Week 1:00 BBC World  
Headlines 1:05 Correspondent 2:00  
BBC World News 2:30 Time Out  
Film '96 3:00 BBC World News 3:30  
Time Out: The Clothes Show 4:00  
BBC World News 4:15 Heart of the  
Matter 5:00 BBC World News 5:20  
The Brains Trust 6:00pm BBC World  
Headlines 6:05 Rough Guide To The  
Americas 7:00 BBC World News  
7:05 Breakfast With Frost 8:00 BBC  
World News 8:30 Time Out: Top Gear  
9:00 BBC World News 10:30 Time Out:  
Madhub Jeffery's Far Eastern  
Cookery 11:00 BBC World News  
11:20 On The Record 12:00am BBC  
World News 12:20 Window On  
Europe 1:00 BBC World News  
1:05 The Big Top 1:50 Earth Report  
2:00 BBC World News 2:30 Time  
Out: One Foot In The Past 3:00  
BBC World Report inc. World Business  
Report/24 Hours 5:00 BBC World  
News 5:15 The Money Programme

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12:30 First Day First Show 1:00  
Speech Easy 1:30 By Bang VJ  
Alessandra 2:00 Philips V Promise 2:30  
Vijay V Promise 3:00 Anan VJ  
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