

FOCUS

Law and Our Rights Repeal all the Black Laws

The Special Powers Act, 1974: A Distance Between the Government and the People

By Isaac Robinson

The new government has pledged to repeal all the black laws. The Daily Star, in its bid to create mass awareness against the existing repressive laws, have planned to publish a series of articles highlighting the anti-people nature of these laws.

Repressive Nature of the Law

- Provides for detention without the detenu having committed any specific offence. Detention without trial, without any court proceeding.
- Issue of detention order — Arbitrary discretion of the government. Is against the concept of rule of law.
- District Magistrate's power to issue detention order — Widens the scope of its *mala fide* application.
- Prolonged and vague definition of 'prejudicial act' — Creates scope for gross abuse of the law.
- Constitutional safeguard of an arrested and detained person to "be produced before the nearest magistrate within a period of twenty-four hours of such arrest" — Denied in the law.
- Constitutional safeguard as to "the right to consult and be defended by a legal practitioner of his choice" — Denied in the law.
- Production before an Advisory Board within 120 days — First statutory safeguard for the detenu — Too lengthy for an innocent detenu.
- No check to exclude political activists and leaders from its ambit.
- No right to visit by the lawyers or relatives — Makes the detenu helpless.
- No maximum period of detention. Detenu being kept inside the prison for years without any allegation of offence against him.
- No provision for compensation in favour of the detenu even for the grossly wrongful detention.

JUST to remind the present leadership of the ruling party that it was the Awami League which placed a bill to repeal the notorious black law of the British regime, the Public Safety Act. On the 20th September 1956, Chief Minister Ataur Rahman Khan introduced the Bill in the fashion "I beg to move the East Bengal Public Safety (Repeal) Bill 1956". Quoting of this historic event is significant as it was the same party which repealed the Public Safety Act, suffered immensely under the Defence of Pakistan Ordinance and other security laws and ironically introduced a similar law, the Special Powers Act in 1974.

the Defence of Pakistan Ordinance was faded away from the memory of the leaders and workers of liberation struggle. Thus in our liberated Bangladesh we are still trailing the legacy of the safety laws of British India and Pakistan. We could not get rid of the safety law. Mr Abdul Malek Ukil once commented in 1967 before the Assembly that "... If any law has gained immortality in this land, that is the Public Safety Law." Significance of this comment is still felt when we see thousands of people are being arrested under the Special Powers Act yet after 25 years of independence. In fact, nothing has been changed over the years. The attitude of the government in applying the law remains the same. Detention law is still applied to oppress the political

Scheme of the Law

- Provides for the detention by the government of any person without trial to prevent him/her from committing any "prejudicial act."
- Prejudicial acts are widely defined as acts prejudicial to the sovereignty or defence of the country, to the maintenance of friendly relations with foreign states, to security, public safety, public order, or which create or excite enmity, hatred, fear or alarm between different classes or communities or sections of the people, or incite interference with the maintenance of law and order and acts prejudicial to the maintenance of supplies and services or the economic and financial interests of the state.
- Provides for indefinite periods of detention subject to certain limited but virtually ineffective safeguards.
- Government can issue order of detention
- District Magistrate and Additional District Magistrate can also issue order of detention for 30 days. However, it would further continue if government approves the detention within 30 days.
- Grounds of detention to be communicated to the detenu within 15 days.
- Detenu is not required to be produced before any Court.
- Detenu is required to be produced before an Advisory Board within 120 days.
- No right to legal representation before the Advisory Board. Detenu may submit a representation in writing against the detention to the Board.
- Advisory Board consists of 3 members — Two persons qualified to be appointed as Supreme Court Judges and one senior government officer.
- Detenu can't be visited by his lawyers or relatives except with the prior permission of the Ministry of Home Affairs.

opponents of the ruling party. It need not be reminded that at least 4 or 5 ministers of the present cabinet were detained under the Special Powers Act only a few months ago.

All the past governments had grossly abused the law. According to Amnesty International reports 35,000 people were detained under the Special Powers Act during the period up to August 1975, 100,000 during 1975-1981 and 1,50,000 during 1982-1992.

The power in the law to issue order of detention is so arbitrary that it is used indiscriminately without minimum care for civil rights and liberties of the citizen. The Pakistani fashion of arbitrary application of the law still persists in Bangladesh. Let me cite two instances. During Pakistan period, in 1954 Mr Salam Choudhury and his son were detained in the Barisal jail on the ground that they failed to apprehend one Communist Party member of their village. Again on 9th

February 1996 Md. Rezaul Karim, a final year student of MSc in Physics of the University of Dhaka was given 30 days detention in the Dhaka Central Jail on the ground that a mattress made of cloth from which military uniforms are made was found in his room. The said mattress was given to him by a friend and he did not have any knowledge of the said material from which it was made. These two instances reveal the resemblance of the level of application of arbitrary power by the government of two periods.

Another thing which has not been changed is the fabrication of grounds of detention. In a vast majority of cases brought before the High Court Division, the courts found the grounds of detention to be vague, indefinite and lacking in material particulars. This is also a practice carried forward from the Pakistan period. While visiting detained Tajuddin Ahmed in the jail, Chief Minister Ataur Rahman

Khan once said that the government had a third eye to fabricate grounds of detention. Mr. Tajuddin Ahmed was arrested from his house in Dhaka while he was preparing for his law examination, whereas his grounds of detention showed that he went to Faridpur and Barisal and engaged in secret activities. Farciful grounds of detentions is still a habitual business of the government.

Abuse of the law is very apparent as it is observed that in almost 95 per cent cases brought before the High Court Division, the Court finds the detention order invalid and hence the Court grants order of release to the detenu. The basis on which court issues order of release are, for:

- the grounds of detention to be vague, indefinite and lacking in material particulars
- failure to inform the detenu of his right to representation
- failure to serve the grounds of detention within 15 days
- lack of nexus between the order of detention and grounds of detention.
- failure to produce the detenu before the Advisory Board within a certain time
- retrospective issuance of orders.

Facts About Application of the Law

- More than 3,00,000 people were detained under this law in the past 22 years.
- All the past ruling parties used this law to oppress their political opponents.
- Sufferers of the law are the general people of the country who carried forward democratic movements during different regime. They are not enemy of the state.
- In more than 95% cases the Court found detention order invalid.
- Detenus released by the order of the High Court Division are sometimes re-arrested and detained under a new order.
- Grounds of detention communicated to the detenu are often vague and include allegations such as "involvement in anti-state activity" or "being a known armed terrorist."
- Although detention orders can be challenged before the High Court Division, poor detenus cannot afford the process.
- Although the law provides for production of detenus before an Advisory Board, they are generally not brought before the Board.
- Almost all the present top ranking political leaders suffered under this law.

Even the intent of the legislature, as construed from the Parliamentary Proceedings on the Special Powers Bill, does not coincide with the present application of the law. While discussing on the Bill in the Parliament, ruling party MP Mr Serajul Huq termed the law as "...the whitest law that we are bringing against the blackest background". We do not believe that it was "the whitest law", but we understand that "the blackest background" as meant by Mr. Huq does not exist now.

The law minister Mr. Monoranjan Dhar also assured the house that the law would be used only to prevent massive smuggling, hoarding, black marketing, killing, arson etc. prevailing at that time. From the point of view of the framers of the law, improvement of the situation has definitely demolished the necessity of the law.

We demand repeal of the Special Powers Act as we believe that people's government does not require repressive laws to rule the country. We hope that the present government will repeal the Special Powers Act with the same spirit that the Public Safety Act was repealed in 1956.

Isaac Robinson — General Secretary, Law Review, member — Ain O Salish Kendra.

Incidents of Different Types of Violations of Human Rights

Period: 1st April'96 to 30th June'96

A survey conducted by ODHAKAR, a coalition for human rights from 1st April'96 to 30th June'96 shows that, at least 2,332 persons were killed, 60,197 injured in different types of violence and 43,478 arrested in different types of cases. During the period at least 78 persons were killed and 2,860 injured in

violences related to election only.

A non-partisan caretaker government headed by former Chief Justice Habibur Rahman came to power in order to conduct a free, fair and impartial parliamentary election and accordingly, took some steps to restore law and order in the society through

recovery of illegal arms and arrest of criminals. These steps were ultimately proven successful as terrorism during the period was reduced to a great extent. Still political killing and violence related to election occurred in some places and challenged this success.

Ten national dailies namely Ittefaq, Observer, Janakantha, Bhorer Kagaj, Songbad, Banglabazar Patrika, Star, Dinkal, Inqilab and the Financial Express are the sources of this survey conducted by ODHAKAR. It should be mentioned here that due to the variation of figures in case of killing/death/accidents etc in different newspapers, we have accepted the minimum acceptable number.

Killing due to political, family and other enmity	Death due to natural calamity, food poisoning etc	Death cause by road accident, lurch and boat accident, electric shock etc	Injury due to various types of violence	Death due to election violence	Injury due to election clashes	Arrest on arms recovery and other criminal cases	Trafficking of women and children	Abduction of women and children	Sexual abuse against children
441 persons	860 persons	953 persons	58,137 persons	78 persons	2,860 persons	43,478 persons	35 persons	25 persons	8 persons

Sexual abuse against women	Women-victim of domestic and other violence	Women-died due to different types of violence	Infiltration of Rohingah refugees	Return of tribal refugees from India	Killing by Shantibahini in Hill Districts	Arrest by Police in Hill Districts	Surrender of Shantibahini members	Push back of BDR to Myanmar	Clash between public and Police/Ansar
21 persons	17 persons	8 persons	244 persons	150 persons	6 persons	2 persons	9 persons	81 persons	3 incidents

Source: Ten national dailies namely Ittefaq, Observer, Star, Janakantha, Bhorer Kagaj, Songbad, Banglabazar Patrika, Dinkal, Inqilab and the Financial Express.

The Daily Star Entertainment Guide

Sunday 14th July

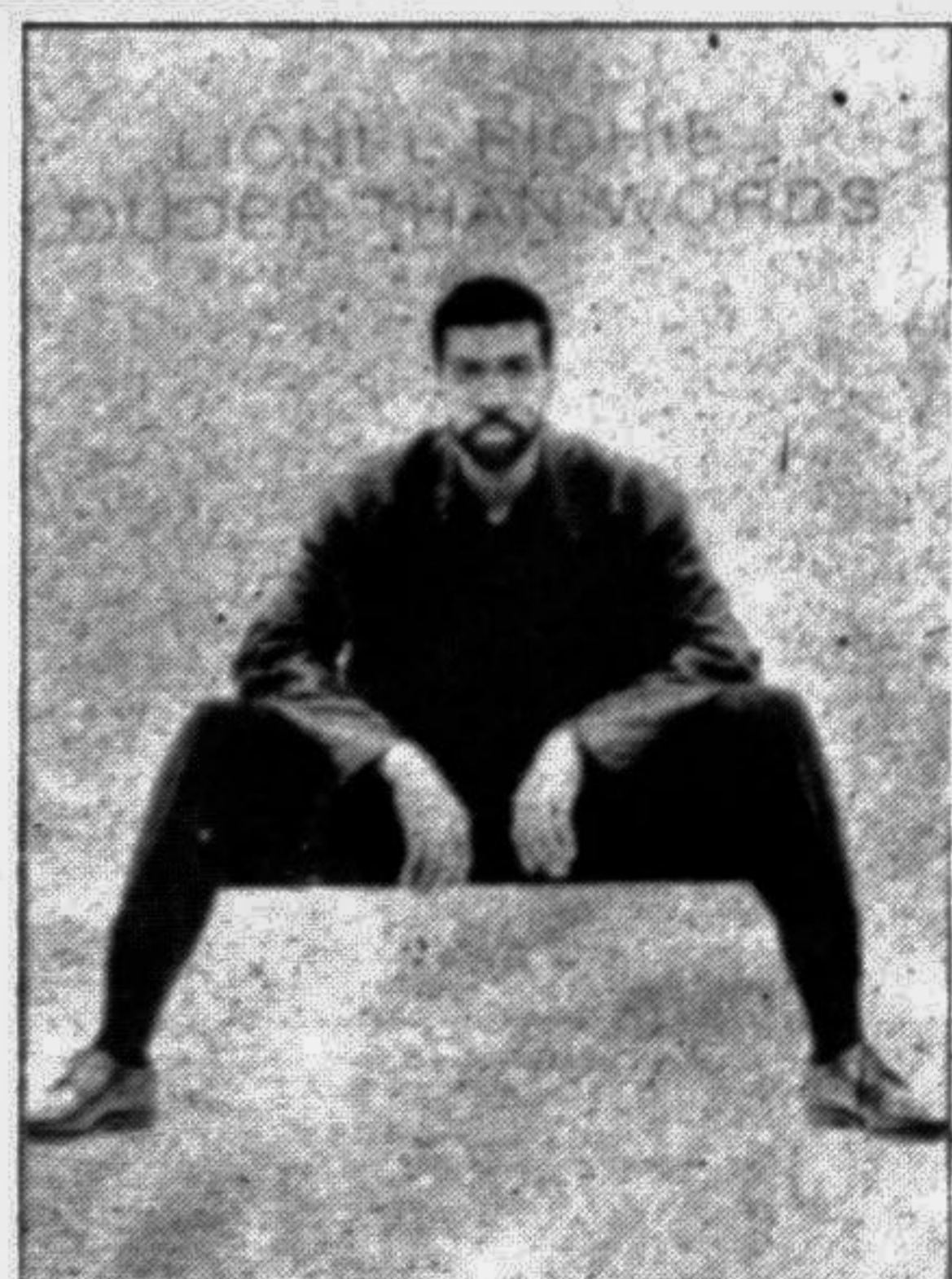
(All programmes are in local time. We recommend programmes printed in bold. There may be changes in the programmes.)

BTV

3:00 Opening Announcement: Al Quran Programme Summary 3:10 Recreation from the Bible 3:15 Cartoon: Woody Woodpecker 3:45 Re-telcast of Weekly Drama 4:00 News in Bangla 4:45 Mazar 5:00 News in Bangla 5:25 Sports Programme: 6:00 News in Bangla 6:30 Moader Jamyo 7:00 News in English 7:05 Open University 7:25 Tagore Songs 8:00 News in Bangla 8:25 Jamnabum 8:30 Amar Desh 9:00 Film Series: Akbar The Great 10:00 News in English 10:30 Shasthatatha 10:35 Chhaya Chhandao 11:30

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 9:30 Horizon 10:00 BBC World News 10:20 Britain in View 11:00 BBC World News 11:25 India Business Report 12:00noon BBC World News 12:20 This Week 1:00 BBC World News 1:05 Correspondent 2:00 BBC World News 2:30 Time Out: Building Sights 3:00 BBC World News 3:30 Time Out: Auction 4:00 BBC World News 4:05 Everyman 5:00 BBC World News 5:20 The Ari Marathon 6:00pm BBC World News 6:05 The Tourist 7:00 BBC



Speak Easy: Lionel Richie on Channel V. Today at 1:00 PM

World Headlines 7:05 Breakfast With Frost 8:00 BBC World News 8:30 Time Out: Top Gear 9:00 BBC World News 9:05 Horizon 10:00 BBC World News 10:20 Earth Report 10:30 Time Out: Food and Drink 11:00 BBC World News 11:20 Britain in View 12:00noon BBC World News 12:20 Window On Europe 1:00 BBC World News 1:05 Under the Blue Flag 2:00 BBC World News 2:30 Time Out: The Contenders 3:00 BBC World Report inc. World Business Report/24 Hours 5:00 BBC World News 5:10 The Movie Programme

CHANNEL V

10:30am The Best of Ek Ka Teen 11:00 BPL Oye! 12:00 Sansar Mangla Hai 12:30 First Day First Show 1:00 Speak Easy Featuring Lionel Richie 1:30 Big Bang VJ Alessandra 2:30 Videoclan-Flash Back 2:00 Assam Top 20 VJ Noan

STAR Sports

6:30am World Cup of Squash 7:30 Spark 8:30 World Wrestling Federation Action Zone 9:30 Football Mundial 10:00 Asia Sport Show 11:30 Formula One World Champ. Britain Qualifying 11:00 Inside PGA Tour 12:00noon High 5 11:30 World Cup of Squash 1:30 The Asian Football Show 2:30 World Cup Trial Bikes From Paris 4:00 Asia Sport Show 4:30 World Cup Classic Matches 1966 Hungary v Brazil 1st Round 6:30 Live Formula One World Championships British Grand Prix From Silverstone, Britain 9:00 Same Day Delay Cricket '96 Sunday League (AXA Equity Sun day League) Surrey vs Worcester share Vis SKY 2:30 Futbol Mundial 27 3:00 Than Kickboxing Highlights 4:00 USA Boxing Charles Murray vs Jeake Rodriguez NABF Title Bout

STAR MOVIES

7:30am Thriller: Police Python 357 (Hindi Subtitles) 9:30 Classic: Im of the Sixth Happiness (Hindi Subtitles) 11:30 Comedy: The Dream Machine (Hindi Subtitles) 1:30 Sunday Classic: Western Cattle Empire (Hindi Subtitles) 3:30 Sunday Showtime: Pee-Wee's Playhouse Ep 17 & 18 (Hindi Subtitles) 4:30 Sunday Showtime: Thumbelina (English Subtitles) 5:30 Sunday Matinee Family Double Feature: The Last Unicorn (Hindi Subtitles) 7:30 Family Double Feature: Welcome Home Roy Carncached 15 (Hindi Subtitles) 9:00 Film 96 Special 9:30 Gold: Freddy's Dead: The Final Nightmare (Hindi Subtitles) 11:30 Based On A True Story: Vigilante

STAR PLUS

8:30am Voltron 7:00 King Arthur 7:30 Classic: Cartoons 8:00 Terry Toons 9:30 T-Bag 9:00 Thailand Panorama 9:30 India Business Week 10:30 The Road Show 11:00 Amul India Show 11:30 Kriker! 12:30 The Fall Guy 1:30 Vegas 2:30 Best Sellers: "Little Women" 4:30 The Love Boat 5:30 World Around Us: Ancient Prophecies 6:30 Amul India Show 7:00 The Road Show 7:30 Snowy

EL TV

6:30am Dance Dance 7:30 Best Of The Best 8:30 Frooty It's My Choice 9:00 Ru-Ba-Ru 9:30 Fat Or Fit 10:30 Chalo Cinema 11:00 The Move Usha Uthup Show 11:30 Liberty Public Demand 12:30pm Sorry Mori Larry 1:00 Zaika Ki Safar 1:30 Special 2:30 Money

PTV

8:00am Tawar Aur Tar jama/Hand/Nast 8:20 - Cartoon 8:30 Khabran 8:45 Fun Time 9:00 TV Encyclopedia 9:25 Khat

Game 3:00 Purushketha 4:00 Zhanudu Baam Dance Mana 4:30 Hit Ha Fit Ha 5:00 Song Ytra 5:30 Special 6:30 Special 7:30 Sansam 8:00 Film Cha'ti 8:30 V-3 Plus 9:00 The Music Show 9:30 Satray (Serial) 10:00 Ru-Ba-Ru 10:30 Special 11:30 Special 12:30 Dance Dance 1:00 Best of the Best 2:00 Tarane Aur Fasane 3:00 Music Time

Farmash 9:40 Sports Clinic 10:05 PTV Gold 10:30 English Film: Darkwing Duck 10:55 Mast Mast Sanyo 11:00 Khabran 11:10 Sports Hour 12:05pm Bisoop 95(Gasm) Hahani 12:55 Duran-e-Hakeem 1:02 Bismillah 1:15 Aaj Di Kahani 1:40 Aaj Di Shaam 2:00 Kinara Ep 36 (Drama Serial) 2:55 Ghost Writer 3:55 Karabar 4:15 Education 5:25 Razi for 9th 5:55 Zameen Per Zendeji (Drama Serial) 6:25 Adu Courses 7:00 English News 7:30 English Film: Star Trek: Deep Space Nine 8:20 Hawwa Ki Naam 9:00 Break for Headlines News 9:20 Sur Tawar (Pakistan Film

1947'95) 10:00 Khabranama & Commercial News 11:00 Perwaan 11:35 Home Victim (New Serial) 12:35 Music Masters Raag Rang 1:00 Khas Khas Khabran

SONY ET

8:30am Jal Bir Haruman 9:00 Yaadon Ki Baarat 9:30 Gaane Jaane Maane 10:00 Hindi Hits Songs 10:30 Jadugar 11:00 10 Civi Lines 11:30 Sunday Ki Sunday 12:00 Hamse Barker Koun 12:30pm Pehli Mukat 1:00 Good Shot 1:30 Pehchan 2:00 Hum Se Barker Gong 2:30 Mere Massage Meri Geet 3:00 Naye Tarane

3:30 Gaane Jaane Maane 4:00 Dekh Tamasa Dekh 4:30 O Maria 5:00 Jane Kaha Mera Jigar Gaya 5:30 Ghaay 6:00 Dekh Tamasa Dekh 6:30 Aahat 7:00 Cine Classics Hindi Feature Film 10:00 Buddha 10:30 Audio * Video Premier Show 11:00 Good Shoot 11:30 Cine Prime Hindi Feature Film

ZEE CINEMA

8:00 China Town 11:15 Namak Haram 2:30 Do Anjane - 6:00 Stargar 8:45 Ikkie Pe Ikkie 9:30 Charas 12:30 Vaade Trade 3:45 Saazish



Amul India Show on Star Plus. Tonight at 6:30

Garfield®

by Jim Davis

James Bond
BY IAN FLEMING
DRAWING BY HORAK