

Law and Our Rights

Safe Custody: How Far Safe Is It?

by Salma Ali

FOLLOWING Seema's tragic death in so-called 'safe custody' the much-talked issue of safety of women and children in safe custody has stirred up once again in the mind of citizens. Though earlier quite often the issue as to how far 'safe custody' is safe for women and children had been raised by numerous sections of the society, very little attention has been put on it from proper authority.

As it is a widely discussed issue, there is hardly anything new to focus on faults of safe custody. But as the law enforcing agencies widely use this practice and make more and more children and women suffer, the need for further and elaborate discussion of its dark sides is enhanced enormously.

It is regrettable that though there is no provision of safe custody in jail code, the Magistrates with their undefined discretionary power place women and children in safe custody. Safety of women and children in safe custody is being questioned or challenged, as we see women and children in safe custody have to come across innumerable difficult situations where they easily become victims of different range of abuse and harassment. To be precise, the whole practice of 'safe custody' is inhumane and total violation of human rights. It is wrong to take female in to the custody of thana with male police personnel by congested vehicle without or little concern of their convenience and privacy. Even while in the thana there is mostly no female police personnel at night to look after them and no separate room for them.

At night female police personnel are not on duty not because of their own safety but no one bothers about the safety of safe custody girls. Imprisoning them in jail with other convicted common criminals for indefinite period of time (as if they too are criminals) and not providing them with least opportunity to fulfil their basic needs and privacy, can not be fair. Besides, young impressionable girls getting into close contact with older real convicts and veteran criminals, in the existing system of safe custody, are bound to develop criminal tendencies or sometimes may mould their psyche into mental case.

In this context, it is convenient to note who are being kept in safe custody. Jails in Bangladesh consist of three broad types of inmates: Under Trial Prisoners, Convicted Prisoners and Safe Custody Prisoners. Majority of the last type are minor and adolescent girls who have been placed into safe custody and can be put into following categories:

1. Victims of kidnap or rape cases (under Bangladesh Penal Code Sec 366A and 376).
2. Those who have escaped or been rescued from broth-

els/criminal gangs and cannot return home (under Sec 54 of released on bail. But after that they become labelled as prosti-Criminal Procedure Code).

3. Those who fled from home due to oppressive reasons like ill-treatment by step-mother/husband, broken marriages/homes etc (Sec 54 CrPC).

4. Those arrested for vagrancy having moved to urban areas in search of livelihood but with no place to reside (Sec 55 of CrPC).

5. Those who have eloped but being minors giving rise to conflicting claims (366A of BPC and Sec 54 of CrPC).

6. Those who have been abandoned or lost and have nowhere to go for shelter (Sec 54 of CrPC).

7. Those needing safety as decided by court, police etc. (Sec 54 of CrPC).

8. Those who are witness to grave criminal offences e.g. murder (Sec 302 of BPC).

So, we are seeing that safe custody is for innocent, helpless, destitute people who are not criminals but sometimes the victims of crime, and are to be brought in 'safe custody' under supervision of law enforcing agencies temporarily to guard their safety. But the paradox is that the most desired 'safety' is absent there.

It depends on the whims of on-duty police personnel and inmates' mercy whether they are being abused or not.

On the other hand, the safe custody prisoners are to stay there as long as the court decides. After this stay they are released but there is no fixed duration of their safe custody imprisonment which varies with each individual case and may range from few days to even years. It is total violation of our Constitutional guarantees to confine people in jail who are victims of different circumstances. When it is unbearable for a person to stay in jail even for an hour due to its unwholesome condition, innocent people kept in safe custody on above mentioned grounds are compelled to stay there, as the authorities fail to provide any alternatives for them.

Since Black Laws i.e. Sec 54, Sec 290, DMP 74 of the Penal Code give police almost unlimited power to arrest any person without warrant, continual gross abuse of these laws become common fact.

It is noteworthy that Sec 54 of the Penal Code under which police can arrest any one on suspicion on nine special grounds have been specially repressive to women.

Another Black Law is Sec 290 PC, under which one can bring charge of criminal offence against a woman. Under this section a woman can be arrested if someone lodges complaint against her that she was being vulgar, obscene to allure men to involve in sexuality or any anti-social activities with her. Taking advantage of this

law even rapists file case under Sec 290 PC against rape victims. This is just what was happened to Nuri.

Nuri was a gang-raped victim who was kept in judicial custody in Feni jail. On 4th October, 1994, our organisation BNWLA (Bangladesh National Women Lawyer Association) arranged her release and got the right of her custody. We found that her suffering did not end with the ordeal of rape. Under pressure from the gang of rapists, the local police station tried to coerce her to make a false statement that she is herself guilty. The police refused to register her case against the rapists, despite specific allegation and trace of injury on the victim's body. On the contrary, the police even filed a charge against Nuri under section 290 of the Bangladesh Penal Code, accusing her of being involved in unsocial activities. When she was sent to court, the Magistrate after hearing her statement, ordered a police inspector to investigate. The Magistrate ordered the police to record her allegation as an F I R. In the meantime, BNWLA filed a case on her behalf, on the basis on Nuri's statement, under Section 376 of BPC and Cruelty to Women Ordinance, Section 4 'Ka', 'Kha', 'Gha'.

This example illustrates how a woman, whether victim or accused, obtains protection through the legal procedure. In Bangladesh, if the female victim is minor, poor or without any guardian then her position is quite hopeless.

Besides the way the Sec 290 of BPC was being abused in Nuri's case, it is being abused grossly in another way too by vested groups. Many working girls are frequently arrested whimsically by the police under this provision of law and kept imprisoned. In most cases it is found that they are released by the pimps of brothels, who are regular visitors of court hajat in search of such innocent victims. They release them on bail under the statement that they are prostitutes. Most poor and illiterate girls cannot realise that they are not their saviour but agents of further deprivation. They sign the statements and for Tk 500/- only they are released in society. They have no choice but to surrender to the wishes of pimps. Thus, a section of innocent young girls turn into prostitutes.

Our organisation, BNWLA, since its birth, has been working and struggling hard to protect and ensure the rights of disadvantaged and distressed women prisoners by providing free legal aid.

Within our short journey from 1991 to 1996 some 125

poor souls kept in safe custody had been released from different jails in Bangladesh and handed over to legal guardians or rehabilitated by BNWLA.

While dealing with these cases, we found unnecessary prolonged imprisonment in safe custody of children and women for the irresponsibility of the concerned authority i.e. the police station. It is a common practice that they don't even officially record the name of an arrested woman so that she can be kept in safe custody only for few days. It is, however, not difficult for some one to guess the reason behind this practice.

Another irresponsibility of the police that contributes in prolonged imprisonment of people in safe custody is their strong distaste in establishing liaison with the neighbouring police stations or newspapers or media by giving photo and descriptions of rescued or missing children to search for their legal guardian or parents. Due to this simple task not being done by police in time, many missing persons have to live behind bars for months together or more.

We come across such cases very often. Monica, Fulmati, Rukhsana are the victims of such cases. They were kept in jail for months in the name of safe custody. But they could be with their legal guardians within 2/3 days of their capture if the police would have taken proper measures in time.

We had released Monica from Dhaka Central Jail after 4 months of missing from her hometown Narayanganj. Monica, 17, is mentally imbalanced, was an SSC examinee, and one day she ran away from home and was arrested by the Demra police for suspicious movement and thereafter kept in jail for 4 months. But afterwards neither thana authority nor jail authority took appropriate steps to enquire or make any attempt to search for her real identity. Her father made G.D. entry in Narayanganj police station and also arranged miking after she was missing. But the two neighbouring police stations did not make any liaison with each other, nor did they inform her parents whereabouts of their daughter. But when BNWLA took her case, had her released, inquired her address from her father, he urgently came and took her home. She thus was united with her family. In her case, she might not have been ostracised for her sound family background by the society, but in other cases a girl like her would

face reintegration problem in society.

Panna, Rukhsana, Fulmati (all are between 5 and 8) did not find their way home until our interference in their cases.

In another case, one Ashoka had been sent to safe custody while she was being almost sold to a pimp in Narayanganj by her intimate who had brought her to town promising to give her a good job. She was sexually assaulted by a police guard named Ramjan, when they were on a routine trip from jail custody to the hospital. For the interference of some women human rights activists and legal aid organisations, very few fortunate girls can escape the prolonged imprisonment in jail in the name of safe custody and can reside only as long as needed in comparatively better and protected shelter. Above all, in these shelters or separate homes at least one doesn't have to be confined like common criminals and they can roam as free persons but their safety is ensured there.

One Vanubati, a minor girl of 16, from a well-to-do Hindu family fled away with a Muslim man. Her father immediately filed a kidnapping case against the husband, Monam.

As she was seen to be extremely innocent and victim of a dispute between her father and husband, BNWLA considered it totally irrational for her to stay in the jail till the case resolves. So, BNWLA took the role of 'safe custody' in a way, in this regard. She remained under the BNWLA custody for eleven months during which she took preparation for SSC examination which would not have been possible if she was kept in jail. Later, she was handed over to her husband, as he won the case.

The truth that emerges from all these events is that the present type of 'safe custody' under law enforcing agency is no longer safe in many ways. On the other hand, the need for safe custody for various reasons cannot be denied. So, 'separate homes' with all necessary facilities for women in safe custody is the crying need now. Proper initiative should be taken from the Government and NGO level to provide separate homes. In this regard our organisation recently filed a writ petition (No 1395-97) challenging the continuing practice of taking women and girls in 'safe custody' upon which the High Court, on 9th March, 1997, issued a 'rule nisi' on the Government. As a petitioner, in the

case it was stated that my organisation has been providing legal aid to the disadvantaged and distressed women prisoners. The organisation, which is recognised by the Government, was handed over the custody of 125 inmates from 1991 to 1996. These women used to live with the convicted and undertrial criminals. It has been clearly

mentioned in the petition that it is against the constitutional rights of women to lead life as a criminal for safety. This rule is made returnable within two weeks from date.

In this context, it is hoped that all concerned sectors, both in governmental and non-governmental levels, would be able to realise soon the necessity of taking more practical initiatives rather than grumble in rhetoric level on this matter and make 'safe custody' safe in

true sense. We all are working for a better tomorrow. Let our spirits illuminate as a beacon, throughout our whole journey towards our cherished destination.

All names of case studies are fictitious for the interest of concealment of real victims' identities except Fulmati, Panna and Rukhsana.

The writer, a social activist, is the Executive Director of Bangladesh National Women Lawyers Association (BNWLA)

MRK CONSULTANTS

Executive Search

An International Financial Institution which will soon start operations in Bangladesh wishes to fill up the following vacancies:

Audit Manager

Major responsibilities of the position will be to carry out audit of all internal control systems in the bank on a routine basis in order to ensure that Bank's policies, guidelines and standards are followed. He/she will identify areas of deficiencies in the systems and carry out investigations to provide adequate management information on the effectiveness of the systems and compliance of rules and regulations.

Candidates in their late twenties or early thirties should preferably be Chartered Accountants and have 2/3 years experience of a similar job in a financial institution. Those who have done their Masters in Commerce or cleared intermediate examination of Chartered Accountancy with 4/5 years experience of audit function in a financial institution having good understanding of banking operations and the key control issues within the organization can also apply.

Accounts Manager

The responsibilities of the position will be preparation and maintenance of various financial statements and schedules, monthly profit and loss accounts, annual accounting reports. He/she will also collaborate with other managers in preparing the annual budget and reviewing it on a routine basis.

Candidates in their mid thirties should be Chartered Accountants with minimum 3 years experience in banking. The incumbent will have thorough knowledge in finance policies and procedures, prevailing taxation systems and rules that govern and regulate financial institutions.

I.T. Manager

Candidates should be graduates, preferably in computer science. Minimum 3 to 4 years experience of independently managing a data center, preferably in a banking environment, is required. The incumbent should possess good communication skills along with knowledge of LAN & WAN, UNIX operating system, COBOL and Windows based applications such as MS-Word, Excel, Power Point etc. Knowledge of Visual Basic and RDBMS will be an added advantage.

Major responsibilities include ensuring smooth operations of banking application on a UNIX platform using local and wide area network, management of LAN and the operating systems for day to day banking, implementation of system upgrades and interaction with various vendors. The selected candidate will have to maintain an effective liaison with the Head office on I.T. related matters.

Manager, Documentary Credit

Major responsibilities of the position will be preparation and maintenance of documentation of all credit operations and handling of import/export and letters of credit.

Candidates should have an advanced degree in Economics or any other allied subject with 10/12 years experience of working in a financial institution. The incumbent will be fully familiar with documentation procedures and must have thorough knowledge of Bangladesh Bank regulations, exchange control manuals and back to back letters of credit transactions.

General Services & Protocol Manager

Major responsibilities of the incumbent will involve providing administrative and general service support to the organisation. He will develop effective relationship with the target public in the Government and other allied organizations so that routine assignments are completed on schedule. Other responsibilities will be receiving important visitors of the bank, organize logistics and related facilities.

Applicants must be in their twenties with a degree in any Social Science. They will have pleasant personality and ability to influence and liaise with people in important positions. They should have 2/3 years experience of similar positions in a financial institution and be able to communicate effectively with audiences of varied levels.

The selected candidate will have strong inter personal skills and a flair for PR. He will be time-conscious and result - oriented and must be prepared to work long hours to achieve given targets.

Officers

These are entry level management positions where individuals will have opportunities for acquiring specialised banking skills. There is scope for self development, training and career progression.

Handling transactions, meeting clients and maintaining books of accounts will be primary responsibilities.

The successful candidates will have Masters degree in Economics or Commerce but MBAs will be given preference. 2/3 years experience in commercial banking is a requirement. Computer skills will be an advantage.

Executive Secretary

The selected candidate will be required to perform secretarial jobs and assist the Country General Manager in his day to day work. She should be good at both verbal and written communication with proficiency in English. A degree in any Social Science and an experience of at least 5 years of working with the Chief Executive Officer or a Senior Manager at corporate level in a multinational company are essential. She will have strong Computer skills and ability to make correspondence independently.

Her other responsibilities will be fixing appointments and scheduling meetings both within and outside. Organizing travel arrangements for the Country General Manager will be one of her routine jobs.

To fit into the job, candidates should be articulate and well groomed.

Competitive remuneration packages for all the above vacancies matching the applicants' qualifications and experiences will be offered. Only short listed candidates will be contacted.

Interested persons for any of the positions may please send their detailed resume with a passport size photograph by 25th April 1997 to MRK Consultants, Bilquis Tower (3rd floor), 6 Gulshan North C.A. Dhaka 1212. Tel : 885100, 9882321 & 885074 Fax : 880-2-885086.

Metropolitan

What's on today....

Cultural function: Muktaadhar Sangskriti Charcha Kendra has arranged a function to welcome Pahela Baishakh. Venue: TSC crossing, DU campus. Time: Midnight.

Poetry recitation: Muktaadhar Sangskriti Charcha Kendra has arranged a poetry recitation session on 'Pahela Baishakh'. Venue: Jadugar premises, Segun Bagicha. Time: 6:30 pm.

Launching ceremony: Economic Relations Division (ERD) in cooperation with the World Food Programme will hold the launching ceremony of 'Rural Development Programme'. Venue: Hotel Sheraton. Time: 9 am.

Painting exhibition: An exhibition of water colours by 14 eminent artists titled 'Sundarbans in the eye of the artist' will begin. Venue: Shilpakala Academy gallery. Time: 5:30 pm, till Apr 24.

Commitment programme: Commitment, a voluntary organisation, has arranged a cultural programme to celebrate Pahela Baishakh. Venue: National Press Club auditorium. Time: 5:30 pm.

Rotary Club of Dhaka Midtown: The weekly meeting of the club will be held. Venue: Dhaka Club Limited. Time: 5 pm.

Rotary Club of Greater Dhaka: The regular weekly meeting of the club will be held. Venue: Officers' Club, Baily Road. Time: 5:30 pm.

Pahela Baishakh function: Jatiyatabadi Sangskriti Joke has organised a function to herald in the Bangla New Year, 1404. Venue: Ramna Park. Time: Sunset-midnight.

Rotary Club of Metropolitan Dhaka: The regular weekly meeting of the club will be held. Venue: Hotel Sheraton. Time: 5:30 pm.

HERE and THERE

Int'l Relations Dept of DU

Freshers' reception of the first year students and farewell of masters examinees of International Relations Department of Dhaka University were held at the TSC auditorium yesterday, reports UNB.

Vice Chancellor Prof A K Azad Chowdhury attended the function as chief guest.

Presided over by the department chairman, Prof Raheul Abrar, the function was also addressed by social science dean Prof Asaduzzaman and student adviser Ashoka Irshad.

Studio Malik samity

Manwar Hussain Manik has been elected president of the Bangladesh Studio Malik Samity for the year 1997-1998 in the annual general meeting recently held in the office of the association, says a press release.

Syed Rezaul Karim, Abdul Hamid and Zakir Hossain Babu have been elected vice-presidents. Sheikh Golam Jahangir has been elected secretary general and Sheikh Hamidul Haque Kochi has been elected as Treasurer of the Association for the year 1997-1998.

USTC

University of Science and Technology, Chittagong (USTC) recently signed an agreement on educational cooperation with the New Hampshire College, USA, a university press release said, reports BSS.

According to the agreement, probable students from the USTC will be able to credit-transfer to Hampshire College a maximum of 90 credits.

Sena Kalyan Sangstha

Sena Kalyan Sangstha has granted stipends, amounting to nearly Taka 66.22 lakh, to the children of ex-servicemen in degree and higher level education for the session 1995-96.

Stipend money will be remitted by Agrani Bank, Amin Court Branch, Motijheel C/A, Dhaka, through bank or demand draft to the head of the institute of the stipendiaries concerned for disbursement, says a press release.



Minister of State for Social Welfare, Children and Women's Affairs Dr Mozammel Hossain presenting prize to a winner of the Jatiya Shishu Purushkar Protijogita (national children's award competition) at the Shishu Academy auditorium yesterday. — PID photo

Korean cultural team to perform Apr 15-16

Korean traditional dance and music will be performed by the Seoul Performing Arts Company at the Osmani Memorial Hall on Tuesday evening and at the Shilpakala Academy on Wednesday, reports BSS.

The cultural show will be a unique combination of traditional Korean performing arts consisting of improvised music and dance.

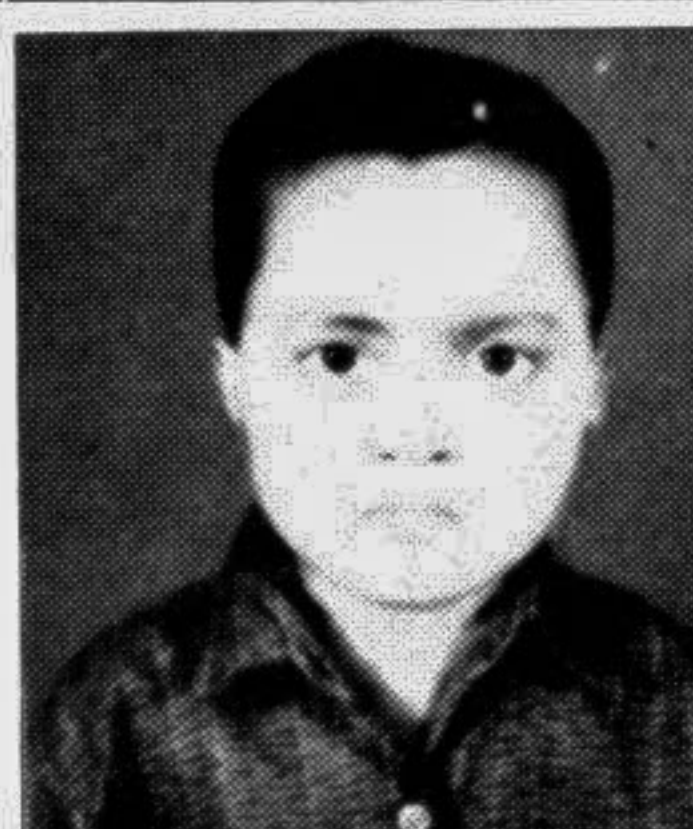
Ministry of Cultural Affairs, is organising the cultural events in cooperation with the Korean Embassy.

Envoy to Finland presents credentials

Ambassador Syed Noor Hossain presented his credentials to President Martti Ahtisaari of Finland in the presidential palace in Helsinki on Friday, according to a message received here, reports BSS.

During the presentation ceremony, Ambassador Hossain briefed the Finnish President on development activities and priorities of the Bangladesh government. He informed the President about economic reforms, market liberalisation policy and incentives offered to investors.

In reply, President Ahtisaari, expressed hope that Finnish private sector economic cooperation with Bangladesh would further increase and offered the assistance of his office in promoting such cooperation.



Appeal for financial help

By Staff Correspondent

A minor boy with both his kidneys damaged needs immediate financial support for treatment.

Md Mokhesur Rahman, aged four, son of a poor hawkler, is now undergoing treatment under the care of Dr Harun-ur-Rashid. Boy's father in an appeal to philanthropists has urged to send their donations to the address: Abdul Khaleq Bhuiyan, Janata Bank, Shuchipara Bazaar, Shaharati, Chandpur.

Students awarded

Riffat Mahjabeen, Nawmi Naz Chowdhury and Sanjana Georgina Razaque, students of Maple Leaf International School won prizes in the Nektar Bangla Nababarsha Utsab Samity in Calcutta recently, says a press release.

ICMAB Exams results

The following are the results of ICMAB examinations held in January and February, 1997 at Dhaka, Chittagong, Rajshahi, Khulna and Comilla centres, says a press release.

Level-V (Five) final passed-

11. Md Qamruzzaman (10005), Md Nazrul Islam (10022), Masud Hossain (10141), Md Alauddin Al Mamun (10158), S M Marufur Rahman Mazumdar (10196), Syed Ashrafur Islam (10372), M Anisul Haque (10396), Naeemul Azeem Rahman (10417), Shawkat Jahan Khan (10465), Md Mahabubul Islam (10761), Kazi Md Abul Kashem (11992).

Level-IV (Four) passed roll nos-4:

10065, 10094, 10055, 10350, 10465, 10997, 10104, 10155, 10173, 10195, 10208, 10222, 10255, 10272, 10305, 10318, 10367, 10410, 10416, 10424, 10451, 10481, 10603, 10617, 10632, 10691, 10859, 11585, 11586, 11588, 12010.

Level-III (Three) passed roll nos-27:

10104, 10155, 10173, 10195, 10208, 10222, 10255, 10272, 10305, 10318, 10367, 10410, 10416, 10424, 10451, 10481, 10603, 10617, 10632, 10691, 10859, 11585, 11586, 11588, 12010.

Level-II (Two) passed roll nos-56:

10010, 10021, 10104, 10119, 10130, 10135, 10177, 10180, 10238, 10245, 10255, 10304, 10335, 10346, 10365, 10407, 10375, 10384, 10409, 10410, 10424, 10426, 10451, 10452, 10467, 10498, 10500, 10506, 10603, 10621, 10725, 10729, 10768, 10828, 11949, 11957, 11985, 11987, 12011, 12026, 12046, 12048, 12077, 12079, 12081, 12093, 12210, 12219, 12239, 12253, 12259, 12260, 12274, 12275, 12282, 12350.

Level-I (One) passed roll nos-66:

10119, 10171, 10259, 10265, 10316, 10418, 10429, 10463, 10500, 10501, 10525, 10558, 10577, 10596, 10618, 10681, 10707, 10716, 10723, 10731, 10745, 10771, 10796, 10822, 10840, 10844, 10871, 10915, 10935, 10968, 10978, 10993, 10997, 11001, 11012, 11019, 11020, 11025, 11027, 11033, 11047, 11097, 11136, 11289, 11295, 11417, 11428, 11437, 11443, 11451, 11461, 11462, 11480, 11482, 11516, 11522, 11577, 11607, 11793, 11819, 12366, 11962, 12115, 12209, 12307, 12354.

Ershad visits ailing Farazi

Jatiya Party chairman H M Ershad visited ailing party leader Rustam Ali Farazi, MP, at PG hospital in the city yesterday, reports UNB.

The former president stayed sometime beside the ailing leader who is undergoing treatment for jaundice there.