

FOCUS

Law and Our Rights

The Currency Crisis, Human Rights and the Media

by Kalinga Seneviratne

AFTER the Malaysian Prime Minister Dr Mahathir Mohamad called for curbs on international currency speculation at the International Monetary Fund (IMF)-World Bank meeting in Hong Kong in September, the Malaysian ringgit went into a rapid spiral and dragged down the region's already battered currencies — Indonesia's rupiah and Thailand's baht.

A few days later when he repeated these calls at a Pacific Economic Cooperation Council conference in Santiago, Chile, it sparked off the same jitters. The ringgit fell by 4 per cent within two hours to an all-time low against the US dollar.

Mahathir said in his Santiago speech that currency speculators are "rich people from rich countries" who "have no compunction about impoverishing the poor in order to enrich themselves." He went on to describe them as "shadowy figures whose trading is far from open" with no published record of the transactions, the volume, the funds and the individuals involved.

Thus the Malaysian leader suggested that currencies should be linked to the economic indices of the countries concerned. His suggestion reflected concerns expressed some

No military dictator in history has been able to muster such financial resources and political clout to effectively gag the international media.

This issue comes to the very core of the international human rights debate. One is entitled to ask, as Mahathir and many other Asian leaders have done in recent years, about whether the human rights agenda is set up by the West and promoted by its media to protect the West's own selfish economic interests.

Thus the Soros-Mahathir clash and the Western media's response to it, is the latest example of how the Western media's power to set the international human rights agenda may be a violation of these very human rights principles they pretend to safeguard.

The Western economic writers have consistently blamed financial mismanagement by South-East Asian governments for the currency woes. One of the major issues they have raised is the lack of transparency in the financial sector, which they claim has led to foreign investors losing confidence in their economies and taking their money away. But, when it is pointed out that the hedge funds which have trig-

ged the crisis are run by "shadowy" figures with no transparency at all, the same media comes to their defence, trying to project the criticism as "attempts to blame foreigners" for Asia's economic woes.

Another contradiction between the Western media's defence of hedge fund managers and their self-proclaimed role of promoting democracy around the world is the reporting of Thailand's economic crisis. Political instability in Thailand is blamed for its currency woes, but this is as a result of a thriving democracy in the country. No one is asking the question whether the hedge fund managers want you to establish military dictatorships before they invest in your country.

There are very serious flaws in the definition of words such as "democracy", "globalisation" and "free market" by the Western media. It is very often based on Eurocentric selectivity and double standards.

It seems a "free market" exists only when there are no barriers for Western products and services to enter developing country markets, not the other way around. For example at last year's World Trade Organisation (WTO) Ministerial Conference in Singapore, the West conveniently ignored developing countries' demands for a review of the implementation of Uruguay Round agreements on market access for their textile, footwear and other products to developed country markets. Instead they pushed for and obtained a new agreement on market access for information technology products — which almost exclusively benefit developed countries.

Similarly, "globalisation" it seems is a process where Western music, films, food and other cultural products are able to enter other countries at will and influence their people, especially the youth. People's right to protect themselves and their traditions from unwanted Western cultural invasions does not exist.

Coming to "democracy" what

we have seen in many developing countries in recent years is that the mere casting of the vote has not helped the people to improve their standard of living. In many instances, it has had the opposite effect and has even introduced a Mafia style of governance — not necessarily by the members of government but by others who have been made free.

Russia and some of the former Soviet bloc countries of Eastern Europe are good examples. The largest democracy in the world, India, is showing disturbing signs of heading in this direction.

The Western media hail these developments as market liberalisation and creating "free choice" never mind if the country's political parties are run by crooks, as long as they don't create barriers for the expansion of Western transnational business empires.

Today, the main threats to democracy and freedom of speech come not necessarily from governments but from these corrupt Mafia-style business and organised crime networks. They use the gun to shoot you dead, not the law courts to lock you up.

If the activities of the international hedge funds, which are

look at the issue from an Asian perspective, one also needs to look back on the timing of this crisis. It began after ASEAN nations took a series of political decisions which ignored the West's (especially the United States) objections. One of it was of course the entry of Burma to ASEAN. Spurred on by the "Asian Economic Miracle" Asia was slowly showing signs of making its impact on the international political scene.

If they succeed, it will greatly undermine the West's (particularly the US) power to set the international agenda in organisations like the WTO, IMF, the United Nations and so forth. In Asian eyes this should herald in a new era of international egalitarianism but for the West it would seem as if the end of a golden era of Western "liberalism" had begun.

The West has not yet got used to the idea of treating Asians as equal partners in international political wheeling and dealing. The Western media reporting of the Asian currency crisis has been clearly focused on denting this newfound self-confidence of Asia. It seems for the moment the Western media is succeeding in this task.

As consumers of Western media, one cannot but begin to believe that Asia is fully dependent on Western capital and on

the goodwill of Western hedge fund managers. But there is no serious discussion about how much the Western economies are dependent on Asian markets and the prosperity of Asian consumers. How much are Western designer labels, fast food giants and entertainment industry dependent on Asian markets for their future growth?

If one is to analyse the Asian currency crisis from an Asian perspective, this is a fact of life, which needs more serious discussion. Additionally, we get the feeling that only the Westerners have the wealth to invest around the world. What about Asian wealth which have been invested around the world, including in the West? Where are their funds moving? Did they move some of these funds back to Asia, triggering the Wall Street crash?

After the Western media — which called for Mahathir's resignation — had egg thrown in their faces when the Wall Street and European stock exchanges were shaken and Soros after loosing US 2 billion from it agreed on a BBC radio interview with Mahathir's viewpoint on regulating currency trading, we must seriously start to question their ability to objectively analyse the political and social aspects of globalisation. Unfortunately, for the moment, most of Asia's own economic analysts seem to be taking the cue from the Western media. Many of them seem to be talking the language of the West rather than attempting to reflect their own people's interests and viewpoints.

The clash between Mahathir and Soros provide the Asian media with a real challenge. But have they taken it up?

There has been no serious attempt by regional financial analysts to discuss and debate the need to set up an Asian Monetary Fund to cushion countries in the region from future attacks on its currencies. When IMF opposed the original Japanese initiative, the Asian media should have investigated the need to establish such a fund and also questioned IMF's political reasons for opposing such a fund.

When Western reporters choose to ignore the point of view of Asian leaders (or quote it only as an after-thought) and instead give preference to quotes from Western financial analysts and the IMF, they set the agenda from a Western point of view. If you are going to

replaced by a discretionary one, and an automatic right to appeal and a compulsory system of executive review, inter-alia, were provided for. However, the large number of people on death row made it virtually impossible to resume hanging.

In the present case the two accused in the matter were convicted in the Witwatersrand Local Division of the Supreme Court on four counts of murder, one count of attempted murder and one count of robbery with aggravating circumstances. They were sentenced to death on each of the counts of murder and on long terms of imprisonment on the other counts. They appealed to the Appellate Division of the Supreme Court against the convictions and the sentences. The Appellate Division dismissed the appeals against the convictions and came to the conclusion that the circumstances of the murders were such that the accused should receive the heaviest sentence permissible according to law.

Section 277 (1) (a) of the Criminal Procedure Act No 51 of 1977 prescribes that the death penalty is a competent sentence for murder.

The Appellate Division dismissed the appeals against the sentences on the counts of attempted murder and robbery, but postponed the further hearing of the appeals against the death sentence until the constitutional issues were decided by the constitutional court.

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Courtesy: Just Commentary April 1998.

INVESTIGATION

The Saga of Harun: Another Instance of Police Brutality?

ON the 26th April the Daily Ittefaq and the Daily Bhorer Kagoj published a news, on "a person named Harun who was undergoing treatment in unconscious and critical condition at Dhaka Medical College Hospital under police custody. Odhikar and ASK began to investigate since 26th April on the critical health condition of Harun.

As a part of investigation, investigators observed and ex-

Dhaka Medical College Hospital.

On the 26th April, Harun's elder brother Musa told the investigators, Harun and Musa together ran a fax-phone-photostat shop at Khatabon University Market. On the 24th April at about 11 am Mahammadpur police informed Musa by phone that Harun was arrested and was under police custody. Hearing the news, a helper of the shop named Sikandar



Critically injured Harun is under medical treatment at DMC.

amined the external injuries of Harun, talked to the doctor on duty, nurse, Harun's elder brother, OC of Mohammadpur Police Station Md. Shahidullah Khan and the local people of Shia Masjid area from where Harun was arrested. They examined the registers of Dhaka Medical College Emergency Ward, register of Sohrawardi Hospital's Emergency Ward, Harun's prescription & medical file and Mohammadpur Police Station's Case Regi ter. They also analysed the related news published in the dailies.

A press release from the Public Relation Department of police published in the 25th April's Daily Inqilab that, on the 24th April Friday, Mohammadpur Patrol Police seized an auto-rickshaw at the north side of the Shia Masjid crossroads. The auto-rickshaw's number was Dhaka Metro-Tha-11-6883. Police arrested Harun and recovered a chapati, a knife & two cocktails from arrested Harun.

On the 26th April while answering the questions of Journalists and Investigators-OC for Mohammadpur Police Station said that, on the 24th April at about 11:30 am under S.I. Khorshed Alam's command, Police's special team Eagle-1-2 challenged an auto-rickshaw. When the auto-rickshaw tried to escape, local people obstructed its way and he had been seriously beaten by an angry mob. As a result Harun got critically injured at the different parts of his body. He informed that on the same day Harun was sent to Sohrawardi Hospital twice, and both the time he was sent back with first aid. Later that day, at about 11 pm Harun was sent to

along with another aide went to the Police Station. But they were not allowed to meet Harun. As they failed to meet him, they were waiting in the Police Station premise. At about 6 pm they saw police to carry Harun's body holding his hands and legs from a Microbus and they took him inside. Even they were not allowed to go near Harun. On the 25th April's morning another phone came from Mohammadpur Police Station which informed that, Harun was in Dhaka Medical College

Hospital. In the Hospital they found Harun lying unconscious on the bed. (Bed No: 17, Ward No: 30). He was guarded by Police.

On the 26th April, at about 12 pm when investigators went to the hospital, they found Harun was still lying unconscious. The scrutinized his external injuries. They found black weals around his both wrist joints these marks were also swollen unusually, half of finger nail of ring finger of left hand was uprooted, fingers of both hands were abnormally swollen. From sole to the feet joints of both legs were also swollen abnormally. Back side of Knee of both legs were also swollen abnormally. Behind the left knee, sign of eight inches long blood clotting was visible. Apart from above, there was no sign of cut or bleeding. In the register of Emergency Department it was found that at about 11:30 pm on 24th April, 1998, he was admitted in to the hospital. On 26th April at about 12:30 pm he was taken to Intensive Care Unit in a critical condition. In the register of Sohrawardi Hospital it was found that Harun was brought for first aid treatment twice, at about 3:00 pm and again at about 6:00 pm and he was again taken to Police Station before he was finally admitted into the hospital close to midnight on 24th April 1998.

In the Case Register of the Police Station, it was found that S.I. Khorshed Alam registered two special cases against Mr Harun according to sec-4 of Explosive Act and sec 19/E of Arms Act. On that day (24 Apr) there was no case registered against him on charge of hijacking/mugging. On 25th April, one Mrs Rahima Bibi lodged a complaint of mugging from her, near, Shia Masjid at about 11:00 hrs on 23rd April and registered a specific case on that.

It was known from few shopkeepers of Shia Masjid area that on the 24th April at about 11:30 am, Police arrested one person after chasing an auto-rickshaw and took him away by a microbus in presence of many people. They also informed the team that there was no incidence of mugging/hijacking on 23 April at any time during the whole day.

Questions Remain Unanswered

Questions mark on the primary investigation:

1. Why, in Police press release it was not mentioned that

Harun was beaten by unruly people, though OC Mohamadpur Police Station had mentioned about the said beating to the team?

2. As per OC's version though there was serious injury at different parts of Harun's body, yet why did not P.S. authority then and there admitted seriously wounded Harun into the hospital? Instead why did they bring him back twice after providing First Aid treatment only?

3. Generally in a mass beating, a spontaneous, excited, indiscriminate attacks leave signs of lacerations, cuts bruises and bleeding wounds at various parts of body, especially on the face of a mass beating victim. But why there was no such sign of wound and bleeding on the body of Harun even after becoming a victim of mass beating?

4. To extract a confession from the arrested person inflicting non bleeding injury in the sole, and at the joints of hands and feet, piercing needle in the finger and pulling out nails by pliers and hanging by putting handcuffs and the like torture techniques are generally adopted by police. Whether abnormally swollen injuries on the hands and feet joints, the black mark on wrist joints are the sign of police tortures to extract a confessional statement or not?

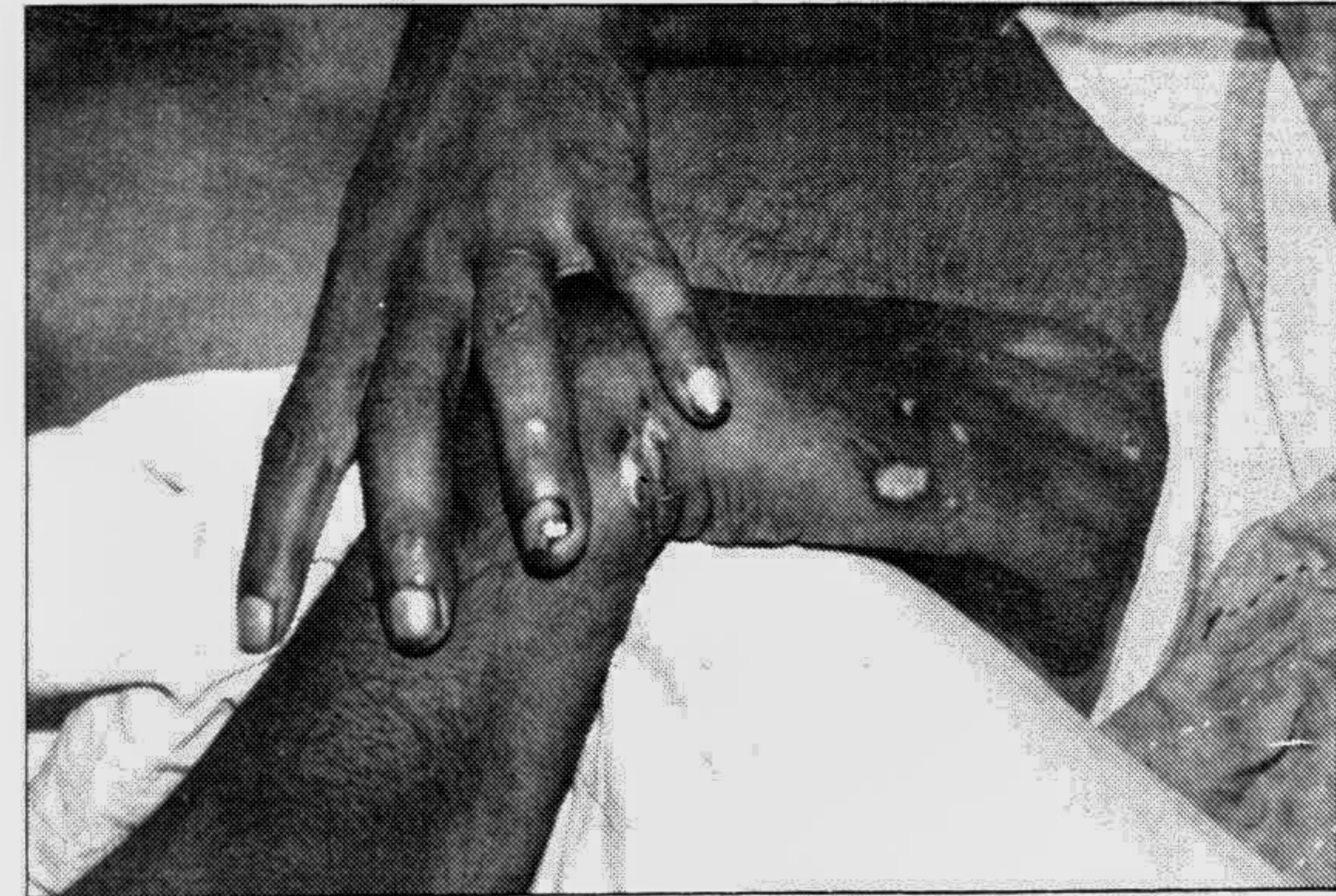
5. As per Police Press Release and OC's statement Harun was arrested as mugger. On the day of arrest there were two cases registered against him, but none against said mugging.

6. Whether after completion of 24 hours of arrest of Harun, allegation of one Rahima Bibi against Harun of mugging was a mockery of police or not?

7. Was Harun really involved with the so-called mugging or was he only a victim of someone's revenge materialised with the help of police?

As there is fear of Harun's life, the injury marks on his body should be recorded by a magistrate and the injuries should immediately be examined by a board of medical experts to ascertain the nature and how these injuries were caused, for prosecuting the actual culprits.

Courtesy: Odhikar, A Coalition For Human Rights, ASK, Ain O Salish Kendra



Confusing scars of a crime (!)

The Abolition of Capital Punishment in South Africa

by Khurshid Alam

THE constitutional court of the Republic of South Africa was set up under the Interim Constitution (1993). In 1995, in its very first judgement, the court dealt with the highly sensitive issue of constitutionality of capital punishment. In the Makwanyane case (State vs T Makwanyane and M Mchunu), the constitutional court unanimously found capital punishment to be inconsistent with the constitution. In individual opinions each one of the eleven judges of the court argued for the abolition of the death penalty.

On June 6, 1995 the constitutional court of the Republic of South Africa delivered a unanimous judgement in the matter of the State vs T Makwanyane and M Mchunu (Case No. CCT/3/94). Declaring all provisions of legislation sanctioning capital punishment, which were in force in any part of the territory, to be inconsistent with the constitution of the Republic of South Africa, 1993 and accordingly to be invalid.

The judgement is of great importance and interest not only in that it declares capital punishment to be unconstitutional, but also in that it lays down fundamental guidelines for constitutional interpretation.

Following two and a half centuries of colonization, hostilities between European settlers and the indigenous African people as well as between the African speaking descendants of the Dutch and the British empire, and the changes in traditional, colonial and republican regimes, the Union of

South Africa came into being in 1910 under a system of parliamentary sovereignty. But the black majority of the country was excluded from franchise and any other meaningful political participation and racially discriminatory laws and practice which had by then come into being, were further enforced and entrenched. Especially during the 1950s a plethora of harsh apartheid laws were enacted by the national party government, which came to power in 1948. In 1961 South Africa became a Republic and left the British Commonwealth. The constitutional dispensation remained largely the same. In 1983 a new constitution was adopted, providing for limited political participation by the coloured and Asian population group, but it still excluded Africans who were the vast majority of the population. The 1983 constitution enjoyed very little political legitimacy. It also did not embody constitutionalism and a constitutional guarantee of human rights in the country. In February 1988 e.g. 267 people were under the sentence of death waiting to be hanged.

In virtually all societies where capital punishment exist, the majority of those who are sentenced to death are members of politically, socially or economically disadvantaged or marginalised groups. Some judges are also alleged to impose the death sentence more easily than others, because of their personal disposition. In South Africa proportionally much large numbers of black people

were executed than white people. Discriminatory attitude on the part of judges was responsible for this fact, in addition to the expected effects of socio-economic inequality.

Statistical evidence discloses that 81 blacks were convicted of murdering whites during the period June 1982 to June 1983, of these 38 were hanged. During the same period 52 whites were convicted of murdering whites and one was hanged. Of the 172 people hanged in 1987, nine were white.

The existence and application of capital punishment in South Africa was often criticized and actively opposed by human rights lawyers and others, the sentences and executions were monitored. The Society for the Abolition of the Death Penalty was vociferous and lawyers for Human Rights often applied to the courts for last-minute stay of execution orders. The ANC leadership expressed a clear abolitionist policy. In the late 1980 political pressure increased, together with the rising number of people sentenced to death for politically motivated activities, related to the intensification of the liberation struggle.

On 14 November 1989 the last execution took place. In his well known address to Parliament on February 2, 1990, when the ban on ANC was lifted president F W de Klerk announced an immediate moratorium of execution, pending legal reform. In the amendment of the Criminal Procedure Act, the mandatory death sentence was

LAW WATCH

1st January to 30th April 1998

Death in Police, Jail & Court Custody

Death in Police, Jail & Court Custody (1st January to 30th April 1998)

	Name	Age	Thana/Jail/Court	Date of occurrence	Source
1.	Kaosaar Ali	39	Rajshahi central jail	2/1/98	Muktakantha 5/1/98
2.	Jakir Hossain	22	Dhaka central jail	7/1/98	Daily Star 9/1/98
3.	Ismail Hossain	60	Tangail Magistrate Court	8/1/98	Bhorer Kagoj 10/1/98
4.	Ramjan Ali	60	Kahalu thana	15/1/98	Janakantha 18/1/98
5.	Arun Chakraborty	27	DB (Detective Branch) custody	23/1/98	Inqilab 24/1/98
6.	Shahed Ali (Sayed Ali)	60	Dhaka central jail	2/2/98	Daily Star 3/2/98
7.	Nasim	32	Jessore central jail	2/2/98	Inqilab 3/2/98
8.	Harun Sheikh	25	Khulna Jail	7/2/98	Inqilab 10/2/98
9.	Abdul Halim	18	Dhaka central jail	17/2/98	Ittefaq 18/2/98
10.	Md Naim Ulla	30	Sunamganj jail	23/2/98	Daily Star 25/2/98
11.	Dulal	30	Dhaka central jail	7/3/98	Bhorer Kagoj 8/3/98
12.	Emranur Rashid	26	Chittagong jail	9/3/98	Shangbad 10/3/98
13.	Amar Bishwas	60	Khulna jail	16/3/98	Bhorer Kagoj 17/3/98
14.	Abdul Mannan	---	Jessore central jail	17/3/98	Ittefaq 19/3/98
15.	Jalil Mia	50	Dhaka central jail	22/3/98	Shangbad 23/3/98
16.	Ali Hossain	45	Dhaka central jail	30/3/98	Ittefaq 31/3/98
17.	Yusuf Ali	46	Gazipur jail	30/3/98	Ittefaq 31/3/98
18.	Md Joinal Abedin	60	Bhola jail	14/4/98	Janakantha 16/4/98

Courtesy: Odhikar

Kofi Annan Confirms Support to the Tribunal for Rwanda

THE United Nations Secretary-General Kofi Annan today pledged continued support to the International Criminal Tribunal for Rwanda, saying it was doing a commendable job to bring to justice those involved in genocide in Rwanda in 1994. He said this will greatly contribute to the process of national reconciliation in Rwanda as well as bring to an end the spectre of impunity in Africa and beyond.

The Secretary-General arrived in Arusha town in the morning from Nairobi, Kenya as part of his eight-nation African tour. Mr Annan is accompanied by his wife Nane and several senior UN officials.

The Secretary-General visited the Tribunal's headquarters and attended a court session in the case of Anatole Nseungyuma, one of 23 accused people presently in detention in Arusha, before speaking to staff of the Tribunal and journalists. He later visited the Tribunal's Detention Facility before proceeding to Lake Manyara National Park outside Arusha.

Annan expressed satisfaction that the teaching problems which affected the Tribunal soon after its establishment had been resolved in the period since the new senior management he appointed for the Tribunal assumed office a year ago. He announced that the Security Council had already approved the creation of a third chamber to speed up the trials before the Tribunal.

Courtesy: United Nations Information Centre (UNIC)