

Law and Our Rights

"All citizens are equal before law and are entitled to equal protection of law"-Article 27 of the Constitution of the People's Republic of Bangladesh

The Decomposed DB and the Demoralised Police

By A. H. Monjurul Kabir

It appears the police are not satisfied with such statutory limitations on their very roles! So they go on extending their functions. The police now-a-days rape women taken into safe custody or foreign national coming to police station for help, participated in the dacoity with inter district dacoits, harass businessmen for money, kill varsity student inflicting third degree method of torture and even dump dead body of their driver in the rooftop water tank at the helm of the so called Detective Branch (DB).

In these days the functions of the police force seem to be multiplied as well as diversified at a geometrical progression. According to the Police Act, 1861 maintaining law and order is the principal function of the Police. Section 23 of the said Act provides: "Duties of Police Officers: It shall be the duty of every police officer promptly to obey and execute all orders and warrants lawfully issued to him by any competent authority, to collect and communicate intelligence affecting the public peace; to prevent the commissions of offences and public nuisances; to detect and bring offenders to justice and to apprehend all persons whom he is legally authorised to apprehend, and for whose apprehension sufficient ground exists; and it shall be lawful for every police officer for any of the purposes mentioned in this section, without a warrant, to enter and inspect any drinking shop, gaining house or other place of resort of loose and disorderly characters."

It appears the police are not satisfied with such statutory limitations on their very roles! So they go on extending their functions. The police nowadays rape women taken into safe custody or foreign national coming to police station for help, participated in the dacoity with inter district dacoits, harass businessmen for money, kill varsity student inflicting third degree method of torture and even dump dead body of their driver in the rooftop water tank at the helm of the so called Detective Branch (DB).

The Detective Branch or the Death Branch!

Jalal Ahmed Shafi's decomposed body was found in the rooftop water tank at the Detective Branch at Minto Road in the city on March 25 1999. After much speculation, the body was identified seven days

later March 31 after a driving license was found in the same water tank. Last year Shamim Reza Rubel, a BBA student of the Independent University of Bangladesh (IUB) was brutally killed in the same premises by the DB men on 23 July for reasons still best known to them. In fact the Detective Branch has turned in to the Death Branch of the police. Following the barbaric death of Rubel, the government formed an Inquiry Commission led by Justice Habibur Rahman Khan, a former judge of the High Court Division to recommend corrective measures. He submitted his detail report to the Ministry of Home Affairs proposing a number of reformative steps including reorganisation of the Detective Branch. But the government did simply nothing. Even the report was not made public. Had the recommendations been implemented earlier the death of another civilian could be avoided. Can the government elude the liability of this brutish murder?

Generally detective or special investigation units comprise intelligent and efficient officials of the police. They have to undergo different professional training at different stages. They usually maintain a very low profile for the sake of the confidentiality of investigation. Their activities are routinely monitored and supervised by the concerned authority. They do not enjoy indiscriminate discretionary power. They are answerable for their commission and omission to proper authority. They are free from any outside or unauthorised interference.

In our country these fundamental global trends and practices are totally ignored. Any official can be transferred to the DB of the police. In most cases the DB was used as a dumping ground for inefficient or defiant officials. They do not



Death in Police, Jail and Court Custody (1 January to 31 March 1999)

Name	Age	Police Custody/Jail/Court	Date of Death
1. Humayun Kabir	32	Dhaka Central Jail	11.01.99
2. Obaidul Huq Jahangir	30	Chittagong Central Jail	14.01.99
3. Khairat Sheikh	70	Khulna Central Jail	27.01.99
4. Abdul Gafur	50	Noakhali Central Jail	01.03.99
5. Syed Hossain Dulal	22	Dhaka Central Jail	08.03.99
6. Mojibur Rahman	25	Sabujbagh Police Station	16.03.99
7. Jalal Ahmed Shafi	45-50	Dhaka DB Office	22-24.03.99
8. Ibrahim Molla	40	Rajshahi Central Jail	27.03.99
9. Ramananda Nath		Moulvibazar District Jail	29.03.99

Source: Odhakar

need to take any professional training. The DB men like to maintain a very high profile here. Their activities are not monitored or supervised by any authority. In fact they lack coordination totally. They are not accountable at all to anybody. Even there is no effective inter-

nal control over their activities. They enjoy a wide discretionary power. The abuse of power is also rampant here. They have to face political interference frequently. Often they are used for petty political interests of the ruling party. They are also not well equipped. As a conse-

quence of all this the DB becomes total inefficient.

The Unabated Custodial Crime

Custodial crime is not a new phenomenon but today it has assumed a startling and enormous proportions. It has taken various forms such as torture in custody, rape, custodial death and brutal and inhuman treatment of prisoners, whether undertrials or convicts. The latest addition in this list of sufferers is persons arrested unlawfully or on vague suspicion. Moreover, custodial crimes often do not come to light because they are perpetrated in the dark cells of lock-ups and prison house and often enough, those who are victims of custodial crime are afraid of complaining to the Magistrate lest they might be subjected to further ill treatment and torture by the police. The victims of custodial crimes do not have any witness to the commission of such crimes. It is indeed unfortunate and shame on humanity that physical violence in police custody, a legacy of British rule in the subcontinent, for extracting confession and obtaining clues for investigation without any legal sanction have been increasing at an alarming rate.

Custody violence commonly known as third degree method which includes beating at joints, spreading powdered chili on the eyes, kicking on the chest and the back, electric shock hitting with rifle butt, inserting boiled egg into the anal passage, pouring hot and cold water on the face forcing to drink urine, uprooting nails and so on, is no doubt, extremely shocking to the conscience of the humanity.

To Do or not to Do

The relationship between the police and the people is constantly deteriorating day by day. Rampant corruption, functional inefficiency and

behavioral savageness of the police have reached at the highest peak. The chain of command of the police has been broken down. Police interference in the day to day functioning of the police has crossed all past records. The recent flow of deaths and rapes in police custody exposes once again its inherent tendency of being viewed with a philosophy of paramilitarism associated with the mechanism of awe, threat and coercion. Nobody could possibly justify any rationale behind the use of force, coercion and physical violence to any detainees in police custody as a suspect in the view of the fundamental rights guaranteed in the Constitution and the legal protection under the various statutes apart from the human rights declared by the international community. In fact the need of the hour is an organisational culture that condemns abuse of power and misuse of force and encourages pro people policing.

All those who are concerned with the arrest, detention and custody of people and particularly of the poor and vulnerable sections of the society must strictly implement the constitutional and legal protections and safeguards. It is necessary that the guardians of law and the custodians of lock-ups and prison houses should be made aware of the constitutional and legal rights of the people. It is really a pity that on the threshold of the 21st century, the people of Bangladesh living in a sovereign, democratic republic and governed by the rule of law (I) are still vulnerable to custodial physical violence. It is high time to reform the police from top to bottom. Otherwise people will start rejecting their lawful authority and the very role of maintaining law and order. Are we prepared for that?

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Corpse in the DB Office Watertank: Whither Protection?

By Md Asadullah Khan

Where indeed is the conscience of this country that such crimes could be perpetrated in the first place? Truly, the attitude of the government in condoning the acts is more dangerous than the brutal acts themselves. It is time the executive and the Judiciary woke up from their slumber.

HARDLY the protest and indignation against the barbarous killing of Rubel in police custody about eight months back have died down, the Detective Branch (DB) of the law enforcement agency has again come in for scrutiny. A decomposed corpse found in the rooftop water tank at the DB Headquarters in Dhaka on March 25, last has awakened the citizenry to the callous way the guardians of law and order are handling crime situations in the country. Far from being happy about the disclosure of the Police Commissioner that the incident was mysterious and it was impossible for any outsider without the help of or without being abetted by police to dump the body inside the watertank, the public want an answer to such dastardly acts that continue to tarnish the image of the police, or more precisely the image of a democratic government.

The involvement of the DB personnel working at the Minto Road office is further confirmed when police senior police officials say that they suspected the victim was alive when he was taken to the roof top. DB officials are reported to have said that considering the narrow access and the iron ladder approach to the rooftop of the building which is visible from

the surrounding areas, it was unlikely that the deadman could be dumped in the watertank without being noticed by the passers-by. As further report about the gruesome murder of the unidentified person reveals that the cause of death might have been an acrimony over sharing of the dears recovered or anything like that from a dubious currency businessman, the incident has caused obvious concern among the peace-loving citizens who look up to the police, more so to the Detective Branch, for a safe and secure life notably in unearthing the ugly corners of the crime zones. This incident again has unearthed the rot in the law enforcement sector and has further damaged the image of the police force beyond repair.

Shockingly, a continuous barrage of scandals involving the police have given rise to many questions and stoked fears about the crimes committed, more so — abetted by members of the law enforcement agency. Whom would you call



for help when it is the police you fear most of all? For millions of ordinary Bangladeshis, the question is far from academic. Hardly a day passes without a report of brutal misconduct by the supposed public guardians. Credible stories abound of ordinary citizens dying under torture while in police custody and of women raped by police personnel. Amid a heightening controversy over the rape of a British woman somewhere at a thana in Gulshan area in the middle of December, 1998, an enquiry conducted by the BHRIC (Bangladesh Human Rights Commission) revealed another incident of rape of a foreign woman allegedly by four policemen at the police box at Gulshan Road No 104 on June 26, 1996.

Although the patrol Inspector denied the allegation, of course not a competent authority from whom such denial should have come, the fact remains that following the incident Havildar (No 3368) Shahidul Islam of Gulshan police box was suspended from duty and another Havildar (No 13558) Abul Kashem was demoted to sepoy. The statement did not say what actions were

taken against the remaining two policemen involved in the incident. The action construed to be very mild by any measure gives rise to questions as to why such measure was at all taken if the cops had no complicity in the crime.

People already know the all pervasive extortion spree by musclemen working under the secret protection and blessings of some political "gurus" with the advent of either the mango season or Eid-ul Azha when traders from the far-flung areas of northern and southern parts of the country carry their merchandise to the Dhaka city markets.

But how come, as the reports published in the newspaper suggest that, the police personnel deployed in all these haats, ghats and bazars to protect the innocent traders from the clutches of extortionists and musclemen would themselves be a party unto them? Reports have it that police personnel forming an alliance with musclemen were engaged in collecting tolls putting up road barriers on the highway the traders carried their cattle through to Dhaka bazars and haats before Eid-ul Azha. Reports from a trader carrying bullocks from

North Bengal in a lorry have it that his truck was stopped at least at three stations by these cohesive groups and he was forced to pay tolls between Tk 20-25 per head at each station.

Shockingly true, in a country where there were scores of reported cases of police rape, beating and atrocities committed while in police custody, it seems there is little protection against predatory police. It is likely that while some incidents of atrocities and rapes reported by BHRIC, countless others would have gone undetected and the perpetrators unpunished except that these groups would have treaded in.

Murders, muggings, rapes and all types of crimes have soared alarmingly in the country, with as many as more than 20 deaths alone occurring in police custody in the last year, according to a report released by a Human Rights Organisation. Added to this police excesses in either extracting confessions or in dealing with agitating crowds during hartal days. Human rights advocates warn that the true toll is far higher because many incidents in accessible rural areas steeped in poverty and illiteracy go hushed up. But the natural and international clamour against police brutality in the country is growing too loud to ignore. Both Amnesty International and other Human Rights watch have called upon the governments from time to time to do something to protect citizens from the police. So said a former Supreme Court Judge "Police (are) becoming the biggest violators of human rights."

In fact, decades of political meddling have left the country's police force unaccountable to any higher authority or to the public. During the draconian, Ershad regime police were given unlimited power to stifle the political opposition; authorities just turned and closed their eyes as the police resorted to sadistic tortures to elicit confession. That was the case when during the Ershad regime the police forced a speeding truck through the agitating students killing two on the spot. The abuse continues unabated. The Special Powers Act, condemned by all parties while in opposition, is still in force in the country. This law condemned by all civil-rights leaders gave police virtually unlimited powers to search premises and detain suspects for any reason whatsoever.

People now feel that the much-abused section 54 of the CrPC and other clauses of law dating back to colonial times giving wide and sweeping powers to the police to arrest a person on



State of Human Rights 1998 Human Rights in Prison

By Md. Asaduzzaman

Prisons and their inmates in Bangladesh can be compared to a basket full of chickens kept in a noisy market place. Prisoners in Bangladesh are kept in a 'basket' - the prison cell - where there are so many crowd into one that there is no space to move, no proper hygienic sanitation and no drinking water.

There is, therefore, a violation of human rights and dignity and if we consider the every-day life of a prisoner, we can realise just how extreme this violation actually is.

The prisoner is made to rise very early in the morning, and has to queue to use the toilet facilities. He is granted only a few minutes to complete his morning ablutions and then joins his fellow inmates in a room in order to be counted.

He is then given breakfast - the scanty amount of which does not meet his hunger and which is unhygienically prepared. After this insufficient meal, they are counted again. Lunch is similar to breakfast in quality and quantity. Counting of prisoners takes place again after lunch and finally in the afternoon, every prisoner is given his supper/dinner at 5 p.m. and is locked up for the night. Taking supper at 5 p.m. every prisoner has to last till 10.00 a.m. of the following morning.

Often a prisoner has to sleep by rotation with other inmates, as the actual number of prisoners is three or four times than that of the accommodation capacity. There is no fan, T.V. radio, newspaper or other recreational devices in the cells or the prison as a whole.

The jail system in Bangladesh began in the colonial regime for confining offenders. Now the concept of jail has become wider. Most of the under-trial prisoners are politically entangled even with the ordinary criminal cases. In 1998, in Dhaka Central Jail alone, there were 7,039 prisoners - while the accommodation capacity of the prison is only 2,116 persons (Sangbad, June 14, 1998). The prisons in Bangladesh are operated in accordance with the hundred year old, back dated laws which have not been changed even at the eve of the 21st century. A large number of prisoners are seriously subjected to torture by the prison authority for several reasons, commonly for bribes. In 1998, a total number of 60 persons succumbed to death within the prisons all over the country. Nobody knows the actual reason for their deaths but suspect that it was due to torture. The genuinely ill persons are not admitted into the jail hospital in Bangladesh. Those who have money and power, may stay in the hospital by bribing the authority.

Another news report published in the Daily Sangbad on June 14, 1998 states that the prisoners sleep by rotation in Dhaka central jail. The report further states that among the 7,039 prisoners, there are 3,854 under trial prisoners in Magistrate Court, 1,248 in the Judge court, 201 convicted prisoners have been awarded simple imprisonment, 1,400 rigorous imprisonment; 309 convicted under the Special Powers Act; 12 sentenced to death - out of which 2 are female prisoners.

Number and types of jails in Bangladesh:

Types of Prison	Number	Purpose of Use
01. Central jail <td>8 <td>Long term imprisonment and longer detention</td> </td>	8 <td>Long term imprisonment and longer detention</td>	Long term imprisonment and longer detention
02. District jail <td>54 <td>Imprisonment for less than 5 years</td> </td>	54 <td>Imprisonment for less than 5 years</td>	Imprisonment for less than 5 years
03. Sub-jail <td>---</td> <td>Recently upgraded to district jail</td>	---	Recently upgraded to district jail
04. Thana jail <td>16 <td>Normally left unused</td> </td>	16 <td>Normally left unused</td>	Normally left unused
Total	78	

Number of prisoners in selected jails: 1997-1998

Name of Prison	Capacity	Prisoners at Present
01. Dhaka (central)	2,116	7,039 (female-333)
02. Rajshahi (central)	1,177	2,668 (female-70)
03. Chittagang (Cen)	747	3,500 (female-80)
04. Hobiganj (Dis.)	157	400
05. Meherpur (*)	41	200
06. Sakhira (*)	80	600
07. Narail (*)	36	247
08. Bramanbaria (*)	200	581 (Female-19)
09. Narayanganj (*)	126	779
10. All other jail (*)	16,421	31,779
Total	21,101	46,423

The report was made for Odhakar, a coalition for human rights.

Rise of Religious Fundamentalism: Whom to Make Responsible?

By Masud Hassan Siddique

THE upsurge of religious fundamentalism these days are nothing new in our country. During the late 80's we have seen religious fanaticism that destroyed the brotherly relations between religious beliefs of the people of this country. After the Babri mosque incident the so called savers of Islam came to the ground to destroy Hindu temples/mandirs, house hold, properties, etc. which caused a great damage to the then existing congenial religious atmosphere of the country. The government that time had failed to prove its potentiality in securing public property.

In 1994 we had experienced a different sort of Islamic fanaticism through fatwa. At least 12 people, most of them were women were killed through unlawful verdict of the fatwabaz. June 31 '95 was the first day in the history of Bangladesh when these fatwabaz had successfully demonstrated their strength through a day-long hartal in the capital. Their agenda was to destroy NGO movement in the country.

After five years these religious fundamentalists again came out from their hideouts. This time also, their agenda is pre-empted. First, to destroy NGO movement, especially through restricting women's movement, women's empowerment and participation in the decision making and democratic process, participation in mass gathering/rally, and eventually destroy the democratic process of the country and bring development to a halt. Second, to kill the intellectuals, members of the civil society. NGO leaders and restrict freedom of thought, speech, expression and over all restrict all forms of rights of the people.

During the last couple of weeks we have experienced that these fanatic forces have so far successfully restricted mass rallies of grass roots' women in Bhramin Baria, Faridpur and Barisal. On 8 March, on the International Women's day, these fanatic forces organised a public gathering and declare their dream to grab state power by the year 2000. They declared themselves as Talebans and promised to start Afgan style movement in the country.

A difference of opinion within the NGO community over the present programmes of holding rallies and the use of ADAB could have been noticed. Following is what can be abstracted from the thoughts of the NGO leaders.

First, it was too early for the NGOs to take this type of programmes and go into confrontation with the fundamentalist forces. It's only the beginning of the democratic process where women have started to take part in the process through being elected directly. By 15 years things would have changed dramatically and resistance would have come from the bottom not the top, i.e. the grass roots level, when people would have enjoyed the taste of democracy at that level.

Second, it's not too early, we already know the strength of these forces. Their vote bank is almost zero (referring to last parliamentary election) and man power is not uncountable. The only problem is that they have some trained people from the Afgan volunteers and some weapons (not specified). They had already successfully held eight meetings of this type in different places.

Third, the NGO community is now divided and politicised. A clear line between the pro and anti-ruling party support is visible within ADAB members. For example, the six chapter members of ADAB in Barisal are divided into two groups, none of the local level and non-ADAB member NGOs of Barisal were discussed earlier of the proposed rally and that had led to its failure. According to this group, this is the picture every where and ADAB has been utilized for some vested interest.

Taking into consideration the above circumstances it would probably not be too much to say that the recent upsurge of the fundamentalist forces are the results of unrealistic NGO strategy and lack of unity within themselves. This would ultimately hamper a great deal to NGO movements in the country and the local level and small NGOs will suffer most.

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Landscape

No Disclosure of Professional Secrets

A Division Bench of the High Court Division comprising Justice Mainur Reza Chowdhury and Justice M.A. Aziz recently declared that the Government had acted mala fide to harass the petitioner, M.I. Farooqui, Advocate of the Appellate Division by asking him to name his clients and to divulge the particulars of the cases he had appeared from March 1, 1993 to March 20, 1994. M.I. Farooqui in his application challenged the authority of the Government to coax him in his professional pursuits. He stated that he is the founder-member and patron of the Democratic and Constitutional Advancement of Bangladesh (ADCAB), which has been working for the people's awareness to guard against the violation of the Constitution and laws of the Republic. He conducted many constitutional cases of public importance filed by ADCAB's General Secretary, M. Saleem Ullah, Advocate. The cases include the case of the double-office held by Justice Abdul Qudus Chowdhury as a Judge of the High Court Division and the Secretary, Ministry of Law, the case of holding double-office by Justice Mohammad Abdur Rouf as a sitting Judge and the Chief Election Commissioner; the case of holding the office of the Chairman of the Press Council by Justice Sultan Hossain Khan after his retirement from the post of the Chief Election Commissioner; Justice Md. Sadek after his retirement as a judge he was appointed as Chief Election Commissioner; and some other cases.

The Anti-Corruption Bureau first served a notice dated 31.10.1993 for examining him in relation to the facts and circumstances stated in an anonymous letter made subject of File No. 3/Dar/92. He appeared and explained his position. After the expiry of a year the Bureau sent another memo dated 12.9.1994 asking him to divulge the particulars of the cases, the petitioner conducted from March 1, 1993 to March 20, 1994.

The Court, while making the Rule absolute, observed: "If we are to believe that the inquiry was in response to the information received by the anonymous letter then the wholesale information of all cases handled by the petitioner from 1.3.93 to 20.3.94 cannot be said to be connected with the alleged remittance of the sale proceeds of the houses at Motijheel and Gulshan. The asking for such wholesale information of the cases handled by him for that period appears to us to be mala fide, fishing for information only to harass the petitioner."

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