

"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

State of Human Rights 1998

Police Repression

By Ahmed Ziauddin

O DHIKAR has observed and documented with concern unabated police repression over 1998. The police have continued to behave in exactly the same pattern as before - as the coercive arm of the government, as opposed to be a law enforcement agency. The police, over the years, have carried out brutalities, tortures, and extra-judicial killings. Moreover, they have extensively used illegal force against the members of the opposition.

As has been mentioned, no change in police behavior was observed in 1998, despite the fact that democratic infrastructures have been in place for some time, with the government professing democracy and numerous promises of not to use the police for party political ends. In reality, however, Odhikar observed that the police have increasingly been used to oppress opposition political activists rather than up-hold the rule of law. Odhikar also noted that there has been no move to curb police corruption.

Odhikar has based its observation on reports published in various national dailies and its archive, which was filled with incidents of police repression. In 1998, Odhikar monitored various forms of police repression, namely, custodial death, rape by or in police custody, police conduct relating to hartals (strikes), illegal arrests. Also noticed was an alarming phenomenon of the formation of small and almost autonomous groups in the police force to weed out alleged terrorists.

Deaths in police custody

It has been recorded, by Odhikar, that at least 60 persons have died in thanas (police stations), prisons or while under custody. Reports of custodial death have come from all six administrative divisions of the country as indicated in the table below:

Deaths in Jail, Thana, Court Custody						
	Dhaka Division	Chittagong Division	Rajshahi Division	Khulna Division	Barisal Division	Sylhet Division
Jail	25	0	6	5	1	4
Thana	5	1	1	1	-	-
Court	1	-	1	-	-	-
Other	-	-	2	-	-	-
Total	31	1	10	6	1	4

It must be noted that both deaths in jail and police custody have significantly increased in 1998 since last year (1997). In 1997, the figures were 37 and 5 respectively in prison and police custody.

Odhikar specially investigated and monitored two notorious incidents of death in police custody, those of Arun Chokroborty and Rubel.

Arun Chokroborty lost his life while in custody of the Detective Branch (DB) of the police. Odhikar and Ain-o-Salish Kendra jointly conducted an investigation to unearth actual cause of Arun's death. As a part of investigation, the investigators visited the place of occurrence, interviewed Arun's widow and neighbours. Also interviewed were Mr Saleh, S-I Inspector of DB, the complainant and his family, the physician of Orthopaedic Hospital.

The investigators went to Tejgaon Police Station and examined the register, where inquest report was attached. The inquest report mentioned, Arun's dead body had following marks: a two inches long black mark on the forehead over the right eye, in the side of the left eye there was also a round black mark, while in the centre of the forehead, a small prominent sore mark. Besides these, the upper side of the right elbow showed marks and bruises. Similar marks appeared on the left knee and sore marks were also on the joint of his both feet. On 23rd January at about 7:35 p.m. Metropolitan Magistrate Mr Md Anisuddin Manzur

prepared this report at Orthopaedic Hospital. The investigators found that Arun was admitted in the hospital at 7:35 p.m. on 23rd January 1998, according to the admission register. The register also mentioned that Arun's left arm was broken. In another register, kept by the Ward Master, the cause of Arun's death has been explained as death due to head injury and shock. The investigators found that the register contained overwriting. Dr Khaled Mosharraf of Orthopaedic Hospital, who operated Arun said to the investigators that the injuries/ marks on Arun's body were suspicious.

One of the most senseless killings by the members of the Detective Branch (DB) of the police, which shook the nation in 1998, was the murder of 27-year old university graduate student Shamim Reza Rubel. He was picked-up by a gang of DB police officers in front of his house and was brought to DB office. Both on way and at DB office, DB officials tortured Rubel, under the suspicion that he was involved in extortion and possessed illegal arms.

Following first round of torture, Rubel was taken back to his house by DB officials at about 7 p.m., ostensibly to recover arms, but no arms were found. DB officials publicly beat Rubel in front of members of his family. He then was then dragged into a police van. DB officials told members of Rubel's family to come to DB office.

When Rubel's brothers reached DB office and inquired about Rubel, DB officials did not reveal any information. After persistent requests, the senior DB officer Assistant Commissioner Akram, told the

Commission recommended that not to arrest without specific complaint, to separate investigation of cases and to change police practices. It also recommended increased police salary and privileges. The case against the arrested police officials and one other continues.

Rape by police and other officers of law, in police or court's custody

One of the most pervasive crime that man has ever invented has been the rape. Over 1998, there was an alarming increase of number of rapes in general, and by the police or other law enforcement officials, in particular. When the protectors of law engages in heinous crimes like rape, entire edifice of the society crumbles, and the victims have no resort to turn to.

Odhikar has compiled 16 instances of rapes, perpetrated either by the police or members of the para-military force, Bangladesh Rifles. This has been discussed in detail in the second part of Odhikar's human rights report which deals with the situation of Women. It has

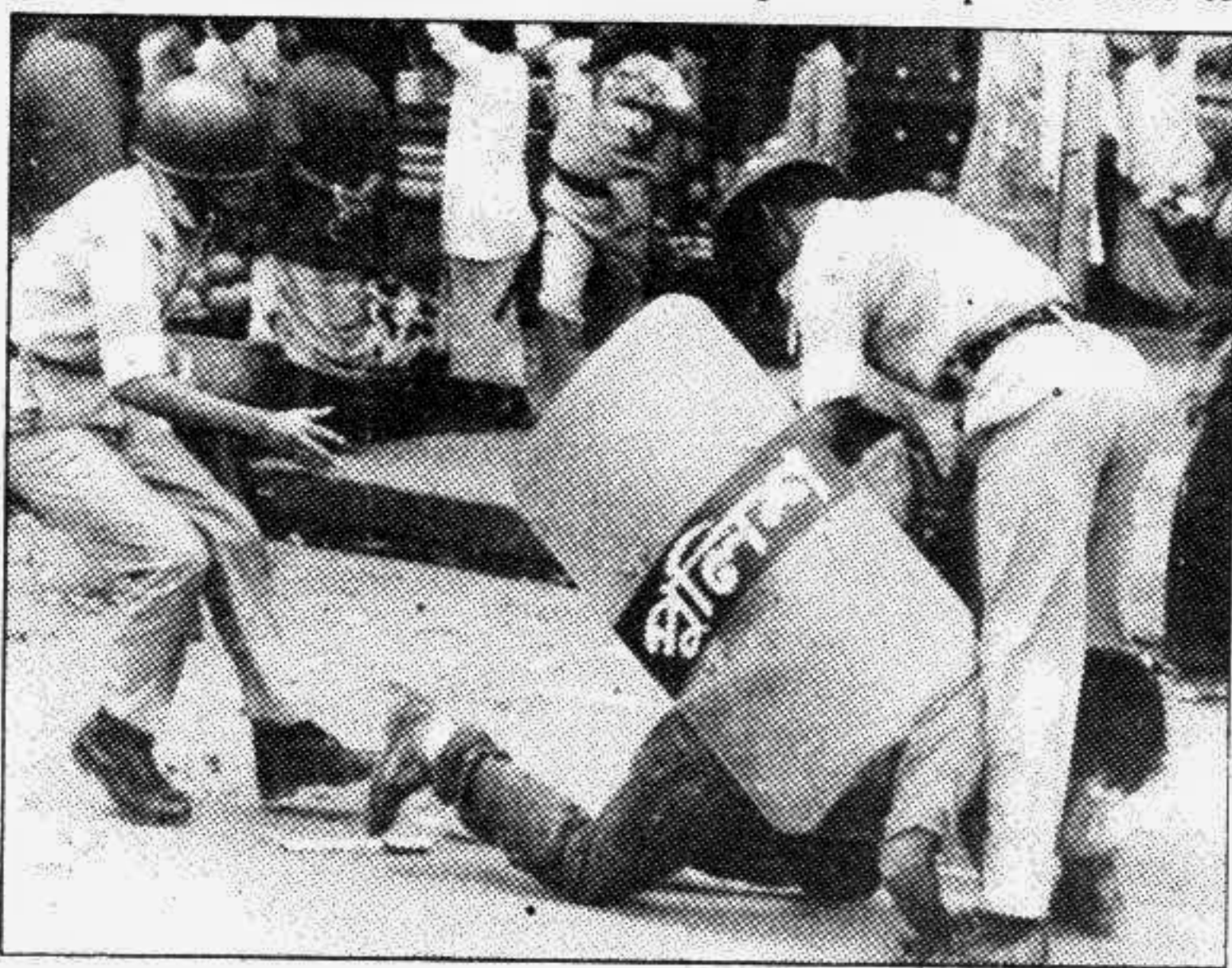
ulously planned and executed event.

Another worrying aspect of Police actions during hartal has been arrest, injuries and death of children. Police especially target young street children and scores of them are arrested. What happen to these children after the hartal has not been followed. Also, the issue of use of children in hartal by the sponsoring parties needs to look at.

Illegal arrests and detention

Police have continued to arrest persons under Section 54 and under Special Powers Act. Between July 1996 and September 1997, the government admitted that 4,768 persons had been arrested under the Special Powers Act. In 1998, however, the figure has come down to 736, but arrest under Section 54 and other cases have increased.

If one observes Section 54 of the Criminal Procedure Code which lists those conditions under which a police may arrest any person, it will be seen that this law gives very wide power to the police, which has been over used and abused. Under this provision, police have to



to be noted, particularly with regard to incidents of rape, of extent of under-reporting. Reporting of rapes, especially in national newspapers should be considered as highly exceptional. Most incidents of rapes go unreported and thus, should be considered merely as indicative figures. Odhikar has no way of estimating exact number of rapes, but even the number that has been reported shows staggering figures.

Police and hartals

In 1998, Odhikar has observed with growing concern the use of police force by the government to disrupt opposition meetings and hartals. The police have often played partisan roles in violent clashes between major political parties. In 1997, Odhikar recorded 269 incidents of political violence, resulting in 4,429 injuries and 69 deaths.

Odhikar followed all the hartals in 1998 and compiled figures of arrests, injuries and incidents of deaths. The police in 29 recorded hartals of regional or national nature arrested 1,621 persons. The number of injured persons was 1,093 and 14 deaths.

What is deplorable is the police actions on hartal days. Police have freely used deadly weapons including live bullets, plastic bullets, water cannons, batons etc. A pattern has developed for hartals, the government supporters brought out counter manifestation with police escort and attack the hartal enforcers. Hartal is no longer a spontaneous expression of public indignation, rather a metic-

use discretion and must have "reasonable suspicion" before arrest. It was never intended to give a police officer to arrest at will, but police have, nonetheless, often arrested under this provision. In view of such abuse of this provision, demands have been made for its review.

Torture in police custody by outsiders

1998 has witnessed unprecedented incident in Dhaka. On 20 January, three young lads, Suljan, Kowar and Ramzan, were involved in an argument over driving at Elephant Road with the son of an influential minister of the government. Dhanmondi police subsequently arrested the trio, and held them in police cell. The police then allowed the minister's son and his friends to beat the three detainees in police custody. The three were held until 1 March.

As the news became public, the government announced an internal police investigation, but no action has been taken against any police officers involved. This incident has added new dimension of police brutality by raising the threshold of torture.

Force within Force

Another notable feature of police repression in 1998 was the deployment of Eagle Force, a special police team to carry out certain operation. Following a newspaper report, Ain-o-Salish Kendra and Odhikar conducted an investigation about brutalities of such force. On 26th April 1998, the Daily Ittefaq and the Daily

Bhorer Kagoj reported that a person named Harun has been unconscious and in critical condition at Dhaka Medical College under police custody.

As a part of investigation, investigators observed and examined the external injuries on 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.

The investigators also examined the register of Dhaka Medical College Emergency Ward, register of Suhrawardi Hospital's Emergency Ward, Harun's prescription and medical file and case file at Mohammadpur Police Station.

A police department press release said that on 24th April Friday, Mohammadpur Petrol Police seized an auto-rickshaw at the north side of the Shia Masjid crossroads. The auto-rickshaw's number was Dhaka-Metro-11-6883. Police arrested Harun and recovered a chappati, a knife and two cocktails. While, on 26th April, in answer to questions of the journalists and investigators, Officer-in-Charge of Mohammadpur Police Station said that, on 24th April at about 11:30 a.m. under S I Korshed 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 different parts of his body. He informed that on the same day Harun was sent to Sohrawardi Hospital twice and both the times he was sent back after first aid. Later that day, at about 11 p.m. Harun was sent to Dhaka Medical College.

Harun's brother Musa told the investigators that two brothers jointly ran a fax-phone-photocopy shop at Katabon University Market. On 24th April, at about 11 a.m., Mohammadpur police informed Musa by phone that Harun has been arrested. Two shop assistants went to the Police Station, but they were allowed to meet Harun. Both of them stayed at Police Station, when at about 6 p.m. they saw police carrying Harun's body from a microbus to inside the Police Station. They were refused access to Harun again.

On the morning of 25th April, another phone call from Mohammadpur Police Station informed that Harun was in Dhaka Medical College Hospital. The investigators reached to the hospital on 26th April at about 12 p.m. They found Harun lying unconscious. They examined his external injuries, found black weal's around his both wrist joints, which were swollen, half of fingernail of ring finger of left hand was uprooted, and fingers of both hands were abnormally swollen. From sole to the feet, joints of both legs were also swollen abnormally. Backside of knee of both legs was also swollen abnormally. Behind the left knee, a sign of eight inches long blood clotting was visible. There was no sign of cut or bleeding.

In the register of Emergency Department it was found that at about 11:30 p.m. on 24th April 1998, he was admitted in to the hospital. On 26th April at about 12:30 p.m. Harun 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 p.m. and again at about 6:00 p.m. 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 Korshed Alam registered two special cases against Harun, according to Section 14e of Arms Act. On that day (24th April) no case was registered against him on charge of hijacking / mugging. On 25th April, one Mrs Rahima Bibi lodged a complaint of mugging, near Shia Masjid at about 11:00 hrs on 23rd April and registered a specific case.

While roadside shopkeepers of Shia Masjid area were interviewed, they reported that on 24th April at about 11:30 a.m. Police arrested one individual after chasing an auto-rickshaw and took him away in a microbus. They also reported that there was no incidence of mugging / hijacking on 23rd April at any time during the whole day.

The investigators raised a number of questions, as to why the Police press release did not mention that Harun was beaten by unruly mob, as claimed by the OC Mohammadpur Police Station. If OC's statement that Harun sustained serious injuries inflicted by mob, why he was not immediately moved to hospital for treatment. The investigators believed, considering the nature of injuries, that there was no sign of lacerations, cuts and bruises and bleeding, hallmark of mass-beating, suggest that he was never a victim mass-beating. They believed the injuries resemble to well-known pattern of torture to extract confession.

Police and women

Odhikar has observed increased harassment by the police of women. Police harass women in parks, on streets, in hotels. They are often arrested under Section 54 of the Criminal Procedure Code. Police disregard rights of the women of free movement.

As has been mentioned, police harass and assault women in police custody, even while in the police van. In Police Stations, there are no separate cells for women, and they risk sexual assaults.

Plain cloth police and other forces

In 1998, Odhikar also observed increased activities of plain cloth police officials. Such officials usually create panic and rarely does anyone ask for any identification from them.

Other forces which create terror among citizens had been members of DGF (Director General of Forces Intelligence) and NSI (National Security Council). These are virtually autonomous organisations, operate under little or no supervision.

Police repression has gone on in the country for far too long. Illegal arrests, torture, shootings, corruption and massive violation of human rights must stop. The country cannot enter a new century and a millennium with same culture of police brutality.

The primary responsibility rests with the government. Successive governments have merely paid lip service to not to use of police for partisan purposes. Political use of police force, if stopped, would immediately improve the climate, which then will open up opportunities to reform the police. Without political commitment, repressive police culture cannot be eliminated.

There are no shortages of ideas, suggestions to make the Police accountable, friendly and trusted. The question, however, remains, is any takers around?

This is the third part of the report - 'State of Human Rights in Bangladesh 1998' prepared for Odhikar, a coalition for human rights.

AW Watch

Of Dr Chandra Muzaffar and the Role of the Intellectuals in Society

By A H Monjurul Kabir

Unfortunately, the University Management has no understanding of the role of the intellectual in society. It has chosen to be unquestioningly subservient to the unjust dictates of the ruling elite. It is prepared to sacrifice the well being of the students and academic principles in order to toady up to the elite.

DR Chandra Muzaffar who has been in the forefront of the reform movement in Malaysia was recently removed from his position as a Professor and Director of the Centre for Civilisational Dialogue, in the University of Malaysia. Dr Muzaffar, considered by many as a leading Asian thinker on north-south dichotomy, globalisation human rights and peace studies, is President of International Movement For A Just World (JUST), a non-governmental organisation that promotes the cause of human rights. His dedicated role against the arbitrary state power of arrest and detention particularly against the infamous Internal Security Act (like the Special Powers Act of Bangladesh) awarded him prolonged imprisonment including solitary confinement. He was also founding President of Aliran, a prominent Malaysian human rights organisation. Last year, the Daily Star published an exclusive interview with this respected academic of international repute.

Professor Chandra Muzaffar was informed on 23 February, 1999 that his contract of employment, due to expire on 28 February, with the University of Malaysia would not be renewed. The management had given no prior notice of dissatisfaction with performance of duties, nor warning that he had in any way violated the terms of his contract, and no prior indication of non-renewal of his contract. The University management cited economic factors affecting the University of Malaysia and a government directive requesting the University to optimise available internal human resources behind the non-renewal.

Both reasons however appear to fail to stand up to the evidence: the Centre for Civilisational Dialogue that Professor Muzaffar runs is, from a financial point of view, one of the most viable academic entities in the University. The centre also appears to be one of the most understaffed and consequently the optimisation of resources argument appears to be invalid.

In fact the reason lies elsewhere-his active involvement with human rights movement and participation in the ongoing struggle for democracy and rule of law make the ground of the non-renewal of his contract. In a recent letter, Dr Muzaffar stated: "It should be obvious to anyone that the real reason for non-renewal of my contract is political. Attempts to conceal and camouflage this simple truth with spurious reasons will only cast the University in a negative light. I know that the



Dr. Chandra Muzaffar - "My removal from the university is a small price to pay for a struggle which is precious as life itself."

ruling elite is uncomfortable with my uncompromising criticism of its stark, sordid abuse of power in the Anwar-Crisis. Some of the government leaders have also not taken kindly to my role as pro-tem Vice-President of ADIL. As an academic, I am not prohibited by any law or policy from expressing my views on the present political crisis or from participating in ADIL. Indeed as an intellectual with a conscience, I have a moral duty to speak out against injustices. The constant interrogation of power is the sacred responsibility of the intellectual."

He further said, "Unfortunately, the University Management has no understanding of the role of the intellectual in society. It has chosen to be unquestioningly subservient to the unjust dictates of the ruling elite. It is prepared to sacrifice the well being of the students and academic principles in order to toady up to the elite. ... I pray that the Centre for Civilisational Dialogue will live on. It is my earnest hope that it will continue to contribute to better understanding of civilisations in an increasingly globalised world. For my part, I will continue to devote myself to the quest for freedom, justice and unity - a quest which has characterised my intellectual career and my social activism."

Dr Muzaffar said it well in his media statement of February 24 1999: "My removal from the University is a small price to pay for a struggle which is precious as life itself." It truly reflects the magnanimity and courage of Dr Muzaffar.

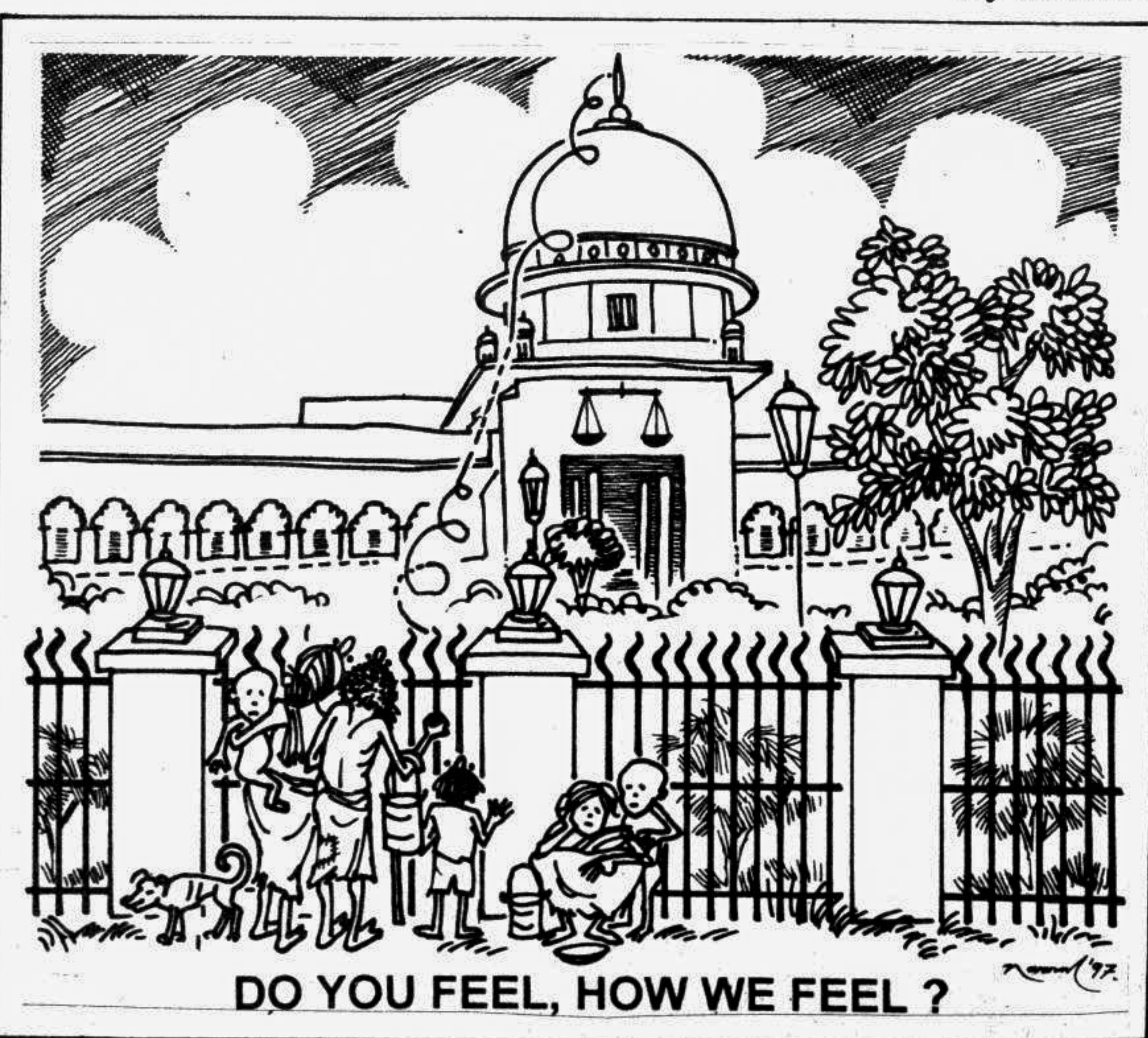
mkabir@bdcom.com

Preserving the Environment: The Constitutional Obligation

By Justice K M Hasan

WE often hear of green house effect and how it is going to submerge one third of Bangladesh under sea water bringing unimaginable destruction to the country as a whole. The green house effect caused by the depletion of ozone layer is the cumulative result of human actions for years on the environment. Environment is our all encompassing surrounding. As aptly described in Section 2 (c) of the Bangladesh Environment Conservation Act, 1995 "Environment includes water, air, land and physical properties and the inter relationship which exists among and between them and human beings, other living beings, plants and micro organisms". In other words it is the life support for all of us including other species.

But in recent years because of excessive and indiscriminate exploitation of those components of environment and resources of nature, the essential life support system is being seriously affected. The result is, many valuable species and inmates of this earth have already become extinct and some others are in the process of inevitable liquidation. The very existence of all the species is now threatened as nature has started taking its toll. To prevent further damage to nature it is time to act keeping in mind that the earth is not only the habitat for human beings, rather it is the habitat for all species, all of whom have a right to survival. Therefore, the



human community, endowed with intelligence, is duty bound not to think with self interest but to preserve and protect nature and its life supporting components for all. This is the common responsibility of all mankind.

This responsibility in the form of public duty is also enshrined in Article 21 of our Constitution. The first part of the said Article spells out the duties of the people and requires all citizens, "to observe the Constitution and the laws, to maintain discipline, to perform public duties and to protect public property."

The second part emphasizes on the duty of the public servant towards the people and State. "Every person in the service of the Republic has a duty to strive at all times to serve the people."

Therefore, Government servant will be well advised to remember that "All powers in the Republic belong to the people and their exercise on behalf of the people shall be effected only under, and by the authority, of the Constitution". In complementing the Constitution and to protect public interest, appropriate principles ensuring access to resources, services and justice various legislative enactments have been made and service rules framed entrusting all public sectors with certain responsibilities that are crucial to protect and conserve nature, and its "beauty and bounty". To those who are in Government

my advice is that simple performance of their normal duties with a little bit of concern and awareness towards environment would go a long way to preserve the environment.

To trace the constitutional duty of the people of Bangladesh as laid down in Part I of Article 21 a reference to the Fundamental Principles of State Policy will show that it declares democracy as the system of governance in Bangladesh. Conservation of environment has a strong similarity with democ-

lize public opinion and to obtain an effective result.

In modern society three types of major services are performed by those who are in the legal profession. Obvious one is that which relates to the lawyer's role as advocate and counselor. The second one relates to their designing a framework that will give form and direction to collaborative effort. Lastly, their service run not to particular client but to the public as a whole. To save the world and to protect the environment we

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racy as in both the cases every citizen has a distinct role of play. Like in democracy individual action to save the environment seem insignificant, but the combined effect of such action may be immense and may lead to the achievement of the ultimate goal.

In performance of their public duty, entrusted on them by the Constitution, those who are in the legal profession even though they form a minuscule part of the general public, have to act in a collaborative role with others, in order to mobi-

lize public opinion and to obtain an effective result.

live in, the lawyer in their second and third role get the opportunity to explore the virgin territory and in taking on the challenge for the future. A lawyer in this role is a social activist fighting not only for the interest of an individual client, which is the traditional role of a lawyer, but will be fighting for a much broader objective. The lawyers in this role be come committed not in bringing result or representing the interest of an individual client but of a larger group or community and set of values.

In the process they interact with the group or community they represent and become an integral part of social activism. In every step the lawyers will face closed doors but they shall have to go on knocking. The door is already ajar because of relentless efforts of one of the brilliant sons of the soil, late Dr Mohiuddin Farooque, the Founder of BELA. In the case of Dr Mohiuddin Farooque Vs Bangladesh, the Appellate Division of the Bangladesh Supreme Court at last allowed, to cross the threshold requirement of the petitioner for being an "aggrieved person" in an environmental matter involving indeterminate numbers of people. With his untimely death the burden has fallen upon others associated with BELA. Carry on the torch lit by him. Judges are also members of the society and they are fully aware of constitutional rights, social problems and aspiration and with your assistance will definitely take remedial steps at the appropriate moment. Let you be the instrument in the hands of the judges to ensure socio-economic and environment conscious to do complete justice.

The writer is a Judge of the High Court Division of the Supreme Court of Bangladesh. This is the full text of his speech presented at the certificate awarding ceremony of the Training Programme on Environment and Environmental Law organised by Bangladesh Environmental Lawyers Association (BELA).