

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

Amnesty International Reports (1998-2000) on Human Rights in Bangladesh

Caught in Political Quicksand and Bureaucratic Quagmire

by Amina Rahman Chowdhury

UNFORTUNATELY though, the Governments all over the world and their machineries play an enthusiastic role in maiming human rights of their citizenry. The Amnesty International (AI) Report 2000 reveals this once again. And Bangladesh is not an exception of this depressing global trend. Though the report on Bangladesh is very precise and overlooks some of the major human rights violations, yet it is sufficient to act as an eye-opener to the Government as well as to the 'civil society'.

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This year's AI Report did not emphasise on any such case in particular. Whereas, in 1999 the nation came to know the most grisly tale of brutality when the decomposed body of one Jalal, a police informer, was found in a rooftop water tank of well protected DB office.

Ironically, on an average, the reported case of death in Police custody remained the same. In 1998, the AI reported two cases of such atrocities where as in the 2000 report that number has jumped to three.

Violence against Women

The present Government though had pledged in their election manifesto to get rid of the women demonstrators of the opposition were not ex-

empted from such police brutality as well. The harassment of Moni Begum during an opposition demonstration program on the street, in the broad daylight, was another ugly face of treatment by the law enforcement agency.

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Violence against Women

Government has failed hopelessly to check violence against women. Specifically the custodial rape by the members of security forces. There had been no significant steps taken by the

Government to check such oppression.

The country has experienced worst form of violence against women by the law enforcement agency in 1998. In addition to the rape of a 10 year old girl by an off-duty policeman in April 1998, another person with a policeman also were arrested for the attempted rape of a 15 year old girl on the premise of the Dhaka CMMI court, in May.

They were later released on bail and there was no further report on any police officer being tried or being convicted of rape during the said year. Last three year's AI Reports show that on an average each year at least three cases of such custodial rape were reported.

AI Report 2000 cited a case where the police in Rajshahi said to have demanded a large amount of bribe before taking action to investigate the reported gang rape of an adolescent (12) girl.

It also stated the failure of law enforcement officials to exercise due diligence to prevent, investigate and take legal action on the acts of violence against women which meant that perpetrators were rarely held to account.

Some Missing Links

The 1999 report however did not indicate any specific number of cases.

Attack on the freedom of the press was another shameful role played by the law enforcement agency which was overlooked in the AI report. Apart from attacking the photojournalists during Hartial, they also attacked on journalists sporadically in that reporting period.

The AI report 2000 has also overlooked the developments on the past cases of police atrocities such as the case of Shamim Reza Rubel. The report would have been comprehensive if the follow-ups of the past cases could have been brought into light. Unlike the reports of 1998 and 1999, AI Report 2000 has focused on the violence against women, like murdered in connection to dowry or acid attacks on many pretexts.

However, the report did not mention about the fate of those hapless lots (including infants) who were being trafficked in a large number each year. Apart from that, there were media reports and agitation against the sexual violence on female stu-

dents at the Jahangir Nagar University campus, but that remained unnoticed in AI Report 2000.

By the end of 1998, the Government's appeal against the Court's decision to acquit four police officers accused of raping Shima Chowdhury in 1996 had not been heard, but there had been no follow-up report on Shima Chowdhury's case in AI Report 2000.

Kalpana Chakma, a tribal women's rights activist who reportedly disappeared in the CHT in June 1996, her whereabouts remained unknown until to date. AI report could not give us any further information on this sensitive issue as well.

Stagnant Politics of Confrontation

There were no major ups and downs in our political scenario.

The main opposition BNP with its obdurately recalcitrant stance boycotted parliament sessions and elections and used nationwide hartal as a tool to achieve their goal at the cost of halting the cog of national welfare.

Violent political confrontations as usual were there between the members of the two main political parties. The AI report '98 revealed that political party activists and student groups with links to the ruling and opposition parties continued to perpetrate acts of violence, including beating political opponents to death.

Such violence could easily be avoided, if the Government would have taken strict steps to curb violence and terrorism from the society. During last year's hartal, the national dailies have published pictures of armed goons belonging to political parties walking side by side with the members of law enforcement agency. Despite repeated pleas from media, neither government nor the security forces took the initiative to identify and arrest those hoodlums that media put into picture.

Government's drive to rehabilitate the armed terrorists on surrender also slipped from claimed success in many cases.

Institutional Weakness

When the Government drive to rehabilitate the sex workers from the 150 years old brothel turned out to be a nightmare and a worst kind of human

rights violation against the sex workers, one of the pictures showed that a sex worker holding a placard saying, 'No Ombudsman, No Human Rights Commission, Where do we go?

Unfortunately, the progress on setting up a National Human Rights Commission had been slow as well as prolonged. Till the end of 1999, the Government had neither established the office of Ombudsman nor the National Human Rights Commission.

Hardly any steps were been taken by the Government towards the establishment of a National Human Rights Commission despite a draft bill had been made public in December 1997.

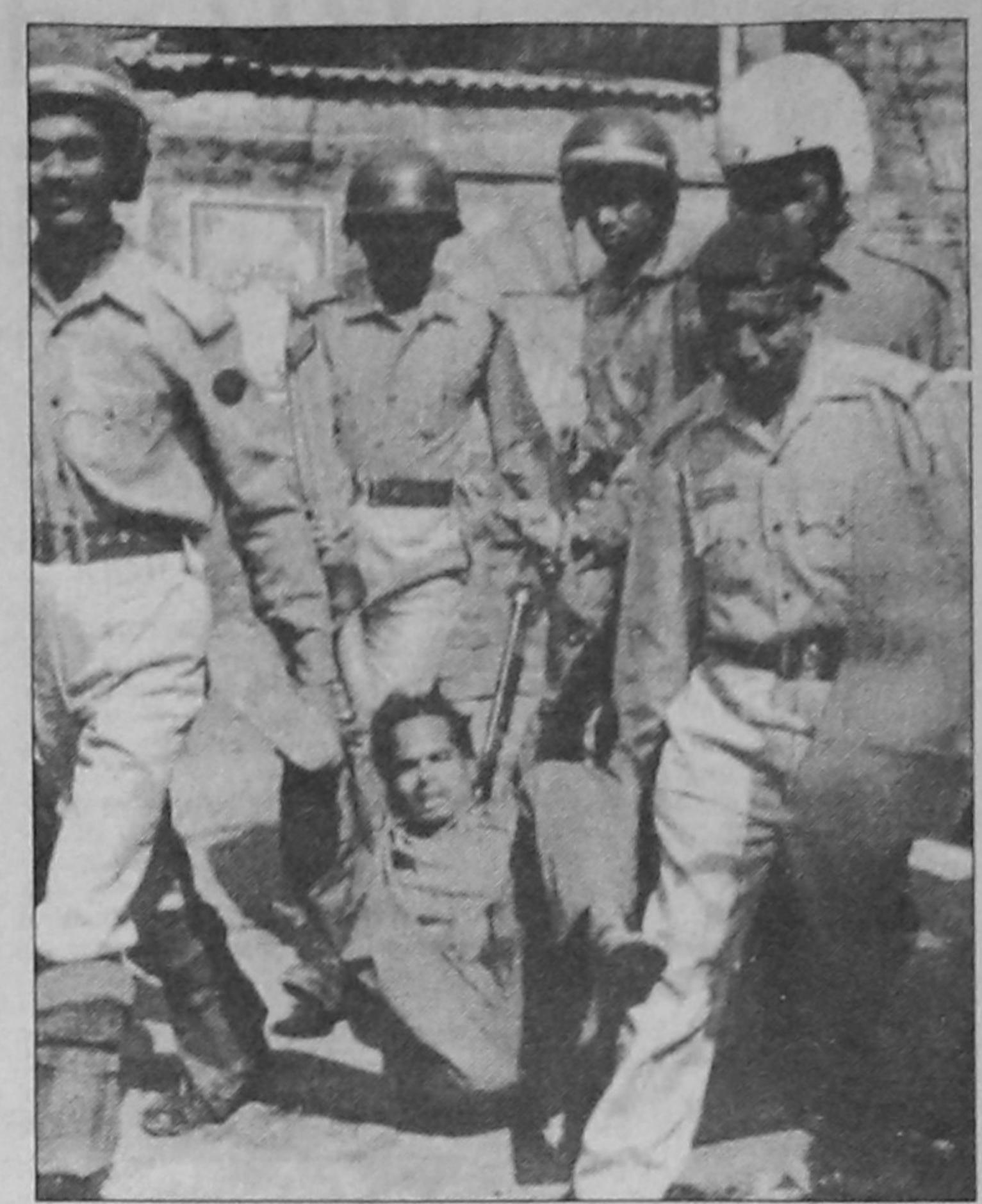
Need for a Concerted Popular Movement and a Culture of Human Rights

The over view of last three year's Human rights condition in Bangladesh as monitored by Amnesty International does not show any remarkable change in the Human rights field. In the reports, the AI has mentioned about sporadic incidences or about the Human rights violence those prevailed in our country.

It is frustrating to find out that for last three years there had been no fruitful initiative to protect the women safe in the custody to provide them with due safety and security. Violence against women has become nothing but a rhetoric of Government. Even female students are not safe in the hands of their teachers and fellow students, in their educational institutions.

Sometimes even the government plays the role of the perpetrator of human rights violations. For example, in the name of slum eviction the government had ousted thousands of people and dragged them under the open sky without providing enough time and space to resettle. Or in evicting the brothel in the name of rehabilitating the sex workers. Most of these sex workers are now back in their old business but in a worse condition causing further dents in social scenario.

The law enforcing agency which is entrusted to maintain the law and order in the society,



Police excesses, especially on opposition political activists, have been a deep, dark patch on the country's human rights record.

year old boy in the Medical College who had been arrested under the Public Safety Act 2000 and detained in the jail with other adult inmates disregarding the provisions of the Children Act 1974. Existence of both such Draconian Laws would deteriorate the socio-political situation even further.

This write up is intended to point out the trend of the violation of human rights and the steps taken by the Government to prevent it.

The AI Reports of last three years do not show any overwhelming change in the scenario. Nor the unreported cases of AI show trend of any improvement. Instead of blaming others, there should be some initiatives on the part of the civil society to be more assertive against the oppressive and anti-human rights nature of the state machinery. A culture of human rights requires to be nurtured at the same time to aware people of their basic rights and to protect them in the face of growing encroachment and interference by the same. If the people of this country could unitedly fight against such human rights violations and protest against the wrong done to them regardless of their political support, then a significant change might happen.



Towards a Clean City

In last 30 years we the people of this republic have learnt how to remain ignorant and nonchalant about the rights we are entitled to and duties we need to perform towards the society. For example, how many of us are actually aware of the existence of legal provisions regarding littering or public nuisance. The piles of wastes dumped in the common places by Bazaar authorities gives an air that they have a written immunity from the rules of law of Peoples republic of Bangladesh. People have encountered such malpractice with an acceptable mood--it happens.

May we then urge our readers to be conscious about the rights and duties we have and raise the voice, if anywhere they are being deprived. Also, may we all in our own way appeal to the concerned authorities to enforce the existing laws as soon as possible.

This is just to remind the readers that we have legal provisions to check the minute malpractices we encounter each day or sometimes we commit by ourselves.

The Metropolitan Police Ordinance

Penalty for slaughtering animal or cleaning a carcass. Whoever slaughters any animal or cleans a carcass or hide in or near to or within sight of a street or public place, except at a place set apart for the purpose by the order of the Police Commissioner, shall be punishable with fine which may extend to five hundred taka.

Penalty for committing nuisance in or near street, etc. Whoever in or near any street or public place commits a nuisance by easing himself, or suffers any child in his care or custody under seven years of age to commit such nuisance or spits or throws any litter, refuse or rubbish so as to cause annoyance to any passer-by shall be punishable with fine which may extend to two hundred taka.

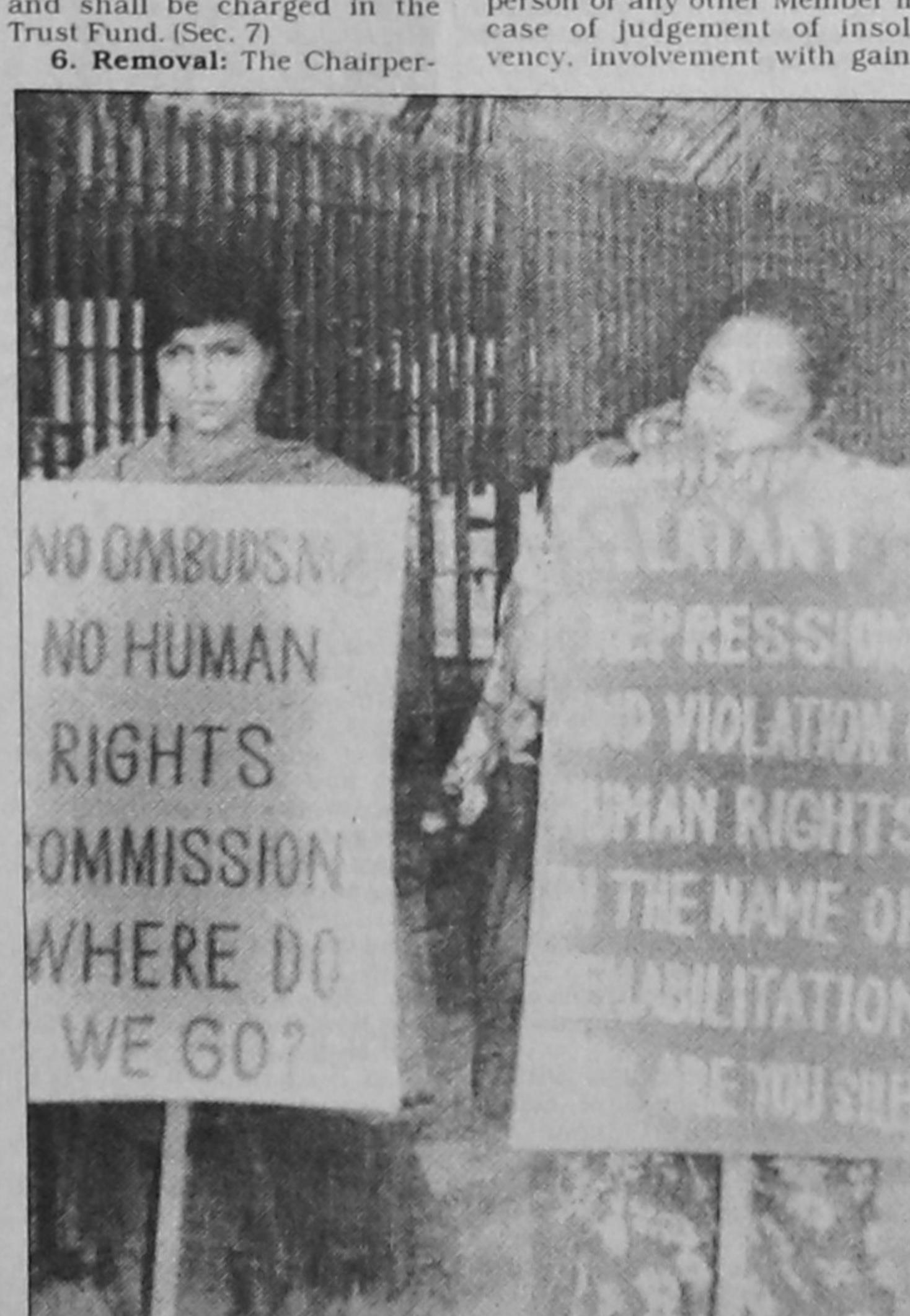
Penalty for smoking and spitting in contravention of a notice. Whoever in any building or place occupied by Government or by any local authority smokes or spits in contravention of a notice affixed to such building or place by the person in charge of such building or place, shall be punishable with fine which may extend to one hundred taka.

Penalty for affixing bills or otherwise defacing building, etc. Whoever without the consent of the owner or occupier, affixes any bill, notice or paper against or upon any building, wall, tree, fence, post pole or other erection with calum, ink or paint or in any manner whatsoever shall be punishable with fine which may extend to one hundred taka.

Penalty Code 1860 **Fouling Water or Public Spring or Reservoir** Whoever voluntarily corrupts or fouls the water of any public spring or reservoir, so as to render it less fit for the purpose for which it is ordinarily used, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five hundred taka.

Making Atmosphere Noxious to Health. Whoever voluntarily vitiates the atmosphere in any place so as to make it noxious to the health of persons in general dwelling or carrying on business in the neighbourhood or passing along a public way, shall be punished with fine which may extend to five hundred taka.

To be continued



by A H Monjurul Kabir

THE Cabinet of the Government of the People's Republic of Bangladesh approved the draft bill for the establishment of a National Human Rights Commission almost 14 months ago (12 April 1999). Subsequently it also formed a cabinet subcommittee to review the proposed bill. The subcommittee so far held several meetings to examine some of the provisions of the proposed bill. Yet the fate of the long waited "National Human Rights Commission" remains uncertain. It is learned that the government initiative has been facing sharp resistance from the bureaucracy and the ministry of home affairs in particular (*The Daily Star*, 7 March 2000). The initial governmental plan, proudly pronounced so many times at different international events and occasions by the concerned Government officials, to establish a national human rights institution by the year 2000 seems to be an illusory one.

The Prolonged Process The idea of a national human rights institution in Bangladesh has been around for several years. In April 1995, the Government of Bangladesh approved a project to assess the need for such a body and make recommendations on its establishment. The project entitled "Action Research Study on the Institutional Development of Human Rights in Bangladesh (IDHRB)" formulated initially was to start in July 1995, but it was reportedly delayed due to prolonged political crisis in the country. It was revived in March 1996 when an agreement was signed between the government and the United Nations Development Programme (UNDP). Under the agreement, the Ministry of Law, Justice and Parliamentary Affairs is to supervise, monitor and evaluate the IDHRB project, which formally began in July 1996. The project is financed by the UNDP. The main objective of the project was to prepare the grounds for the eventual establishment of a viable institutional mechanism to promote and protect human rights as guaranteed under the constitution of Bangladesh. The IDHRB Project formulated a draft bill (The Bangladesh National Human

son or any other Members of the Commission shall only be removed from his office by order of the President on the ground of proved misbehaviour or incapacity after the Supreme Judicial Council, and two next senior judges of the Supreme Court, on reference being made to it by the President, has on inquiry held in accordance with the procedure prescribed in that behalf by the Supreme Judicial Council, reported that the Chairperson or such other Member, ought on any such ground to be removed. [Sec. 4 (1)]

5. Remuneration and conditions of service: The salaries and allowances of the Members of the Commission shall be determined by the Parliament and shall be charged in the Trust Fund. [Sec. 7]

6. Removal:

The Chairperson and four members of the Commission shall be removed from their offices by order of the President on the ground of proved misbehaviour or incapacity after the Supreme Judicial Council, and two next senior judges of the Supreme Court, on reference being made to it by the President, has on inquiry held in accordance with the procedure prescribed in that behalf by the Supreme Judicial Council, reported that the Chairperson or such other Member, ought on any such ground to be removed. [Sec. 4 (1)]

The President may by order remove from office the Chairperson or any other Member in case of judgement of insolvency, involvement with gain-

ful employment, infirmity of mind or bodily unsoundness, or conviction involving moral turpitude [Sec. 4 (2)].

7. Functions: The Commission shall perform all or any of the following functions, namely:

(a) inquire, *suo motu* or on a petition presented to it by a victim or any person on his behalf, into complaint of -

(i) violation of human rights or abatement thereof or

(ii) negligence in the prevention of such violation, by a public servant;

(b) intervene in any proceeding involving any allegation of violation of human rights pending before a court with the approval of such court;

(c) visit any jail or any other institution under the control of the Government, where persons are detained or lodged for purposes of treatment, reformation, protection or welfare to study the living conditions of the inmates and make recommendations thereon;

(d) review the safeguards provided by or under the Constitution or any law for the time being in force for the protection of human rights and recommend the adoption of new legislation, the amendment of the existing laws and the adoption or amendment of administrative measures for their effective implementation;

(e) review the factors, including acts of terrorism that inhibit the enjoyment of human rights and recommend appropriate remedial measures;

(f) study treaties and other international instruments on human rights and make recommendations for their effective implementation;

(g) examine the draft bills and proposals for new legislation to verify their conformity with international human rights standards and to ensure the compliance with the international human rights instruments;

(h) encourage ratification of international human rights instruments or accession to those instruments, and ensure their implementation;

(i) assist in the formation of programs for the teaching of, and research into, human rights and to take part in their implementation;

(j) encourage ratification of international human rights instruments or accession to those instruments, and ensure their implementation;