

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'.

In each chapter, AI mostly emphasised on torture and ill treatment by police, violence against women, legal and institutional reform, death penalty etc. According to the report, the nature of the human rights violations in Bangladesh remained more or less the same. Relentless police brutality, detention under Special Powers Act (SPA), violence against women, torture including rape and death in police custody were wide spread.

Its study also revealed, lack of Government initiative existed to check such violations. For the better understanding of the overall situation, the nature of each violation has been placed under separate headings.

### Torture and Ill Treatment by Police

To curb the wrong doers and to right the wrong done, a nation mostly depends on their law enforcing agency and the judiciary. For past few years, the trend of human rights violations or ill treatment by the former has flourished rapidly in a country where the Law enforcing agency has failed to gain and maintain the trust of the people, there the people look up to the judiciary as their only ray of hope. However, the AI Report 2000 stated, 'apparent corruption within the police and the lower judiciary, and burdensome bureaucracy, facilitated impunity for perpetrators of human rights violations and impeded access to justice for those without money or political influence'.

Throughout 1999 disproportionate uses of police force against the political demonstrators were reported. Even the journalists covering the hartals were injured along with scores of bystanders in police attacks.

The women demonstrators of the opposition were not ex-

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

Though the last year's AI report did not report on this particular ill treatment by police, but the graph of custodial torture by the security forces remained almost the same for last three years.

Torture by police has become a routine affair in all areas of country whether to extract information or bribe. It has also been used as a mode to punish the detainees that sometimes even resulted in death of the person.

The 1998 report mentioned about Nuruzzaman Sharif, who was arrested for illegally entering into the Prime Minister's office premises in June 1997. This man died in police custody two days after his arrest. Even after the CID found evidence implicating 3 police officers in murder and grievous harm but it was not known till the end of the 1997 whether permission was given for filing charges against those policemen.

The 1999 report of AI stated the sordid tale of Shamim Reza Rubel, a student who had been allegedly beaten to death in Police custody within 5 hours of his arrest. Following an investigation by the CID, 13 policemen and a local AI leader were charged in connection with his death. A judicial enquiry into the case confirmed that Rubel's death was not accidental, although the full findings of the commission were not made public by the end of the year.

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.

### Detention under Special Powers Act

The present Government though had pledged in their election manifesto to get rid of

the Special Powers Act, in the last three year's AI report it reveals that scores of people, particularly activists belonging to the opposition, were being detained without charge or trial under the same Act. Hence the Government has failed to fulfill its commitments.

The 1998 AI Report shows, several prisoners of conscience are among scores of people detained under the SPA that permits detention without charge or trial for an indefinite period.

Specific instances have proved that, this law exists to harass the political activists and puts a question mark to both the role of the government to enshrine democracy and the lawlessness of the country.

Several others were being arrested on false charges by the police at the instigation of the dear ones of the politically influential individuals. For example, the case cited in the AI Report '99 where it was reported that in January 98, in Dhaka, three men had been arrested following an altercation with the son of a minister. Police accompanied the relatives of the minister's son during these three men's arrests. While in custody, the officer in charge of the police station has reportedly allowed the elder brother of the Minister's son and two other armed men to enter the room where the 3 men were detained and beat them. In February 98 the three men were released after the Home Minister withdrew the SPA detention order and dropped the charges against them.

AI report 2000 also has a mention of detention of hundreds under SPA throughout the 1999. It also says that although most of the people were released after short periods, while others remained detained for prolonged periods. Those released; enjoyed that benefit only after the High Court ruled their SPA detention orders to be unlawful. There had been also voices from different sections of the society to scrap this Draconian law. However, the Government had turned a deaf ear to all the pleas against SPA.

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 enforcing 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 CMM 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 being 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 enforcing agency which was overlooked in the AI report. Apart from attacking the photojournalists during Hartal, 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 students at the Jahangir Nagar University campus, but that remained unnoticed in AI Report 2000.

### 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 wheel.

Violent political confrontations as usual were 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 enforcing 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 Ombudsmen 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 or to provide them with due safety and security. Violence against women has become a growing common nuisance and fighting against it 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,

has been shamefully perpetrated heinous crimes like robbery, extortion and submitted to the temptation of bribe rampantly.

The number given by the AI Report 2000 of the deaths in the custody is only the tip of an iceberg. An annual report by a human rights organization shows more grim picture of deaths in police and jail custody. According to the Odhikar's annual report, at least 61 people succumbed to police atrocity in that period. The Government had been nonchalant about the figure, and even in the year 2000, the unchecked police brutality and reckless corruption has sustained more or as before.

The political trend had been reported the same. Neither the people of the country nor the political parties tend to improve the situation. The general people have taken the prevailing situation as fait accompli and have hardly any role to play in the democracy except for using the ballot paper for choosing between Scylla and Charybdis.

The detention under Special Powers Act and its increase in number are alarming. The situation has worsened with the introduction of another oppressive Law — the Public Safety Act-2000. A recent news item depicted the sordid tale of a 12

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 unite their 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.



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

## A National Human Rights Commission for Bangladesh: Waiting for Godot?

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 1996, 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

Rights Commission Act 1999). The draft bill proposes that a National Human Rights Commission will be set up 'for Bangladesh for the protection, promotion and creation of the conditions for the enjoyment of human rights and for matters connected therewith or incidental thereto'. Referring to the government's commitment to protect and promote human rights, the bill states that an effective mechanism for the protection, promotion and creation of the conditions for the enjoyment of human rights should be evolved to implement the constitutional commitment. The bill specifically mentions the fundamental principles of state policy enshrined in the constitution of Bangladesh.

From the preamble of the bill it appears that:

- (1) The government is aware of the increasing global concern for human rights and the need for its institutional protection; and
- (2) It has come forward to install such institution as part of its constitutional commitment.

However the national institution will not be a constitutional mechanism. Like many other institutions, it will get a statutory footing.

### Key Features of the Proposed Commission

A brief analysis of the draft bill reveals the following core features:

**1. Definition of Human Rights:** Human Rights includes the rights relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution of Bangladesh and such rights embodied in the International Human Rights Instruments adopted by the General Assembly of the United Nations which have been acceded to and ratified by the People's Republic of Bangladesh (Sec. 2(d)).

**2. Constitution of NHRC:** The President in consultation with Committee consisting of the:

(a) Prime Minister (b) Speaker of Parliament (c) Chief Justice (d) Leader of the Opposition in the Parliament shall constitute the National Human Rights Commission. The Commission shall consist

of a chairperson and four members. At least one member should be a woman. (Sec. 3 (1) (2)).

**3. Qualification:** The chairperson and the four members shall be appointed from among persons having knowledge of, and practical experience in, matters relating to human rights. (Sec. 3(2)(a)).

**4. Term:** The term of Chairperson or Members of the said commission will be five years and shall not be eligible for further reappointment. (Sec. 5)

**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 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, consisting of the Chief Justice of Bangladesh, 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:

(i) 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;
- (e) 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;
- (f) encourage ratification of international human rights instruments or accession to those instruments, and ensure their implementation;
- (g) assist in the formation of programs for the teaching of, and research into, human rights and to take part in their execution in educational and

professional institutions.

(j) spread human rights literacy among various sections of society and promote awareness of the safeguards available for the protection of these rights through publications, the media, seminars and other available means;

(k) encourage the efforts of non-governmental organisations and institutions working in the field of human rights;

(l) freely consider any questions falling within its competence, whether they are submitted by the Government or taken up by it without referral to a higher authority, on the proposal of its members or of any petitioner;

(m) such other functions as it may consider necessary for the promotion of human rights. (Section 10)

**8. Independence:** (a) The Commission and every Member of its staff shall function without political or other bias or interference and shall be independent and separate from any party, government, administration, or any other functionary or body directly or indirectly representing the interests of any such entity.

(b) To the extent that any of the personnel of the entities referred above may be involved in the activities of the Commission, such personnel will be accountable solely to the Commission (Sec. 16)

**9. Annual and Special Reports:** (a) The Commission shall submit an annual report to the President and may at any time submit special reports on any matter which, in its opinion, is of such urgency or importance that it should not be deferred till submission of the annual report.

(b) The President shall cause the annual and special reports of the Commission to be laid before the Parliament for discussion and consideration. (Sec. 19)

**10. Finance:** The Commission will be financed through a Trust Fund, which shall hold all money appropriated by Parliament and all money donated or contributed to the fund from any source. (Sec. 20, 21)

**11. To be continued**



## 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 calm, ink or paint or in any manner whatsoever shall be punishable with fine which may extend to one hundred taka.

**Penal 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 or with both.

**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.