

HUMAN RIGHTS monitor



LAW news



The global report on human rights 2002 Bangladesh context

AMNESTY INTERNATIONAL

THE year 2001 will be remembered by many for the events of 11 September, which dominated the international political agenda and posed new challenges to the human rights community. Yet, as this Amnesty International Report shows, there were countless other human tragedies during the year.

Amnesty International responded to the 11 September attacks in the USA by condemning them unreservedly and by calling for those responsible to be brought to justice in accordance with international law. Its members worked steadfastly to counter a racist backlash against people identified as Muslim or Middle Eastern. When governments introduced draconian security and immigration legislation, Amnesty International campaigned to ensure respect for fundamental human rights. The movement also called for strict adherence to the rules of war during the US-led military campaign in Afghanistan. Amnesty International's message throughout was "Justice not revenge".

Human rights abuses in 152 countries and territories around the world are documented in this report, which describes the repression and violence which blighted the lives of millions of people throughout 2001. Some faced new threats from those seeking to gain military advantage or maintain political power. Others were still suffering the effects of genocide and other atrocities committed in the past. Many were denied protection from abuses based on discrimination on grounds of race, gender or sexual orientation. Millions were forced to seek safety in other countries, but faced growing obstacles and hostility.

This report shows not only the failures of human rights protection but also the indomitable courage and determination of human rights activists whatever the challenges they face and the vital role they play in a world beset by poverty, war and repression.

The Bangladesh scorecard

Political violence in advance of elections resulted in about 150 deaths. There were high levels of violence against minorities, particularly Hindus. Impunity for perpetrators of human rights violations was widespread. Religious groups sought to overturn a landmark High Court judgment which banned fatwas, religious edicts most often issued against women. Women continued to be subjected to violent attacks in their homes and communities. Three executions were carried out, the first for over three years.

Political developments

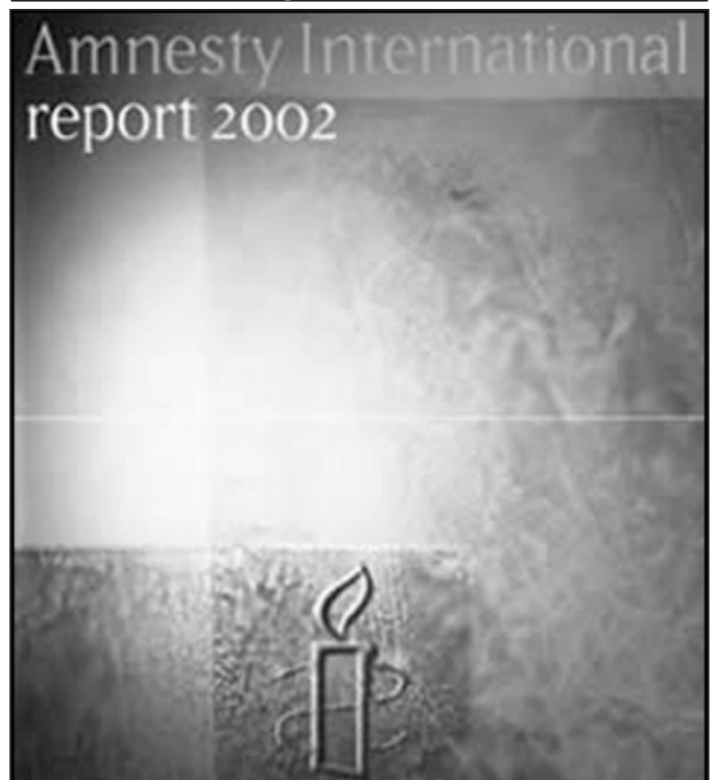
A caretaker government took power in July to organize parliamentary elections in October. The Bangladesh Nationalist Party (BNP), formerly Bangladesh's main opposition party, won more than two thirds of the seats in alliance with three other parties including Jamaat-e-Islami. BNP leader Begum Khaleda Zia was sworn in as Prime Minister in October. The unopposed presidential nominee, Badruddoza Chowdhury, was declared President in November.

In the run-up to the elections, there were violent clashes between BNP and Awami League supporters in which about 150 people were killed and thousands injured. The former ruling party, the Awami League, alleged that

the elections were rigged and boycotted Parliament.

Violence against minorities

'Political violence in advance of elections resulted in about 150 deaths. There were high levels of violence against minorities, particularly Hindus. Impunity for perpetrators of human rights violations was widespread. Religious groups sought to overturn a landmark High Court judgment which banned fatwas, religious edicts most often issued against women. Women continued to be subjected to violent attacks.'



Following the elections, hundreds of Hindu families were reportedly subjected to violent attacks, including rape, beatings and the burning of their property. They were allegedly attacked by BNP supporters because of their perceived support for the Awami League. In November, a prominent member of the Hindu community was killed while hundreds of families reportedly

fled to India. The police failed to take effective measures to protect the community; some arrests were made but most assailants were not brought to justice. No information was provided about an official investigation into the atrocities, promised in November and December. In response to a petition in November by the legal aid organization, Ain-o-Salish Kendra, the High Court gave the government one month to explain why it did not protect Hindus. No explanation was provided by the end of the year.

On 22 November, Shahrir Kabir, a prominent writer and journalist, was detained by police on his return from India. In December, he was charged with sedition but the authorities did not make public the evidence to support the charge. His detention appeared to be solely because he had been investigating the situation of Hindus who fled persecution in Bangladesh. He was still held in Dhaka Central Jail under the Special Powers Act at the end of 2001.

Other minorities suffered attacks. In June, 10 people were killed and more than 20 wounded in a bomb explosion in a church in Baniarchar, Gopalganj district. Violent clashes between tribal inhabitants and Bengali settlers continued to be reported in the Chittagong Hill Tracts. Three women from the Jumma minority were allegedly raped in May by army personnel; no one was known to have been brought to justice.

Women's rights

Women continued to be subjected to violent attacks, including rape. Dozens reportedly died in dowry-related murders. Acid attacks left many severely scarred. The authorities rarely provided adequate protection or means of redress. The failure of the police to investigate and take legal action against perpetrators of violence against women engendered a climate of impunity.

By launching an appeal to the Supreme Court, religious groups sought to overturn a landmark High Court judgment in January which banned fatwas, which were often used to repress women's rights.

Torture and prison conditions

Widespread beatings and other ill-treatment by the police and the armed forces persisted with impunity. At least 30 people reportedly died in custody as a result of torture. The authorities appeared to ignore torture allegations. The new government promised in October to repeal the Special Powers Act and the Public Safety Act but continued to use them to detain people for long periods without charge or trial.

Thousands of people awaited trial in overcrowded prisons. In July large numbers of people were detained during a drive to recover unlawful weapons, forcing prisoners to have to take turns to lie down to sleep.

Death penalty

Two men were hanged in February, marking a resumption of executions after more than three years. Another man was hanged in November. At least 20 people were sentenced to death in 2001.

In the latest ruling in April, the death sentences of 12 army officers, accused of the killing of Sheikh Mujibur Rahman and his family, were upheld by the High Court. Four of those convicted were detained in Bangladesh.

LAW campaign



Street law in Bangladesh

TANIA JAHAN

PROTIDINER Ain (Street Law), is the concept of educating people about law that is of practical use in every day life. Through Protidiner Ain (Street Law) people, particularly young and marginalized segment of the society, gain knowledge about law, the legal system, human rights, and the fundamental principles on which a constitutional democracy is based. Young people are empowered by learning about their rights and responsibilities and how to become more active citizens. People learn practical information about justice systems while mastering concepts like freedom, responsibility and equality etc.

Background

Street law has its genesis in the USA. Since the beginning of 1970s, law students of Georgetown University in the United States launched a programme aiming to give people basic idea of law, human rights, democracy etc. This programme is now known as 'Street Law' programme in the USA. The programme turned to be so popular and useful that within a short period it spread in almost all States of the United States. Transcending the frontiers of the United States the programme was then introduced in different languages, with varied names in more than thirty countries of every continents of the world.

Street Law in Bangladesh

Protidiner Ain is modeled on this street law programme in a way that fits in our country. "Protidiner Ain" is not the literal interpretation of "Street Law". For naming the programme in Bangladesh like many other countries emphasis has been put on the contents of the programme that is "law of daily life". Street law programme was first introduced in Bangladesh in 1995 in a very limited scale. Later in 1998, Prof. Dr. Mizanur Rahman of the Department of Law and MS. Margaret Groark formally launched such a programme involving the students of the Department of Law of the University of Dhaka. The programme has been taken to larger scale and being presently conducted under the auspices of the Empowerment through Law of the Common People (ELCOP).

ELCOP initiative has however two other components other than the Protidiner Ain programme. One is Human Rights Summer School which is a two-week long residential training programme on Human Rights for law students of Public Universities, organized once a year. The other in Community Law Reform which consists of an investigation and research initiative to discover legal grievances of specific religious or minority community and to suggest corresponding legal reforms.

Purpose and Objectives

The concept of Protidiner Ain emerged from the proposition that empowerment of people is not possible without making them aware of law and rights. The objectives of such programme are precisely:

- To give a clear idea of law, rights and duties;
- To provide legal information essential for every day life;
- To sensitize norms and values of democracies;

To create awareness about rights of disadvantaged segments of people including women and children;

To stimulate consciousness about necessary legal reforms;

To motivate people to play the role of stakeholders in establishing rule of law.

Working Methodology

Protidiner Ain is run by the students of law. Prime features of the methodology followed in the programme are:

- Information is shared through active participation of the learners;
- Participants learn about law in a very non-formal environment;
- Definite curriculum is drawn up for participants of the secondary and higher secondary levels which is taught through exercises and many other non-formal methods. This process is conducted through a book, namely 'Protidiner Ain' which includes the following topics:

Our rights and duties: Human rights and fundamental rights: Equality before law: Children's rights: Democracy: Right to vote is a human right: Crime and punishment: Civil law and remedy: Family law: Our environment: Consumer rights.

Suitable methods are chosen for disseminating information to other sections of people.

Targets of Protidiner Ain

Protidiner Ain is conducted primarily for students of secondary and higher secondary levels and also for disadvantaged people, particularly ready-made garments workers and slum dwellers. The programme will however be gradually expanded to cover people from other areas of the society.

- Protidiner Ain in slum area
A different curriculum has been designed for slum dwellers which encompasses the following topics:
Fundamental rights: Human rights: Family law; The law of transaction; Community organization; Juvenile delinquency and the law.
- Protidiner Ain in Garments
Curriculum for Garments workers include-
1. The rights guaranteed for them by the Factories Act of 1965 such as the safety measure, health and hygiene measures, welfare measures etc.
2. Right to form trade union, and how to raise and solve their problems, through trade union.

Achievement of Protidiner Ain

Protidiner Ain programme has so far been conducted in 11 schools and 1 college in Dhaka city. ELCOP is simultaneously conducting the programme in Chittagong by students of Law of the Chittagong University. The programme has been conducted there in 8 schools so far. The total number of secondary and higher secondary students already educated by Protidiner Ain now exceeds 2000. The programme has also been run in 3 slums and in two Ready Made Garments factory in Dhaka city.



RIGHTS corner



Right to Food: The Indian Experience

HUMAN RIGHTS FEATURES

THE World Food Summit- Five Years Later will be held from 8 to 10 June 2002 in Rome where several governments will review and assess the commitments of the World Food Summit 1996. India however will have little to boast about. On 25 and 26 April 2002, in New Delhi, a few NGOs organised a National Consultation on 'Food and Nutrition Security'. Representatives from all sectors of society and from all parts of India were present. The only sector conspicuous by its absence was the government. The Agriculture and Food and Consumer Affairs ministries declined the numerous invitations sent to both the ministers and the secretaries to participate in this meeting.

An international workshop on a 'Code of Conduct on the Right to Food' organised by the German government in Berlin from 22 to 23 May 2002 also indicated the Indian government's head-in-the-sand approach to the issue. According to a statement by the Indian Agriculture Ministry: "Our strategies of poverty elevation have paid rich dividends."

It's not just a grammatical error. In the context of food security, the ministry appears to be genuinely unaware of the difference between elevation and alleviation. According to the Food and Agriculture Organisation (FAO), India alone accounts for over 400 million poor and hungry people. For a nation long inured to scarcity and starvation, the nature of this problem is ironic: the problem of plenty. A problem so acute that the Supreme Court has been forced to take notice. Shocked at the increasing number of starvation deaths amidst overflowing foodgrain godowns of the government (public stock exceeding 60 million tonnes), the Supreme Court passed an interim order on November 2001 demanding that the large stocks of foodgrains in the Food Corporation of India (FCI) warehouses be released with immediate effect. The Supreme Court's damning indictment and directive gives the desperately poor a reason to hope. It is however a shameful treatise on both the democratic institutions and the media that the judiciary has to step in to ensure what has been overlooked for very long the fundamental right to food.

Over the past decade, a series of events have brought the question of food security into sharp focus. Vast famine-affected areas juxtaposed against bursting granaries, the World Trade Organisation's attack on agriculture and farmers, the media's spotlight on starvation deaths in Orissa and, finally, the Supreme Court's horrified reaction to the plight of the hungry - all make a case for the recognition of the right to food.

Starvation deaths are not an anomaly in India: the notorious Kalahandi-Bolangir-Koraput region in Orissa is a case in point. This however has not initiated any corrective action. No commission has ever been set up to examine why in a food surplus nation where buffer stocks are three times what is required for food security, thousands still die of hunger and malnutrition. Attorney General Soli Sorabjee has termed the shocking state of starvation amidst plenty a "horrendous state of affairs", condemning it as a criminal neglect of the Constitutional obligations on the part of the government.

Now, for the first time, the battle for the right to food has reached the Supreme Court of India. In May 2001, the People's Union for Civil Liberties (PUCIL), filed a public interest litigation (PIL) with the Indian Supreme Court, arguing that several federal institutions and local state governments should, inter alia, be responsible for mass malnutrition among the people living in the states concerned. In one of its interim orders relating to the case, the Supreme Court affirmed that where people are unable to feed themselves adequately, Governments have an obligation to provide for them, ensuring, at the very least, that they are not exposed to malnourishment, starvation and other related problems.

ing for increased outlays in employment and rural work programmes for providing food security, only to have state governments claim a lack of financial resources.

On 28 November 2001, the court passed an interim order that provides for the conversion of eight food security schemes into entitlements (rights) of the poor. A closer look however reveals the blatant flouting of the Supreme Court Order.

As pointed out by the PUCIL petition, Article 21 of the Constitution makes it mandatory for the State to ensure the right to life of the citizens which includes the right to live with dignity with at least two square meals a day. The State however seems to have dithered from its constitutional obligation. In response to the PUCIL petition, the governments of Rajasthan, Gujarat, Himachal Pradesh, Madhya Pradesh, Maharashtra, Punjab, Haryana, Karnataka, Orissa, Meghalaya and Manipur claimed before the Supreme Court that implementation of the Central and state schemes was complete, that there were no starvation deaths and no destitutes in their respective states. They also claimed that sufficient food was being supplied through the PDS and that anyone who needed food but was unable to work for it was being given gratuitous relief. On further orders by the Supreme Court, the state governments prepared a compliance report vis-a-vis nine Central government schemes. Their affidavits made it clear that the state of food security in India is worrisome. The picture becomes grimmer when one scrutinises the records of schemes that were intended to assure food supply to the poor. The Supreme Court's landmark order in November 2001 asking all states to introduce cooked mid-day meals in primary schools in at least half their districts by February 2002 has not been implemented in most states.

An unprecedented abdication of state responsibility for drought relief is taking place. State governments such as Rajasthan have failed to respond to their commitments in the famine codes. With a view to ensuring adequate food to the poorest of poor, the Supreme Court in March 2002 asked all States and Union Territories to respond to an application seeking the framing of wage employment schemes such as the Sampoorna Gramin Rojgar Yojna (SGRY) ensuring the right to work to adults in rural areas. On 8 May 2002, the Supreme Court agreed on a system of monitoring. The Bench also added that the states are to provide a funds utilisation certificate before the money is released for their use.

For many who subscribe to the 'generational' approach to human rights protection - that civil and political rights are on a higher rung than economic, social and cultural rights (ESCRs) by virtue of being legally enforceable - the issue of justiciability looms large over the enjoyment of ESCRs as codified in international law. If the PIL filed by the PUCIL is any indication, the issue of enforceability, not merely the Code of Conduct, remains fundamental. In a number of cases - from 1993 case of J.P. v State of Andhra Pradesh of India on enforceability of the right to education to the Government of South Africa vs. Grootboom (Constitutional Court of South Africa, Case CCT 11/00, 4 Oct. 2000) on access to medicines to HIV/AIDS patients the courts have rejected the notion of non-enforceability of economic, social and cultural rights. Courts across the world are increasingly applying the "reasonableness" test - i.e. whether the State is complying with its obligations in respect of ESCRs. There is a need, therefore, to focus on stronger mechanisms such as the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (IESCR). That justiciability is key to the enforcement of a right is beyond question; theoretically and in practice, there is no reason why certain rights such as the right to food cannot be subject to judicial determination. Despite the lacklustre and deplorable performance of the government of India, the Supreme Court of India has set the right precedent.

Human Rights Features (HRF) is an independent, objective and analytical attempt to look at issues behind the headlines from a human rights perspective. HRF is a joint initiative of SAHRDC and HRDC, based in New Delhi, India.