

## Endangered journalists

The situation has turned critical

THE killing of journalist Manik Saha has brought forth an avalanche of condemnation by all quarters, including the International Federation of Journalists, which has demanded a thorough government probe into the crime. But before the terrible shock could be absorbed by the journalist community, it has been reported that nine more journalists working as Khulna correspondents of national dailies are now on the hit-list of the political extremists.

There is reason to believe, after watching the way Manik Saha was killed, that the threat is very real -- the outlawed political outfit which claimed the responsibility of Manik's death is planning to kill nine more of our fellow professionals. There is no scope for making any mistake -- journalists are facing the most severe kind of professional threat.

The killers of Manik Saha have not even bothered to hide their identity, which no doubt is a reflection on the law enforcers' inability to deal with them. It is also an indication of the growing clout of a section of hardened criminals operating in the southern zone in the name of a clandestine political group. But people would like to know -- after watching the gruesome murder and learning that such crimes might be repeated -- what the government is doing to counter the evil forces.

Security of journalists does not only mean that the lives of a few individuals would become safe; it refers to protection of the freedom of expression and many other sacred things without which a civilised society cannot exist. The killers are trying to silence the press, and it is now the duty of the government to resist them with everything at its disposal.

However, nothing can be done as long as law and order remains precarious. So, the government must act decisively against the forces out to unsettle the media.

The threats issued by the political extremists cannot be taken lightly. The government must offer the security cover that the endangered journalists need, while intensifying the hunt for the political extremists. It is, in the ultimate analysis, a question of defending democracy and freedom as a whole.

## Juveniles languishing in jail

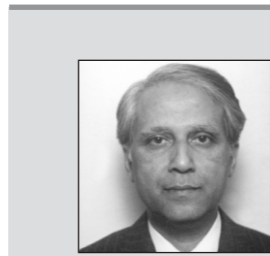
Relevant laws must be revised

THE report that more than 100 juveniles are languishing in jail instead of correction centres explains how indifferent we have become even to the conditions of the minors. As the Children Act, 1974 states, 'any person below 16 years is juvenile and must be sent to certified home or approved home or to the custody of a relative or other fit person'. But the report in our Thursday's issue revealed that not only the law is being grossly violated, but no one seems to be taking any notice of it either.

The report also says that there are ample correction centre seats lying vacant to accommodate those in jail, but neither the jail authorities nor the correction centres are showing any inclination to rehabilitate them. Both the institutions came up with reasons which sounded more like excuses to shrug off responsibilities. For example, if the centres demand proper certificates of age, then the jail authorities must be able to provide them. At the same time, the centres should also not be so rigid in their regulations, because they must remember that over-strictness would only make another juvenile suffer inside jail. What was appalling to learn was that police up the age of a juvenile before producing him to court 'to avoid legal complications'. It was also revealed that the jail authorities do not even comply with the court orders to send them to correction centres.

The authorities must take these points in their concern and take immediate action. We should not forget that keeping juveniles in jail is tantamount to violation of their legal and human rights. They would undoubtedly be exposed to serious crimes and exploitation in jail blocking their natural growth. There is also a serious contradiction in laws when it comes to distinguish a juvenile from adults. While the Children Act terms the under-16 as minor, the Majority Act, 1875 terms all citizens under 18 years as the same, too. The government must revise the relevant laws in order to remove the inconsistencies.

# Asian national human rights commissions and Bangladesh



MUHAMMAD ZAMIR

HERE is a special position for Asia in the arena of international human rights law. It is probably the only region of the world that does not as yet have a regional human rights treaty. Notwithstanding this, the region has seen in recent years the development of several positive human rights trends, including what one might say, the proliferation of domestic systems of human rights governance. Several governments have created or are in the process of creating national human rights commissions. These can broadly be described as 'state agencies with the purported aim of protecting and promoting international human rights norms.'

Asia has not been in the forefront of the human rights revolution till very recently. This is probably because of the ongoing debate as to whether human rights as understood in the West is compatible with questions of cultural relativism as existing in Asia. Some have also disagreed with regard to the primacy of social, economic and cultural rights as opposed to civil and political rights.

Nevertheless, the nineties have seen the emergence of different kinds of national human rights commissions. A conscious effort has been undertaken to juxtapose international human rights norms within cultural contexts. This decision to meet 'the human rights challenge' has also in its own way contributed to the alteration of domestic political structures. The interesting aspect in this context has been the reluctant loss of 'domestic sovereignty' arising out of the need to conform to

transnational human rights expectations.

In many cases governments appear to have also formed and strengthened these commissions to appease international actors. This evolutionary process might even be described as partial transformation of sovereignty where states are now being held accountable for their actions or inaction against the backdrop of acceptable state behaviour.

This emerging format has acquired special significance

produced 'material and moral pressures' that gradually induced states to concede certain sovereign prerogatives.'

This approach has however come under some criticism. Jurists have pointed out that in many cases such pressure has mostly been limited to economically disadvantaged countries. They have also noted that politics of mineral resources have precluded the possibility of universality. This international system has been described by Stephen Krasner as

ment of national leaders and presence of non-state human rights groups.

One interesting aspect in this process has been the great diversity in the background and national cultures of some of these countries. For example, India, Philippines and Indonesia all vary greatly. One is largely Hindu, the other a predominantly Roman Catholic Christian country and the last the world's most populous Muslim nation. They have also had different colonial pasts -- British, Spanish

Nevertheless, whatever be the truth, one thing is without question. India has led the way for other national human rights commissions, both regionally and internationally. It in turn has also benefited from its extensive ties to international actors. Despite recent glitches with Amnesty International over unfortunate events in Gujarat, the Indian Commission regularly receives delegates from the European Parliament, the United States Congress and Commonwealth

have been taken abroad by interested parties and local consultants, at the end of the day, nothing concrete has emerged as yet. It appears that insufficient political will is not the only culprit. Government officials entrusted with the job of establishing such a commission have also not shown the desired level of interest and commitment.

We must not forget that a national commission of human rights in Bangladesh will enhance credibility of the process of governance. I believe that domestic sovereignty will not be reduced by initiating such a mechanism. It will only strengthen it. The state will be able to exert its authoritative control in the national realm more effectively. A broad spectrum of issues, ranging from questions of custodial death and prison conditions to the rights of the mentally ill and problems of child labour can then receive systematic attention. The existence of such a commission can also act as a buffer and save face for the government by pointing out that certain issues have to be off the agenda because of national security sensitivities.

Time is of the essence. Establishing a neutral national human rights commission in Bangladesh will only enhance our image. It will make the state machinery more responsible for its actions towards the citizens. It might end up recommending that the government compensate victims in cases of illegal detention and severe torture. This should however not be a cause for anxiety. State officials instead of seeing it as a challenge to their authority should treat its potential investigative activity as a supporter of the legitimate scope of state authority on the societal and state fronts.

We are facing today a challenge with regard to the observance of human rights in various facets of our lives. Creating a national human rights commission should not be seen as ceding sovereignty to any external authority. It should be accepted as part of the dynamics of proper governance.

Muhammad Zamir is a former Secretary and Ambassador.

because of the existing relationship between state sovereignty and human rights. The state's right to have the last word within its structure is being challenged. A large number of transnational actors (consisting of non-governmental organisations, international organisations, foreign governments, private foundations and individual activists) have today created a network that monitor different state activities and the way a state treats its citizens.

Some jurists have spent a great deal of time on the antithetical nature of the human rights agenda. Richard Falk, one may recall, highlighted this contradictory aspect in the early 1980s. He went to the extreme and suggested that global civil society could override the state's sovereign prerogative. The early 1990s saw an equally important contribution by Kathryn Sikkink who wanted to 'reconceptualize' the tenuous and complex linkages between state sovereignty and practice of human rights. Her belief was reflected in the agenda of many NGOs who felt that human rights activism

'organised hypocrisy.'

In Asia and Pacific region, national human rights commissions have been a relatively new phenomenon. One could say that the concept has been principally advocated actively within the multilateral forum. As opposed to permanent multilateral bodies, such institutions are meant to broaden the acceptability of the human rights culture.

According to Sonia Cardenas, eight such national commissions have emerged in the Asia-Pacific region till end 2001. They have been formed in the Philippines (1987), in India (1993), in Indonesia (1993), in Sri Lanka (1997), in Fiji (1999), in Malaysia (2000), in Nepal (2000) and in Thailand (2000). Concrete plans are also underway in at least six other Asian countries to establish similar commissions -- Bangladesh, Cambodia, Japan, Mongolia, Papua New Guinea and South Korea. This process has been facilitated through the Asia-Pacific Forum for National Human Rights Institutions. Other domestic factors have also facilitated this evolution. This has included changes in autocratic government structures, commit-

and Dutch. One thing however was common -- their perception that creation of a national commission would enhance their international image. It might have been seen as a tool of democratisation by some, but economic incentives as well as acceptable international norms appear to have been the determinant factors in the evolving equation.

In India in particular, a 'wide range of observers' has viewed the creation of a national commission as an attempt 'to appease' international actors. This was seen as being internationally inspired and in response to the criticisms that were made in 1991 and 1992 by international economic donors. The Indian government has however seen the formation of the National Human Rights Commission as a movement forward. They have always pointed out that India's parliament had earlier created two related national commissions in 1990 (National Commission for Scheduled Castes and Scheduled Tribes and a National Commission for Women), as well as a National Commission on Minorities in 1992.

human rights institutions.

Nepal, Sri Lanka and Malaysia appear to have also agreed to the creation of their commissions due to over external pressure. They have in this regard received direct technical assistance from the United Nations.

The United Nations Development Programme has also been assisting the government of Bangladesh since 1996 in laying the foundations for a national human rights commission. This has included providing consultants to assist in drafting legislation and organising symposia on the subject. Other international bodies and some western countries have also given financial assistance to promote awareness of human rights norms. They are playing the crucial role of facilitating acceptance at multiple levels both in terms of structure as well as effectiveness.

Unfortunately, however, despite repeated violations of various human rights norms, two successive governments have been unable to constitute a national human rights commission in Bangladesh. Although many trips

# Bush administration's radical constitutional agenda suffers legal setbacks

RON CHEPESIUK

LAST December appeared to be a good month for the Bush administration. Economic indicators showed signs that the ailing economy was finally recovering. The Democrats were on the defensive, as Bush moved quickly to grab credit for the economic upswing. Meanwhile, the President's approval ratings climbed slowly upward after the capture of the one of the spokes in his Axis of Evil, Saddam Hussein. While these stories made the news, some major legal developments presented a different story. Three developments set back the Bush administration's radical agenda to re-order fundamental constitutional matters in the Age of Terrorism.

The first setback took place in Detroit, the scene of the Bush administration's first major prosecution of suspected terrorists after 9/11. Last June, a federal court found two men, Abdallah Elmardoudi and Karim Koubriti, guilty of conspiracy to provide material support for terrorism and for document fraud. A third man, Ahmed Hamaan, was convicted for document fraud, but acquitted of terrorist charges, while a fourth, Farouk Ali-Haimou, was acquitted of all charges.

The case looked like a victory for our country in the War on Terrorism. The government had broken up a major al-Qaeda terrorist cell in the American heartland. Or so it seemed. But early last month the U.S. Justice Department revealed that it had failed to turn over evidence to the

defence that might have helped its case.

The evidence involved an imprisoned leader of a drug gang named Milton 'Butch' Jones who accused the government's chief witness, Yousef Hmimssa, a Moroccan and self confessed scam artist, of having confided to him that he had made up a part of his history.

Lawyers for the three convicted men asked that their convictions

throwing out the convictions and starting over. On the day the court reprimanded Ashcroft, a federal appeals court finally ruled on the legal rights of the 660 men held at the Guantanamo Naval Base in Cuba on terrorism charges. The Bush administration argued that the prisoners could be incarcerated indefinitely without charges or trial because they were being held on foreign soil.

In a 2-1 decision the U.S. Ninth

And the legal blows kept reigning on the Bush administration. At about the same time, the U.S. judicial system rejected the Bush administration's claim that it had the right to detain Jose Padilla, an American citizen, without charge or counsel, because he was an enemy combatant. Padilla, of course, is the suspected terrorist, former long-time ex-gang member and converted Muslim who has been incarcerated in Charleston, South Carolina, for

report revealed that U.S. investigators have brought criminal charges relating to terrorism against about 6,400 people in the period after 9/11. Fewer than a third of them were charged and only 879 were convicted. The medium sentence was 14 days and only five got sentences of at least 20 years. Incredibly, just five out of the 6,400 charged got any meaningful jail time.

tration dragnet. This policy raises three questions: does the Bush administration has what it takes to lead in the War on Terrorism? 2) How good is its intelligence on the home front? 3) Assuming most of the 6400 released suspects are Muslims, how eager will these "suspects" be to cooperate on the War on Terrorism after languishing in jail for no good reason?

The U.S. government will appeal all three cases, but the scary thought is that more cases like these will surely arise in the future. There is no guarantee the U.S. Constitution can be protected from the radical neo-conservative assault it is now experiencing.

It's a good bet that whoever wins the presidential election this November will likely pick two, maybe three, new lifetime Supreme Court appointees during his four-year term of office. If Bush is the winner he gets the chance to pick justices that share his views on constitutional power, and the American people will lose more freedom and civil liberties. That's why the election is shaping up to be perhaps the most important in U.S. history.

Yet, the democratic presidential candidates seem more intent on beating up Howard Dean rather than exploiting the Bush administration's weaknesses and incompetence. One can only wonder if we Americans have anybody to lead us during this seminal period of our history.

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## INSIDE AMERICA

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be thrown out. The judge in their trial scheduled an emergency meeting, demanding that the government provide an explanation.

And that's not all. On December 18, a judge publicly rebuked U.S. Attorney General John Ashcroft for exhibiting a "distressing lack of care" in violating a gag order in the District trial. Ashcroft, who is turning to be a walking legal disaster, had publicly praised the star government witness in the case. Fortunately for our judicial point man in the War on Terrorism, he will not have to face criminal contempt charges.

The case is now in turmoil. As of January 1, U.S. District Judge Gerald E. Rosen was considering

Circuit Court of Appeals ruled that the Bush administration's contention that the prisoners had no rights ran contrary to American ideals. Judge Stephen Reinhardt wrote for the majority thus: "Even in times of national emergency -- and indeed particularly in such times -- is the obligation of the judicial branch to insure the preservation of our constitutional values and to prevent the Executive Branch from running roughshod over the rights of citizens and aliens alike."

In other words, sorry guys. You can't radically change the Constitution to fight the War on Terrorism. Once again, proponents of the New American Century stood rebuked.

nearly nineteen months. In high profile media coverage, Ashcroft had identified Padilla as being a part of a well-coordinated al-Qaeda plan to detonate a so called dirty bomb on American soil.

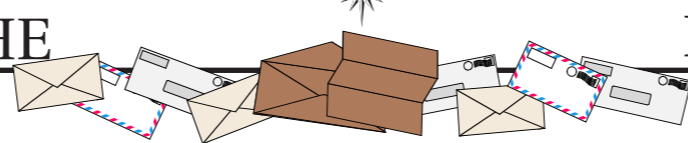
Case closed again, right? When the glitz and hype stopped, it appeared that evidence against Padilla was not as solid as the American public was led to believe. In fact, Padilla's case is looking like another example of how Ashcroft and other law enforcement officials have been hyping their "successes" in anti-terrorism efforts.

This is the conclusion one has to make following the release of Syracuse University's Transactional Clearinghouse report early last December. The

In its defence, the Justice Department said that terrorist suspects are being arrested before they can attack. But that feeble justification is not only arrogant in its intention but also doesn't make any sense. Does that mean a lot of guilty people with terrorist intentions have been let out of prison and are now roaming the streets of America? What are we going to do now? Go into poor minority neighbourhoods and start rounding up minding-their-own-business citizens in the hopes of catching a few crack dealers?

Actually, the Transactional Clearinghouse report verifies what many of us suspected: many innocents are getting caught up in what amounts to a Bush adminis-

# TO THE EDITOR TO THE EDITOR TO THE EDITOR TO THE EDITOR TO THE EDITOR



Letters will only be considered if they carry the writer's full name, address and telephone number (if any). The identity of the writers will be protected. Letters must be limited to 300 words. All letters will be subject to editing.

## No architect of planning!

Believe it or not, RAJUK, the agency in charge of city planning and development, has no architect, and hires one for evaluation of proposals submitted by applicants (DS report Jan 8).

The related technical government departments and ministries are short of high-level technical specialists for evaluation of long-term policies on land use and architectural bandwidths being allowed to proliferate in the city. Even the rivers are not spared, and land grabbers abound around the shores building up unauthorised structures.

The political masters are not at all concerned about their negative image, year after year, regime after regime. We have politics without theories, it appears. It is a familiar

story of political ineptness in public administration. Now the Ministry of Communication is under the magnifying glass for suspected monopolistic deals on import of CNG vehicles through a sole importer.

The remedy is simple, but difficult to implement: remove political influence from all sectors at all levels.

AZ  
Dhaka

## National University

I am touching upon an important issue which is lurking actively in the heart of every student of NU. We completed part-1 exam on 26 June, 2003. By rolling time, we are now in 2004. But the authorities have no headache for publishing our results. Many of us were not able to cut a good figure in the

exams. According to new rule of the NU, a student will have to obtain 33% marks on an average. It is also vague. If any student fails to obtain that, he will not be promoted. Many of us are in doubt whether we will ever be promoted or not. We are wavering like a pendulum. As a result, we are uncertain to go on with our present study in full swing.

The authorities are urged to think over this matter deeply and save us from sleepless nights by publishing the results.

Shafique  
Karatia, Tangail

## Manik Saha's death

The tragic death of Manik Saha, who was a renowned journalist in the southwestern region of Bangladesh, is another blow to the journalist community. Condem-

nation and protests poured in from different parts of the country following the killing.

Different political parties and cultural organisations demonstrated and expressed solidarity with the journalists demanding punishment to the killers. The government has asked the law enforcers to nab the criminals. But all these actions go unheeded in a country like Bangladesh where political parties nurture criminals for their party as well as individual interests. This is our experience.

Manik Saha's family refrained from filing a case, citing insecurity, while police filed two separate cases two days after the New Age Senior Staff Correspondent was brutally killed in a bomb attack.

Not only journalists, people from all walks of life are passing their every minute amid insecurity. Nobody feels safe in the country.

All sorts of anti-social activities such as killing, rape and robbery are on the rise. The image of the country has slipped down to the lowest. Do our political leaders have conscience? Do they feel secure? If not, why don't they come forward to resist these heinous activities for the sake of a better society. We do not want to see any more death like Manik Saha's.

Can we hope that it would be the last crime committed against innocent people?  
Mallik Akram Hossain  
The University of Hong Kong  
Hong Kong.

## Retirement in Bangladesh

My Hong Kong born wife and I have choices to retire in many countries of the world after another

7 to 9 years. As a Bangladeshi American, I like to consider Bangladesh as one of the choices, if certain conditions are met. A conservative estimate of at least 1000 Bangladeshi origin first generation American couples would like to do the same.

American retirees need three things for considering a place for retirement: a good health care system, security for life and low cost of living. My personal goal is to spend six months outside the US. We think, our \$3000 a month should be sufficient for our retirement living in countries like Malaysia or Thailand. These two countries are promoting foreign retirement on their land.

One thousand US retirees at \$3000 a month can inject 3 million US Dollars in Bangladesh economy every month. Let this be a food for thought for Bangladeshi leaders.

Think outside the ready-made garment box. Study what Thailand and Malaysia are doing to woo foreign retirees. Try to woo at least the Bangladeshi who settled outside Bangladesh.

A Bangladeshi American  
California, USA

## Faezul Huq's stand

I have noticed the letter of Mr. AK Faezul Huq in which he has asserted "with all authority" that his late father, Sher-e-Bangla AK Faezul Huq, was never a member of the cabinet of Mohammad Ali Bogra, who was in fact my father. He is quite correct, however, although the reason for his vehemence in making the statement is not understood. Mr. Suhrawardy, on the other hand, indeed joined my father's cabinet as the law minister in 1954, the

so-called dream cabinet which also included General Ayub Khan as minister for defence, Sir Zafrullah Khan as foreign minister, and MAH Isphani, commerce, among other luminaries. Mr. Suhrawardy and my father had a personal equation, my father having served him earlier, in undivided pre-Independence Bengal, as minister for health and later minister for finance.

Sher-e-Bangla chose to join the cabinet of Choudhury Mohammad Ali and I, for one, would love to hear Mr. Faezul Huq's promised 1500 word explanation of the events surrounding that extraordinary happening, though I wonder if the word limit will suffice.

Syed Hamde Ali  
Navab Palace  
Bogra