



RIGHTS investigation



# Who are responsible for making children accused?

SHANTA SULTANA

AT 7 Ankhi has learned the worst of police. The sight of policemen makes her nervous. "I still get scared when I see policemen. It seems to me that they will arrest me," says the little girl from Pallabi in the capital.



"It was late into night, I was fast asleep. Suddenly somebody woke me up forcefully. I saw police standing in my room. They took me to the police station where I was severely scolded," Ankhi recalls with tears in her eyes.

It took two years to remove Ankhi's name from the case of 'theft' and 'indecent assault' on a woman. The case was filed by a fish trader, Ashiqur Rahman, with Pallabi police station in 2003.

Ankhi was asked whether she is familiar with the words 'indecent assault'. In reply, she gives only a blank look indicating she does not understand the words.

This was the sad story of Ankhi.

A few days back, there took place an unbelievable incident involving Rihdo Nath of the port city of Chittagong. A mere three-month-old Rihdo had to spend 11 days in police custody in a case of theft and robbery in February this year.

The day Rihdo was taken into custody, the infant screamed as he was deprived of breastfeeding for the whole day. He later developed skin disease

for his time in the filthy environment. Let alone the attention of a doctor, he was not even provided with any medicine. Not only Ankhi or Rihdo, there are so many other children on the list of such cases of human rights violation.

Sagar Nath, 2, Durjoy Nath, 1, and Bijoy Nath, 4, of Chittagong, Emon, 7, of Jessore, Lavlu of Barisal and many more could be added to the list. Some of them still remained accused in criminal cases.

Most of them were accused of burglary, some of robbery and some of indecent assault. A few of them were also accused of toll collection. Their innocent minds have stained with ugly allegations at the very outset of their lives.

Asked about recurrence of such incidents, eminent lawyer Dr Kamal Hossain says, "Such incidents are frequently taking place due to corruption, inefficiency and irresponsibility of our police force. The Ministry of Home Affairs is also responsible. There are laws in our country but those not properly enforced.

Child rights are violated regularly although protection of their rights is clearly stated in the charters of human and child rights.

Article 37 of the Child Rights Charter says that no child could be tortured or they could be behaved in cruel, inhuman and undignified manners. The arrest, detention or imprisonment of a child must be the last resort and be as per law.

About this Advocate Mohammad Abdul Mannan Khan, a human rights activist of Bangladesh Legal Aid and Services (BLAST) says, "In 70 per cent of cases against children in our country police are the plaintiffs although the charter of child rights ensures their rights. In other cases, cases are filed by individuals driven by personal enmity and dispute."

A police official at Dhanmondi Police Station, who spoke on condition of anonymity, says, "We are supposed to take a case when a plaintiff comes to us. Sometimes they complain of such serious offences that we do not have enough time to launch investigation before initiating the case. If we do not take the case we are pressured from higher level. Sometimes we have to take the case if the plaintiff is an influential person."

About children's ages, he says, "Sometimes we do not write the name of the accused because of our negligence or hurry, but sometimes the plaintiff cheats us by hiding the age or giving wrong information." When asked about it, Dr Kamal says, "It depends on inefficiency of police to understand whether the case being filed is the real one or false. They need to understand that or else innocent children will suffer." It was seen in some of the recent cases that children had to travel to courts for securing bail. The judges granted them bail instead of quashing the cases.

A magistrate, who also spoke wishing anonymity, says, "Actually, we have nothing to do about it. Our hands are tied by laws. When a child comes to court as an accused it is not possible for us to be sure at once whether the child is really an accused of the particular case because on many occasions the age of the child is not mentioned. This is why we cannot release the child until investigation is complete."

There also instances police release an accused after taking bribe and they pick up another child from the street to replace the real one. Sometimes they make a child accused after freeing the original guilty amid pressure from the higher level. "All these things happen because people are not aware of their rights," says Supreme Court lawyer Mohammad Tanveer Parvez. "So first of all those who are in the administration must be honest and we all have a sense of justice," he says suggesting inclusion of some laws in school curricula to make people aware about their rights.

Source: NewsNetwork.

RIGHTS column



# Balanced integrated approach needed to protect Darfur's displaced people

THE UN refugee agency's top official for international protection, Erika Feller, has returned from her mission to western Sudan's Darfur region with mixed reviews and a strong belief in the need for more coordinated and nuanced efforts to better protect displaced people in the troubled region.

UNHCR's Director of International Protection returned to Geneva today after a three-day visit to assess current protection efforts for some 700,000 displaced people in West Darfur province. Travelling with a team that included UNHCR's Operations Director for the Sudan situation Jean-Marie Fakhouri, Feller visited several small villages, camps and settlements, including areas of return.

The mission discussed with local authorities and humanitarian agencies the need to improve coordination and boost efforts to protect displaced people from further violence and displacement. "Although there are signs of increased stability in some areas, the situation in Darfur continues to be marred by unpredictability, violence and threats to the security of the affected populations," said Feller, summing up her findings from the visit.

Of particular concern, she said, is the situation of women who venture out of camps and villages to fetch water and firewood. Despite ongoing efforts to prevent sexual violence, rape incidents continue to occur. Other serious protection problems, including those affecting children, are not receiving as much attention, she added.

"Much lip service has been paid to all concerned to the importance of protection objectives, but a lot more needs to be done," Feller told a group of aid agencies based in the West Darfur province, El Geneina. "Those involved in protection efforts must be given the resources to expand their presence and activities. Protection also has its costs. There is a gap here between the rhetoric and the financial support protection activities tend to attract."

On a more positive note, the UNHCR mission was advised about "pockets" in Darfur where improved conditions have led to some limited, spontaneous return movements. The refugee agency has identified several villages of return and is cautiously engaging in self-sufficiency activities to help the returnees re-establish themselves.



"This requires a carefully balanced approach, providing support to those who need it, while ensuring that these activities do not create any false impressions about the prevailing security situation and encourage additional movements in a situation not considered conducive to returns," said Feller. "A nuanced and carefully considered response" is needed to manage the complex situation where joint protection efforts in Darfur are taking place.

"Issues relating to ethnic conflict are interconnected with competition over scarce resources in an extremely fragile natural environment," explained Feller. "Tensions are further exacerbated by broken lines of contact between local communities and disrupted

conflict resolution mechanisms. Conflicting political agendas of states add to the uncertainty with regards to the prospects for solutions to the conflict." She added, "In this environment, reconciliation at all levels is a key element for any sustainable improvement in the protection situation. Furthermore, it is crucial that the natural resources in Darfur are preserved to avoid further displacement and conflict, both in the shorter and longer term".

The continued joint effort by the international community, working with the Sudanese authorities to protect the Darfur population, must be based on a thorough understanding of this dynamic initiatives.

Source: UNHCR.

LAW event



## Workshops held in districts Commitment to improve lot of the ultra-poor

Z.A.M.KHAIRUZZAMAN

Participants at workshops held recently in five districts expressed their commitment to help improve the lot of the ultra-poor. Leading non-governmental organisation (NGO)-Bangladesh Rural Advancement Committee (BRAC) organised the workshops titled, "Participation of GOs, NGOs and Civil Society for Betterment of the Ultra-poor" in association with Media Professionals Group (MPG), says a press release.

The workshops were held aiming at motivating government and NGO officials, members of the civil society and well-to-do persons of the society to change ultra-poor people's fate. Government and NGO representatives, journalists of local and national dailies and local elite actively participated in the workshops.

Following visits to different projects, the participants gave their feedback and suggestions for better implementation of a project initiated by BRAC to change ultra-poor people's lot by 'transferring asset, not through loan scheme'.

In Sirajganj the workshop was held at the District Council conference room.

Additional Deputy Commissioner (Revenue) of Sirajganj, Paritosh Saha attended the workshop as chief guest.

In Rajbari, the workshop was held at the Officers' Club. It was presided over by the Civil Surgeon Dr Matiar Rahman. Rajbari Deputy Commissioner Md Nurul Alam was the chief guest and Superintendent of Police Morshedul Anwar Khan was present as special guest.

In Rangpur, the workshop was held at the Shilpakala Academy Auditorium. The participants included Rangpur Deputy Surgeon Dr Reazul Islam, Family Planning Deputy Director Md. Masum Sattar, District Livestock Officer Dr Mokarram Hossain, other officials and journalists of different newspaper and electronic media.

In Madaripur, the workshop was held at Bangabandhu Law College auditorium.

The participants included Madaripur Civil Surgeon Dr Sajjad Hossain, Livestock Officer Dr Mrinal Kanti Ghosh and Assistant Engineer of public health Arif Anwar Khan, former Civil Surgeon Dr Md Nurul Haq and other officials and journalists of different newspapers and television channels.

In Gopalganj, the workshop was held at auditorium of Gopalganj Circuit House.

The participants included Civil Surgeon Dr Md Shahjahan, Livestock Officer Dr Abul Kalam Azad, Upazila Livestock Officer SM Awal Huq, local elite, government and NGO representatives and journalists of local and national dailies.

BRAC identified 31 per cent of the total population of the country as ultra-poor. About 70,000 of them will be brought under this programme by 2006.

The author is a sub-editor in The Daily Star.

LAW week



### Sunamganj-3 By-polls

The High Court (HC) directive for the Election Commission (EC) to collect personal details of the candidates aspiring to parliament has not been followed properly in the upcoming Sunamganj-3 by-election, speakers told a discussion in the city. The EC has failed to implement the HC directive of gathering information on the candidates' academic qualifications, source of income, description of assets and liabilities, Professor Muzaffer Ahmed told addressing the discussion arranged at the Jatiya Press Club by Shujan, a coalition dedicated to promoting good governance.

"Sunamganj by-election is very crucial as it is going to be the first election after the issuance of High Court directive," he said adding that it is a test case ahead of the next general election. The HC on May 24 this year issued the order. Professor Ahmed said the directive is not mandatory for the EC, but the election order of 1973 empowers the RO to cancel the nomination papers of those who would submit incomplete information. -The Daily Star, July 10.

### Writ Against CJ

#### Ex-judge allowed to file petition

A former additional High Court (HC) judge was allowed to file an application to the Supreme Court (SC) for restitution of his original writ petition that accused the chief justice (CJ) of violating the constitution and his oath to office.

Abdus Salam Mamun, the former judge, on Wednesday moved to swear an affidavit of his application but the affidavit commissioners refused to entertain his plea. Finally, he got the permission through High Court's intervention. In the original writ petition filed on April 9, Mamun accused the CJ of violating the constitution and the oath of office by not confirming him as a permanent judge of the HC. He also sought a rule upon the CJ "to show cause under what authority he was holding the office of the chief justice of Bangladesh and why it shall not be declared that the office of the chief justice of Bangladesh has become vacant upon his disqualification." On April 17, the High Court rejected his plea and observed that the president is the authority to initiate proceedings against a judge for the removal and act on the information received from the Supreme Judicial Council or from any other sources that include any petition or representation. -Prothom Alo, July 10.

### Govt to enact law for HC judge recruitment

The government is going to introduce a law determining the criteria for appointment of judges to the High Court (HC) to bring more competent and experienced people in the judiciary. Currently, one having at least 10 years' experience in the legal practice and service can be an HC judge. The existing rules enable many less qualified people to get the job, experts say.

Fifty-five judges were recruited in the last three and a half years. The appointment of many of them sparked criticism as they were reportedly recruited on political considerations. Commenting on the new judges, eminent jurist Dr Kamal Hossain once observed that there are people among them who cannot even write a single sentence correctly in English.

Not only the appointment and qualification, the confirmation of judges has also become an issue of debate. The four-party government did not confirm 15 additional judges of the High Court who were appointed during the previous Awami League rule. The debate over the judges' appointment brewed a few years ago is going on. Protests and agitation have now become a regular phenomenon on the court premises. Alarmed at the situation, the government is considering working out a way to rid the judiciary of criticism and determine the criteria for appointment of the HC judges. -The Daily Star, July 11.

### PM urges AL to place demand in JS

Prime Minister Khaleda Zia urged the Awami League (AL) to place its demand for reforms of the caretaker government system in the House where it will be discussed, if necessary.

Winding up the budget session, Khaleda blasted the AL for demanding such reforms and said the opposition's activities are a conspiracy to create anarchy and tarnish the image of the country.

The prime minister also told the House although prices of essentials have not increased, some newspapers are reporting on the issue 'for nothing'.

### "They (the AL) want a caretaker government that will be of the Awami League, by the Awami League and for the Awami League," she maintained.

"The caretaker government is neutral only when the Awami League wins the election," Khaleda said and bitterly criticised the AL for 'conspiring to destabilise the government'. The prime minister said: "Nothing will happen by their bringing out processions from the House with black flags. You will not be able to get public attention through such programmes." -The Daily Star, July 11.

### Cops gun down 6 'robbers' in city

Police gunned down six alleged robbers at Kazipara and Lalmatia in the capital. Three of the robbers were killed when police opened fire on them at Kazipara while three others died what police claimed in a shootout with them at Lalmatia. Six people including two policemen were injured in the incidents. The Lalmatia incident appears shrouded in mystery as the police claimed that the slain youths were robbers and were killed during a 'shoot-out'. Witnesses said they found the three in handcuffs, and one of them was begging the plain-clothes law enforcers for life. "At around 8:30pm, someone knocked at our house and asked whether the house owner is Hashem. Minuets after, on hearing sounds of some people talking, I opened a window and saw three youths in handcuffs," said Rina Begum, one of the tenants. She said she heard around 15 to 20 gunshots after she had closed the window. Police said a joint team of police and Rapid Action Battalion (Rab) yesterday took position in Lalmatia after robbery attempt failed in the area Monday night. Police recovered one pistol, one revolver, three bullets and two knives from the spot... -The Daily Star, July 13.

### 3 cops closed for releasing criminal for Tk 1 lakh

Three policemen were suspended and closed to Boyra Police Lines on Monday on charge of releasing 'Bomaru' Faruque, a listed criminal, from Khalishpur Police Station on July 8 receiving Tk 1 lakh bribe. The suspended cops are Assistant Sub-Inspector (ASI) Ataur Rahman and constables Matin Howlader and Abdul Matin. Faruque, a cadre of Janajuddha faction of Purba Banglar Communist Party (PBCP), was arrested on July 8 at Khalishpur. But the police kept him in the female lock-up in Khalishpur Police Station without filing a general diary about the arrest.

Officer-in-Charge of the police station was not informed about the arrest of such a notorious criminal. When asked, the OC admitted that Faruque was set free without his knowledge. "But I do not know if they (policemen) received bribe," he said. Police said they have launched a drive to re-arrest Faruque who is wanted in several bomb attack cases filed with different police stations in Khulna city and district. -The Daily Star, July 13.

### At least 14 killed by Rab had no criminal records

At least 14 innocent people were killed in the custody of Rapid Action Battalion (Rab) and police either in "crossfire" or from torture by the law-enforcers since the beginning of an extra-judicial killing spree in June last year. These killings were not linked to anticrime measures as the victims did not have criminal records. Such extra-judicial killings sparked widespread grievances and protests among people and human rights bodies. In all 14 cases the victims' relatives and neighbours said they were killed intentionally for vested interest or someone might have used the law enforcement agencies to take revenge on them. In some cases, misleading information furnished to the law-enforcers had led to the killings, they said. After every incident the police and Rab tried desperately to establish the victims as "infamous criminals" and implicated them in cases which were found to be false in investigations by newspapers and rights organisations. These investigations have revealed that these 14 innocent people were arrested and then killed in the Rab or police custody. The deputy commissioner, district magistrate, additional district magistrate, superintendent of police (SP) or additional SP has carried out executive enquiry in all but one "shoot-out" incidents. However, none of the enquiries found that anybody was killed intentionally in the incidents. -The Daily Star, July 15.

FOR YOUR information



# Who is a Refugee?



According to the 1951 UN Convention Relating to the Status of the Refugees, a refugee is a person who-

- = have a well-founded fear of persecution on the grounds of...
  - race
  - religion
  - nationality
  - membership of a social group
  - political opinion
- = is outside his or her country of nationality or habitual residence,
- = is unable, or unwilling for fear of persecution, to seek that country's protection or return there.

### Extending the refugee definition :

- = Two regional instruments extend the concept of refugee to include:
  - a threat to life or security as a result of armed conflict and other forms of widespread violence which seriously disturb the public order
- = This extension of the refugee definition is found in
  - 1969 OAU Refugee Convention (Africa)
  - 1984 Cartagena Declaration (Latin America)
  - = .... and are complementary to the 1951 Convention definition

### Who is not a refugee?

- Refugee status will be denied if the person concerned has committed a serious act which renders him/her undeserving of refugee status such as :
- a crime against peace, a war crime or a crime against humanity;
  - a serious non-political crime outside the country of refuge prior to being admitted to that country as a refugee; or
  - acts contrary to the purposes and principles of the United Nations (Article 1 D, E and F of the 1951 Convention)

### Rights of Refugees :

- Right to life, liberty and security of person
- Right to seek and enjoy asylum
- Freedom from torture, or cruel, inhuman or degrading treatment or punishment
- Freedom from slavery or servitude
- Right to be recognised as a person before the law
- Freedom of opinion and expression
- Freedom of thought, conscience, and religion
- Freedom from arbitrary arrest and detention
- Freedom from arbitrary interference in privacy, home and family
- Right to education
- Right to participate in the cultural life of a community

-Law Desk.

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