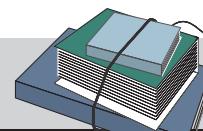




HUMAN RIGHTS monitor



Star LAW book review



Section 54 and 167 of CrPC: Some recommendations

SHADEKA JAHAN

ARBITRARY arrest under section 54 of Cr.P.C is a common practice of entire Bangladesh. The Law Enforcement Agencies are always accused for abusing their powers.

In the year 1998 Bangladesh Legal Aid and Services Trust (BLAST) filed a writ petition (BLAST VS. Bangladesh reported

in 55 DLR page-363) and got specific recommendations and 15 point directions from the High Court Division of Bangladesh. The judgment was delivered by Hon'ble Justice Hamidul Haq and Justice Salma Masud Chowdhury.

BLAST organized a roundtable on "Seeking Effective Remedies: Prevention of Arbitrary Arrests and Freedom from Torture and Custodial Violence" held on 7th April, 2005 in CIRDAP Auditorium. Barrister Moudud Ahmed, Minister of

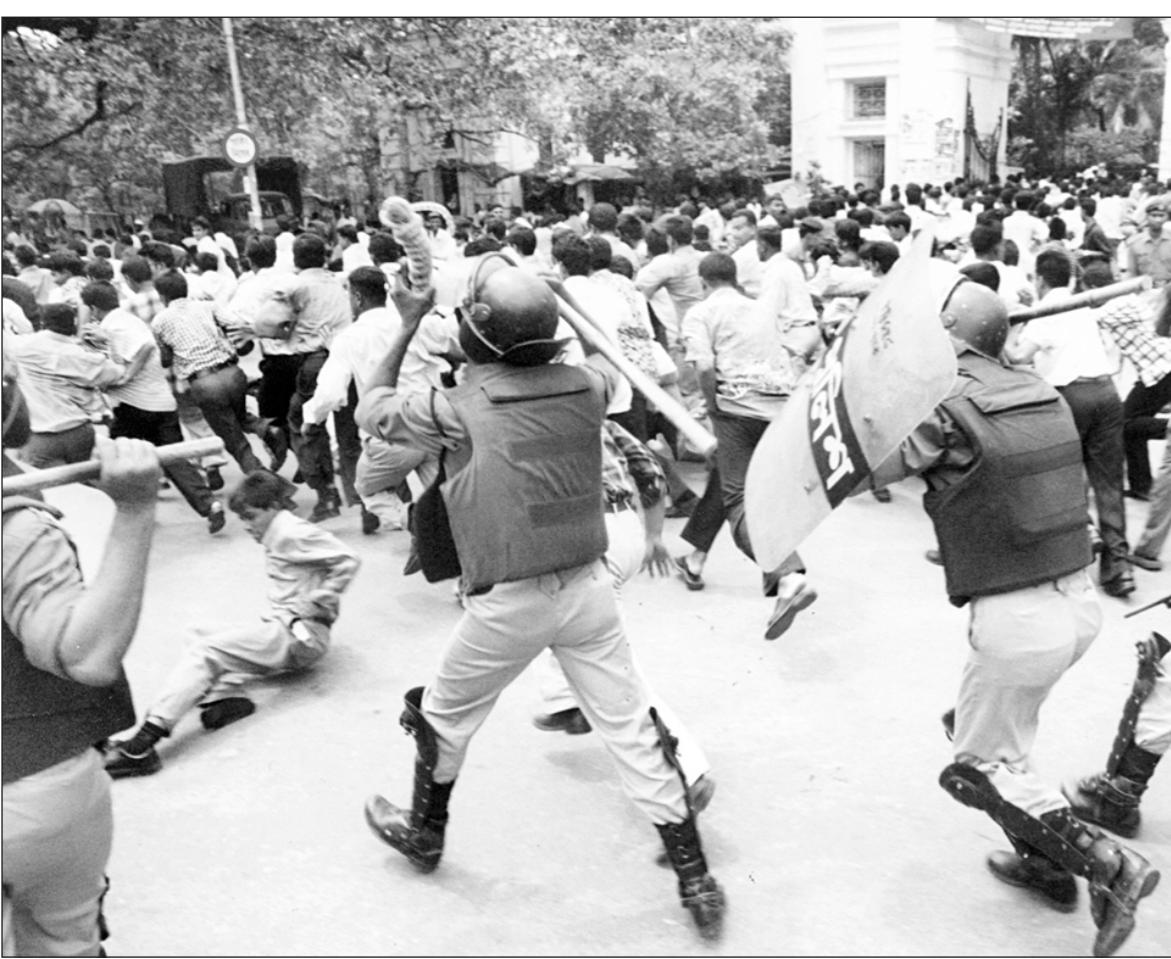
Law, Justice and Parliamentary Affairs was chief guest of the roundtable. The Ex Minister of Law, Justice and Parliamentary Affairs Mr. Abdul Matin Khosru, Justice Habibur Rahman Khan, Barrister Rokanuddin Mahmud, Dr. Shahdeeb Malik, Advocate Nizamul Haq Nasim, Advocate Khan Saifur Rahman were the special guest of the program. Beside this many civil society members, Lawyers, NGO and Media representatives attended the roundtable meeting.

Some important recommendations were come up through this meeting, such as:

- ! Sufficient Human rights training should be given to the police personnel.
- ! A good number of people suggested to establish a monitoring cell in different thanas to figure out whether there is any abuse of power by the police under section 54 and 167 of Cr.P.C or not.
- ! There should be equality and fairness at the time of recruitment and training of the police.
- ! The Government receives donations for many unproductive sectors which remain idle and this money can be used to increase the number of police and police reform.
- ! Police must behave humane with the person arrested and if there is good discussion between police and the person arrested then the trend of violence will be reduced.
- ! The government must establish police ombudsman.
- ! Police commissioners should be made responsible to find out the causes of abuse of police power.
- ! Some people recommended that, BLAST should take steps to provide necessary awareness training to the police. Further some participants suggests that BLAST should send there representative to every thana to monitor the situation.
- ! Police should be kept free from any Political influence.
- ! The benefits like salary, Ration, bonus of the Police should be increased, otherwise they can't work fairly.
- ! If a person is arrested without any sufficient ground and harassed by the police, then the police must be forced to give compensation to the arrestee, so that the abusing tendency of the police power reduces.

Actually arbitrary arrest and custodial violence is a universal problem. It is true that police have legal duty and have right to arrest and interrogate the offenders. But he should be aware that law does not permit him to torture or treat any inhumane behavior with the arrestee during the time of investigation or questioning. So awareness among police and general people is necessary.

The writer is an advocate and human rights activist, presently working for BLAST.



LAW watch

Kosovo: Protect the right to health and life

THE health of hundreds of Roma, Ashkali and Egyptian currently living in camps built on a former lead-smelting site in Kosovo is under serious threat. High levels of lead have been registered in the blood of many of the 531 adults and children who have been living in three camps on the site of the former Trepca Mines Company in Zvecan Municipality near Mitrovica since 1999, when they were forced to leave their homes during the Kosovo conflict.

In a letter to the UN Mission in Kosovo (UNMIK) and the Provisional Institutions of Self-Government (PISG), Amnesty International presses for immediate action to address the continuing serious violation of the right to health of the three minority groups. Failure to act may lead to a violation of the right to life guaranteed under international human rights law.

"The high concentration of lead in the air and soils of the site and high blood lead levels in the local population were well known from studies conducted in the pre-conflict period of 1999. UNMIK has been aware of the threat to the health of the inhabitants of these camps from at least 2000. Yet, nothing has been done to relocate them," Sian Jones, researcher on Serbia and Montenegro (including Kosovo) at Amnesty International, said.

In reports dated July and October 2004, the World Health Organisation (WHO) office in Pristina found that almost a third of the children examined had unacceptable levels of lead in their blood: 12 of them were found to have exceptionally high levels. The WHO stated that "...the Roma case is urgent. Children's lives and development potentials are at risk".

Severe lead exposure may lead in adults to increased blood pressure and decreased functions of the kidneys and central nervous system. In children, high level of exposure may lead to convulsions, coma and even death; even lower levels of exposure are associated with decreased intelligence, growth and hearing.

The risk to the health of the inhabitants is ongoing and cumulative. Yet, in the case of lead-poisoning the removal of children from the source can reduce the lead level in their blood

by almost as 50 per cent within weeks. WHO has recommended relocation of the camps.

"As the responsible authorities, UNMIK and the PISG must immediately adopt measures to remove the inhabitants of the camps from danger, and subsequently to address the unacceptable levels of pollution affecting the wider community," Sian Jones said.

"A continuing failure to act will render UNMIK and the PISG in violation of their obligations to respect and protect the right to

health in failing to take all necessary measures to safeguard the population within their jurisdiction, or to discharge their core obligations under international treaties incorporated into applicable law in Kosovo."

Amnesty International is aware that within the Roma, Ashkali and Egyptian communities people are concerned about being resettled yet again without being able to return to their pre-war homes. The organization is also aware that many of them have not been fully informed of the extent of the danger to which they are exposed.

Amnesty International urges UNMIK and the PISG to:

- & Take immediate action to evacuate the three camps to safe shelters, ensuring the community's participation in the decision-making;
- & Monitor their health and address the effects of lead poisoning focusing in the first instance on children and pregnant women;
- & Ensure that the relocation should not compromise the right of the residents of the camps to return ultimately to their pre-war homes;
- & Ensure that the relocation be carried out in a manner that respects the rights to life, dignity, liberty and security of those affected;
- & Ensure that after their resettlement the members of the communities are able to enjoy their right to seek freely opportunities for employment.

Amnesty International also urged UNMIK and the PISG to subsequently address the unacceptable levels of pollution affecting the wider community in Zvecan and Mitrovica.

Source: Amnesty International.



The private sector stakeholders in the executive committee of the ICT taskforce, which is responsible for implementing the government decision, preferred VoIP legalisation to take off with flat call charges and bring in changes when needed.

"But the delay in implementing the decision on VoIP is costing the government crores in revenue as illegal operators closely linked with the government are doing a brisk business in call termination," said a chief executive of an Internet Service Provider (ISP) company. ISPs are no more interested in VoIP due to the unabated illegal use of the technology by telephone operators, he said adding that the government should take steps to stop the illegal use of VoIP. - *The Daily Star, July 24*.

Govt mulls life term to check adulteration

The penalty for food adulteration is such a piffling amount under current measures that adulterators are hardly being punished, prompting the government to amend the decades old 'Pure Food Ordinance-1959'. Following a directive from the high level of government, a team will soon sit to draft an amendment allowing for harsher punishment including life term imprisonment, sources concerned said. Currently, the two recently formed mobile courts have been punishing culprits under four laws- BSTI amended Act-2003, the City Corporation Act, the Pure Food Ordinance-1959 and section 273-274 of the Bangladeshi penal code. Authorities say, however, that all four of the laws lack sufficient teeth to cause real damage.

"We have been dealing with four laws but none of them is effective enough to punish the big fishes," said one magistrate from the mobile court.

The government recently formed two mobile courts to stop food adulteration and punish perpetrators after the publication of "Eating dangerously," a series of reports in *The Daily Star* regarding food adulteration. After formation of the mobile courts, two teams have been conducting a drive under two magistrates in the city for the last month. They have so far doled out more than one million taka in fines, filed more than two hundred cases, and jailed nearly two hundred people in connection with adulteration. - *The Daily Star, July 25*.

VoIP not legalised 20 months after nod

Legalising Internet telephony is still hanging in the balance even after more than 20 months of the cabinet decision to authorise it. Internet telephony, technically termed the voice over Internet protocol (VoIP), is widely used illegally in the country, depriving the government of crores of taka in revenue. The government first decided to legalise VoIP in June 2002 and a cabinet meeting chaired by Prime Minister Khaleda Zia cleared the decision on November 10, 2003. However, the decision is yet to be implemented. "The government has been incurring a loss of around Tk 400-500 crore annually due to the illegal use of VoIP," said Md Akhtaruzzaman Manju, president of the Internet Service Providers' Association of Bangladesh.

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Tengratala victims start 15-day agitation

The Tengratala Dabi Aday sangram Parishad, a non-political forum of affected people of Tengratala gas field area, has announced a fortnight long agitation programme to realise their 8-point demand. The programme began. The demands include compensation from Canadian oil company Niko for all the affected people after inquiry and for the gas burnt out and environmental damage, supply of drinking water in the area, rehabilitation of the affected families and business establishments, shifting of Tengratala High School and Tengratala Primary School to safer places and assurance that such incidents will not take place any more.

The demands were put forward at a press conference held at Sylhet Press Club Saturday evening.

The agitation programme includes view exchange meetings with professional groups and political leaders in Doarabazar upazila from today, processions and protest rallies in Doarabazar and Chhatak, Sunamganj district town and in Sylhet city from July 25 to August 2, human chain and mass hunger strike at Tengratala on August 4, and laying a siege to Niko's local office on August 7. A podium will be built at Tengratala on August 5 to hold protest programmes. - *Prothom Alo, July 25*.

SCBA secy's house raided twice

Law Minister Moudud Ahmed filed a defamation suit against Secretary of the Supreme Court Bar Association (SCBA) advocate Enayetur Rahim for issuing 'false statement' about him on the issue of presidential amnesty granted to a murderer. Although lawyers said it is a non-cognizable offence, Metropolitan Magistrate Mizanur Rahman issued a warrant of arrest against the SCBA secretary immediately after filing of the case. The court asked Enayetur to surrender before it by July 31. A police team twice went to Enayetur's Kalabagan residence last night, but he was not at home then, family sources told *The Daily Star*. But the Dhammendi police, when contacted, denied the claim.

On Monday, Enayetur issued a statement, saying that Moudud had gone to Sweden and received hospitality at the house of Mohiuddin Jhantu, who was sentenced to death in 1982 in a double murder case, before the president granted him amnesty on January 13 this year. - *The Daily Star, July 27*.

Corresponding with the Law Desk

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