



FOR YOUR information



LAW opinion



DISSIDENTS STRUGGLE TO EXERCISE FREE SPEECH

Writers win prestigious Hammett prize

The Hellman/Hammett grants aim to help writers confront and survive persecution

Eight Vietnamese writers are among a diverse group from 22 countries who have received the prestigious Hellman/Hammett award, which recognises courage in the face of political persecution, was announced by Human Rights Watch.

"This is an especially important year to recognise dissident writers in Vietnam," said Sophie Richardson, deputy director of the Asia division at Human Rights Watch, which administers the annual award. "Vietnam's emerging democracy movement has become bolder, more outspoken and public, making activists more vulnerable to government reprisals. The Hellman/Hammett awards give these writers international attention and some protection."

Human Rights Watch administers the Hellman/Hammett awards, given to writers around the world who have been targets of political persecution. Among this year's Vietnamese recipients are political prisoner Nguyen Vu Binh, democracy activist Do Nam Hai,



The artist Vann Nath posing in front of his paintings.

essayist Nguyen Chinh Ket and novelist Tran Khai Thanh Thuy.

"These writers' works and lives embody the Vietnam that the government wants to hide, the one in which there is free speech, independent media, and open access to and use of the internet," said Richardson. "Those who think that Vietnam's booming economy means it is loosening up politically should look below the surface, at the plight of writers such as these."

Vietnam, well-known for its suppression of dissent, stepped up its crackdown on government critics in advance of the Asia Pacific Economic Cooperation (APEC) summit of world leaders, which was held in Hanoi in November.

The Vietnamese government made little attempt to hide its efforts to muzzle prominent critics or democracy activists, despite the mass of international journalists in Hanoi during APEC, Vietnam's largest-ever international gathering. Key dissidents in Hanoi were placed under lock down.

They were ordered not to leave their homes or have any visitors. Police were stationed in front of their homes, which were cordoned off with signs saying "Restricted Area" and "No Foreigners" to prevent any contact with the international press corps. One dissident had his door padlocked and was roughed up after a friend stopped by to visit.

In addition, police arrested at least eight members of a newly formed union, the United Workers and Peasants Organisation of Vietnam. Independent trade unions are banned in Vietnam.

Authorities also rounded up rural petitioners in Mai Xuan Thuong Park in Hanoi, who had come to the city to file complaints about corruption and land confiscation. Along with street children and vagrants, they were sent to Dong Dau Social Protection Center, a detention facility on the outskirts of the city. Human Rights Watch has previously documented physical abuse and harsh conditions for detainees at Dong Dau. (See the November 2006 report, "Children of the Dust.")

Such abuses are not limited to occasions when Vietnam is in the international spotlight. In addition to detaining or imprisoning individuals considered a political threat, the Vietnamese government uses other means to silence them. Dissidents' telephones are disconnected, their internet connections are terminated, and they are questioned and often detained if they go to internet cafés. Their homes are periodically searched and their computers and documents confiscated. Their families are pressured to stop them from speaking out.

They are insulted in articles in the official state media, or denounced by "angry citizens" in orchestrated public meetings. They are dismissed from their jobs, or find their client base has dried up as a result of official pressure and negative publicity. Even family members face intimidation and reprisals.

"By honoring these writers, we hope to bring international attention to courageous individuals that the Vietnamese government is trying to silence," said Richardson. "The crackdown on dissidents was largely ignored by governments at the APEC summit, giving Vietnam the impression it has a green light to keep persecuting them."

Source: Human Rights Watch.

Corresponding with the Law Desk

Please send your mails, queries, and opinions to: Law Desk, The Daily Star 19 Karwan Bazar, Dhaka-1215; telephone 8124944, 8124955; fax 8125155; e-mail <dslawdesk@yahoo.co.uk, lawdesk@thedailystar.net

Right to Information Act can reduce corruption

TANIA NOOR & ISSMERT SAGOR

BANGLADESH is no longer the top most corrupt country in the world. Last year we were placed in the 3rd position of the Transparency scale. But the explanation given by the TIB in this regard does not offer us even a little bit of satiety. TIB informed that the change of the position is not because of the reduction of corruption; corruption prevailing in Bangladesh is the same as before. The reasons behind the change are the increase of corruption in some countries at an alarming rate and also the inclusion of some new countries in the list.

Bangladesh had secured the top position in the TIB index as the most corrupt country for consecutive five years. A lot of discussion took place concerning the ways of the reduction of corruption, and still it is going on. As a result of this a demand for the formation of an Independent Anti Corruption Commission was raised. At first the government was reluctant, but under the pressure of the donors it established a so called "Independent Anti Corruption Commission" two years back, but it has miserably failed to run it effectively as yet. After coming to power, the politicians generally get involved more in plundering than anything else. Therefore, why they will establish a commission which can become a threat to them? Some intellectuals suggested mass awareness and social movement as an effective way to curb corruption. But if we look into the matter in the present context it can be revealed that in every sector the common people are victimised; even though they become concerned about their exploitation what can they do to resist it? They do not have any arms in their hand with which they can fight against corruption.

However, in reducing corruption the "Freedom of Information Act" can play an important role; India is a glowing instance in this regard. A question may of course rise, how "Freedom of Information Act" can be an effective tool to reduce corruption? Many may think it something concerning only journalists: if this law is introduced the beneficiary will be the journalists getting an easy access to information. But a close observation projects a different picture.

By the help of this law the newspaper may be enriched, but the common people will receive the ultimate benefit. With the introduction of this law not only the interests of the journalist will be protected but also the rights of the people of the country will be secured. When the country runs by the tax paid by the people they have a right to know how the government is running the country, which department of the government is performing what job, whether the money paid by them is spent properly or not.

Laws regarding right to information became effective in India one year back. Only within this one year the mass people used this law in such a way which forced

different long lasting irregularities transform into regularities in different governmental works. As a result the corruption has come down to a satisfactory rate. Statistics shows that because of the "Right to Information Act" the corruption is reduced by 50 percent in the State of Rajasthan. Under the Indian "Right to Information Act" a citizen is entitled to know any matter except those concerning the security of the state. A citizen may want to know any information of any government department by submitting an application, and that department is bound to inform. If they fail to make available the required information within 30 days, the officer entrusted with the duty of providing information will have to face punishment and fine. The people are using this law for fighting any irregularity or corruption in the government office. For example: if someone finds that the drains of his locality are not cleaned for about a month. He then can file an application to the local municipal office requiring to know the number of sweepers working in his area as well as after how many days the drains are supposed to be cleaned as per law. This kind of application usually shakes the local municipal office. Because, maybe according to law, the drains are supposed to be cleaned once a week and adequate number of sweepers are already appointed for the purpose. The information applied for must be provided within a month but the applicant may find that after the filing of application the sweepers are coming once in a week and cleaning the drains properly. The "Right to Information Act" has thus been turned into a great device of curbing corruption for the people of India.

But the enactment of this law in India was a tiresome job. The civil society was fighting for this law for a long time; they also pressurised the government for the enactment. Then the government passed the Freedom of Information Act in 2002. After the confirmation of the President, the law became effective in January, 2003. But the concerned civil society of India refused to accept the law which was actually formulated by the bureaucrats. They found that the law not only failed to ensure the right of the citizen to know information but also contained some provisions helping to conceal information. That law had no provision for appeal and no penal measure for the officer refusing to provide information. Demanding an effective "Right to Information Act" the civil society started a national movement forming "National Campaign for People's Right to Information". Because of this movement the government was made to pay heed to the demand. The government formed an advisory council consisting of the representatives of the Civil Society to find out the drawbacks and loopholes of the existing law. According to the suggestion of Advisory Council a Bill was presented in the new parliament in 2004. The Bill was passed in June, 2005 and became effective from October, 2005.

We can use this experience of India in our country



too. We want "Right to Information Act", but any law proposed by the bureaucrats is useless. If this job is entrusted with them, they will make no stone unturned to form a law which will protect them from any inconvenience. In order to protect the right of information of the people, the draft law should be made after consulting with the civil society and experts on the concerning issue. Generally the bureaucrats form the skeleton structure of any law and the general people have to abide by, but this law should be different. This law should be the tool to protect the interest of the people and the bureaucrats shall be bound to abide by. Through this kind of law the accountability and transparency of the bureaucrats and government officers can be ensured. Corruption in different sectors of government can be prevented much by the help of this kind of law. Since the example of India is before us, so it would not be hard to find a way with the help of this law. What we just need is to start the work in our country. Under the supervision of Law Commission the draft of "Right to Information Act" has been already prepared. Manusher Jonno is also doing advocacy and campaigns in favour of a law

regarding right to information. In this work they are involving people from different sectors of the society. They are receiving suggestion from different professional groups of the society after presenting the draft law. They are advancing in a right direction. We hope the draft would be prepared properly. But how accurate the draft can be, if it is not accepted by the political parties and initiated to turn into law, it has no value. Along with the preparation of the draft pressure should be created on the political parties at a time.

The election is in the offing. The political parties are supposed to publish their manifesto. They must start thinking about the contents. The political parties which do not pledge to materialise the "Freedom of Information Act" through their manifesto will run the risk of being identified as siding with the corrupt bureaucrats and officials. Will the people like to see and allow such political party in power?

The writers are the students of Law Department, Dhaka University.

LAW week



Midnight crackdown on 'corrupt' politicians

The joint forces finally made a move against the hitherto untouchable bigwigs of BNP and Awami League (AL), detaining seven former ministers and several other top politicians of both the parties, the names of which have become synonymous to unbridled corruption over the years. The high profile detainees include Nazmul Huda, Salauddin Quader Chowdhury and Mohammad Nasim. The arrests, which came three weeks into former central bank governor Dr Fakhruddin Ahmed led caretaker government's declaration of war against corruptionists and criminal godfathers. Preparations are on to bring graft charges against the detainees, according to sources. The joint forces also have the names of 41 other top politicians and businessmen on their wanted list and will soon make an announcement for them to surrender, the sources said. However, advisers to the caretaker government Barrister Mainul Husein and Maj Gen (retd) MA Matin said the detainees were arrested on charges of corruption. Although military governments cracked down on politicians in the past, successive political governments miserably failed to rise above narrow party interests, and rather arrested and harassed only rival politicians. -- *The Daily Star*, February 5.

New CEC pledges major electoral reforms

Newly appointed Chief Election Commissioner (CEC) ATM Shamsul Huda said his first task would be devising an action plan for major electoral reforms in consultation with the political parties and other stakeholders. On the first day in office, he told reporters that he would make the Election Commission (EC) an institution in which every citizen can take pride. "The commission must restore public confidence in it by ensuring transparency in all its activities. A level playing field should be created so that all can participate in the polls," he added. Earlier in the day, Huda, former water resources secretary, was sworn in as the CEC while Mohammad Sohul Hossain, another former bureaucrat, as election commissioner. Chief Justice Syed JR Mudassir Husain administered the oath at his Supreme Court chamber in a simple ceremony. The caretaker government recently appointed the two as the CEC and election commissioner. The new poll chief said he regards the new assignment as a big challenge. "I'm not here [EC] to take it as a mere job. I've been in for the last 34 years. Now I want to serve the nation with my intelligence and wisdom," he observed. Aiming neutrality, he described himself as a man of strict discipline. -- *The Daily Star*, February 6.

Fida M Kamal made new attorney general

The government appointed Barrister Fida M Kamal as the attorney general (AG). The position of the state's chief law officer fell vacant after AJ Mohammad Ali resigned on January 24 in the wake of growing clamour for 'depoliticisation' of the AG Office. Fida had been serving as the additional attorney general since June 2002. Aged 59, he is the 13th attorney general. He did his Bar-at-Law at the Society of the Inner Temple, London, in 1978 and was enrolled as an advocate in 1979. Prothom Alo, February 6.

Dhaka to sign anti-graft UN convention

The caretaker government decided to ratify the United Nations Convention Against Corruption to bring the country's anti-corruption measures up to the international standard. The decision was taken in a council of advisers meeting that was chaired by Chief Adviser (CA) Fakhruddin Ahmed, where they also discussed short-term solutions to power shortage, such as closing shops and malls early, using less street lights, and regulating the use of decorative lights. "The council of advisers decided that Bangladesh will sign on to the United Nations Convention Against Corruption," said Press Secretary to the Chief Adviser's Office. Fahim said the council of advisers directed the foreign ministry to immediately take all necessary steps to initiate the process of ratifying the convention. The

convention encourages its signatories to set up autonomous anti-corruption watchdogs, merit-based and impartial public service recruitment, public service codes of conduct, publication of government expenditure and to ensure transparency in election campaign funding, among others. Transparency International Bangladesh (TIB), on January 27, requested the caretaker government to sign the convention, as it would check embezzlement of public funds, cronyism, and abuse of public office. -- *The Daily Star*, February 6.

Party registration with EC to be mandatory

The caretaker government is preparing tough laws to make registration of political parties with the Election Commission (EC) mandatory in a bid to ensure financial transparency and accountability of the major parties. Besides, the government will issue an ordinance to bar civil servants from participating in the parliamentary election within at least three to four years of their retirement, said Law Adviser Mainul Husein. Major political parties, including BNP and Awami League (AL), have been ignoring the registration law for the last six years since it is an optional provision. Adviser Tapan Chowdhury meanwhile said the caretaker government will make a final decision on the voters' identity cards early March following filing of recommendations by a committee working on it. In the face of strong opposition from major political parties, including the AL and BNP, the EC could not make political parties' registration mandatory ahead of the 2001 parliamentary election. The key political parties also opposed introduction of a provision barring civil servants from contesting parliamentary elections for at least three years after their retirement from service. -- *The Daily Star*, February 7.

ACC chief Sultan, Miah resign

Anti-Corruption Commission (ACC) Chairman Justice Sultan Hossain Khan and Commissioner Prof Maniruzzaman Miah submitted their resignations to the president, while the other Commissioner Maniruddin Ahmed said he would take some time to submit his own. President Prof Iajuddin Ahmed accepted the resignation of Justice Sultan and Prof Prof Miah, reports UNB. Earlier President Prof Iajuddin Ahmed requested the ACC chairman and two commissioners to resign as part of the caretaker government's initiative to recast the anti-graft body. The ACC chairman attended his office and submitted his two-line resignation letter that just mentioned his willingness to resign. Prof Maniruzzaman Miah submitted a seven-page letter requesting the president to accept his resignation and find out who were responsible for the present condition of the ACC. Prof Miah described his version of how the ACC was made dysfunctional and said he was not at all responsible for the situation, sources said. -- *The Daily Star*, February 8.

Cabinet gives nod to CrPC amendment

The council of advisers at a meeting approved the ordinance on amendments to the Criminal Procedure Code (CrPC), necessary for separation of the judiciary from the executive, which will be promulgated by the president in a couple of days. With this promulgation, the long-awaited separation of the judiciary will come into effect. A Press Information Department (PID) handout said the council of advisers took the decision at a meeting at the chief adviser's (CA) office in Tejgaon with CA Dr Fakhruddin Ahmed in the chair. The meeting hoped that people of the country will benefit from the separation of judiciary from the executive. Besides upholding the constitutional pledge, it will reflect the long-standing hope of the people in general seeking justice. It will also fulfil the demand and expectation of the lawyers' community along with the civil society and people, the participants said. The cabinet secretary, press secretary to the chief adviser, and secretaries of the ministries concerned were present at the meeting. -- *The Daily Star*, February 8.

LAW campaign



Globalising the fight against death penalty



The Third World Congress against the Death Penalty took place in Paris from 1 to 3 February. "Paris 2007" brought together over 600 abolitionists and decision-makers from all over the world, who discussed current strategies and debated ways forward to achieve the ultimate goal of worldwide abolition of the death penalty.

The Amnesty International (AI) delegation consisted of experts from the International Secretariat, as well as death penalty coordinators from around the world (Belgium, Canada, Denmark, France, Germany, Italy, Japan, Netherlands, Puerto Rico, Sweden, Switzerland, Tunisia and USA).

The Congress followed on from the first World Congress in Strasbourg in 2001 and the Second World Congress in Montreal in 2004. The Congress was organized by Ensemble Contre la Peine de Mort (ECPM - Coalition Against the Death Penalty), which acts as Secretariat for the World Coalition Against the Death Penalty and numerous other partners, including AI.

Delegates focused particularly on the prospects for abolition in North Africa, the Asia Pacific region and the Middle East, including reforms on the political and legal process in those regions.

Major debates included "Islam and the death penalty" and "China, the death penalty and the Olympic Games". Roundtables were held on regional players in the abolitionist movement from Central Asia (towards the establishment of a death penalty-free zone) to the Great Lakes region in Africa (Anti-Death Penalty network) and on strategies towards abolition.

These included the campaign on the ratification of the Second Optional Protocol to the International Covenant on Civil and Political Rights and the role of international and regional organizations. Several public debates focused on key countries and national campaigns and a public questions and answers session on the death penalty was held.

The Congress heard from those profoundly affected by the death penalty, including exonerated former death row inmates, the families of condemned prisoners and relatives of murder victims who campaign against the death penalty on behalf of their murdered relatives.

The event ended on Saturday with a march of hundreds of people through the streets of Paris, entitled "Say No to the death penalty".

Source: Amnesty International.