



LAW event

Role of the police in a sound democracy

EMDADUL HAQUE

A book entitled "101 Questions and Answers about the Police" has been launched followed by a discussion programme on "Our Rights: The Role of Police in a Democratic Society" was held in the CIRDAP auditorium in the city on 30 August 2010.

The publication is the modified version in Bengali of the book, "Things You Wanted to Know About the Police But Were too Afraid to Ask," developed and published by the New-Delhi based Commonwealth Human Rights Initiative (CHRI) earlier.

The Bengali version is jointly published by Bangladesh Legal Aid and Services Trust (BLAST), Nagorik Uddoyog (Citizens Initiatives) and CHRI.

The book launching and discussion events, organized by the three organizations, was attended by Barrister Shafique Ahmed, Minister for Law, Justice and Parliamentary Affairs, as the Chief Guest while Professor Dr. Mizanur Rahman, Chairman of the National Human Rights Commission was the Special Guest.

Former Judge of the Supreme Court of Bangladesh and Vice-President of BLAST, Justice Awalad Ali, two former Inspector Generals of Police- A. S. M. Shahjahan and Nurul Huda, Ms. Devyani Srivastava of CHRI, Advocate Z. I. Khan Panna of Bangladesh Bar Council's Human Rights Committee among others addressed the discussion.

Mr. Mohsin Ali Khan, Executive Director of BLAST delivered the address of welcome in the discussion while Dr. Uttam Kumar Das, Deputy Director of the South Asian Institute of Advanced Legal and Human Rights Studies (SAILS) presented a summary of a two-day workshop on the same theme ("Our Rights: The Role of the Police in a Democratic Society") preceded the book launching.

Noted Jurist and Chairman of BLAST, Dr. Kamal Hossain chaired the programme moderated by Mr. Zakir Hossain, Chief Executive of Nagorik Uddoyog.

In the discussion Law Minister Barrister Shafique Ahmed urged the police forces to carry out their duties and functions within the periphery of law keeping in mind the serving attitudes towards the people.

He said sometimes police had to go in action for the greater interest of law and order of the country but must not work violating respective laws since they are the custodians of the law. He acknowledged that weakness in the investigation process and the lack of evidence and witness are the main impediments for the failure of the criminal prosecutions in the country. He termed the feeling of anxiety of the witness due to lack of witness protection as a big concern.

He further declared that the government is going to introduce witness protection law for

the protection of witnesses and information providers.

He also stressed the need for restorative justice system and underscored the need of the Alternative Dispute Resolution (ADR) to ensure easy access to justice even including in some areas of criminal proceedings like juvenile delinquency.

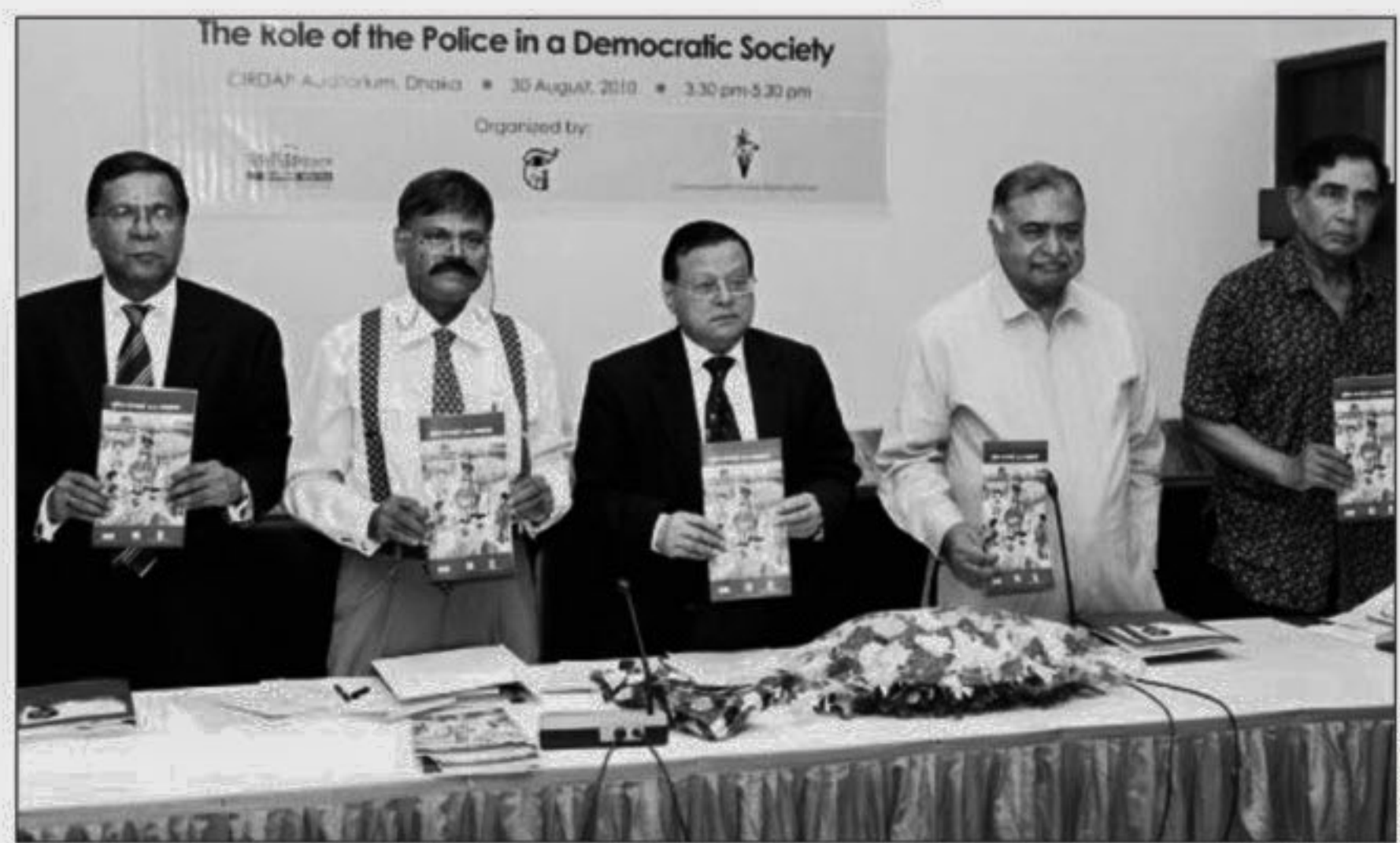
Professor Dr. Mizanur Rahman observes that police exercise superfluous power, mal-practice laws and make whimsical arrests and detention but they ultimately fail to prove charges they bring against the arrestees leading up to the failure of conviction in 90% of the criminal prosecutions in Bangladesh.

"What power police do not have?" Dr. Rahman wondered adding that torture in the name of interrogation during the so-called remand and extra-judicial killings are unacceptable under any circumstances in a civilized

state where human rights, security and dignity of people are the highest priority of the state, but unfortunately we are at a very shabby stage now in this regard.

He appealed the government to cooperate with the watchdog role of National Human Rights Commission and urged authorities concerned to look into the matter and relieve the people of the sufferings and concerns caused by the injustice of the law enforcing agencies.

- General recommendations:**
- Compliance with laws including guidelines of the Supreme Court in arresting and detaining individuals.
 - Introduction of human-rights and gender sensitive Criminal Justice System (i.e., legal reform, police and prosecutors educated and trained in human rights).
 - Reform in the legal education (i.e., make it practical, contemporary and human rights-sensitive).
 - Mass awareness about rights, obligations and legal remedies.
 - Expansion of activities of human rights services (by government and non-governmental organizations).
 - Expansion of judicial activism for protection of human rights.



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The speakers also referred to the recommendations come out from the two-day workshop participated by 33 participants representing lawyers, police officers, human rights activists, and representatives from the marginalized groups. They urged for a humanized and forward looking police forces and hoped for a Bangladesh better and safer place to live and work in. Following are excerpts of recommen-

For Police- Field Level:

- Sensitization of police forces on human-rights issues through training and continuing education programmes.
- Increase independence of the police (to work freely as per respective laws and procedures) and ensuring strict monitoring and compliance mechanisms and accountability and transparency in the forces.
- Establishment of an Independent Police Commission (incorporating independent members from the civil society) to look into the recruitment, posting and promotion.
- Initiative to increase number of police force proportionately to the population, including representatives of different communities, and ensuring a gender balance.
- Adopting a people friendly policing policy and community engagements.

- Undertaking Strategic planning to develop professionalism among the police forces.
- Enacting law and establish mechanisms and measures to ensure responsibility and accountability such as mechanism to address complaint against police.
- Developing people's friendly attitudes, behavior and culture among members of police forces.
- Undertaking reforms in the Code of Criminal Procedure, Police Act, Police Regulations of Bengal, and other related laws in the light of Constitutional obligations and international human rights standards.
- Review of the training curriculum and introduction of long-term and continuing training and education facilities for the police forces at various levels including that of on their specific duties and obligations under the law.
- Separate unit for investigation and protocol duties to ensure timely investigations
- Effective monitoring mechanism and compliance with law and procedures (i.e., introduction of incentives and punishment systems).
- Changing mindset of the police forces to be humane and not only obeying laws.
- Ensure transparency at all levels.
- Exercise of ethical values at all levels.

For Police- Higher Level:

- Recruit personnel with higher educational qualifications.
- Training on motivation, leadership and attitude management.
- Extensive training on laws and its applications.
- Extensive training on human rights and gender issues.
- Training on modern crime prevention and crowd control.
- Training on Community Policing.
- Interactive dialogues among the police and the public on policing.
- Increase salary, allowances and other facilities.
- Interdependency to work freely as par the provisions of laws (free from political and other pressures).
- Evaluation of works- Internal watchdog to prevent and prosecute misuse of authority, and other bad practices, i.e., corruption etc.
- Install signboards in the Police Stations about various police services.
- Easy access for the public to register cases in case of violence against women and children. (Instead of the alleged practice of inquiry before registering the complaint).
- Exercise of power of bail by the Officers-in-Charge under section 496 of the Criminal Procedure Code. However, effective monitoring by the higher authority and related courts.

The writer is a Lecturer at the Department of Law and Justice, Southeast University, Dhaka.

LAW week

NHRC team to visit hospitals to monitor services

The National Human Rights Commission (NHRC) will make sudden visit to government health complexes across the country to monitor the health service for the poor people. "If the people are found deprived of health service at government health centres, we will take immediate step against the persons responsible," said NHRC chairman Prof Mizanur Rahman. The chairman also said the commission might recommend suspension of the staff for the negligence in carrying out duty. He mentioned that the drive is likely to begin from next week. NHRC chairman made the announcement in a press briefing at his office following a courtesy call he made on President Zillur Rahman along with a seven member delegation. He also mentioned that the president has instructed the commission to look into the issue. -The Daily Star, September 15, 2010.

Warrants issued to arrest 2 QC brothers

A Dhaka court issued arrest warrants against two brothers of BNP leader Salauddin Quader Chowdhury in connection with a case over bouncing cheque. Metropolitan Magistrate Konika Bishwas passed the order, as Giasuddin Quader Chowdhury and Saifuddin Quader Chowdhury, the accused, did not appear before it as per the court order. The issuance followed the complainant's lawyer Dewan Abdur Rahim's submission of a prayer which sought an arrest warrant against all three accused. Dewan in the prayer said the accused did not comply with the order even though summonses were duly served to them on September 9. The court also directed the officer-in-charge of Motijheel Police Station to submit a report on implementation of the arrest warrants by January 3, 2011. -The Daily Star, September 15, 2010.

HC pulls for environment

The High Court has declared illegal the construction of ship breaking yards at costal green belts of Sonaichhari in Chittagong as they "cause environmental degradation and damage to human lives". The court has also declared illegal the government action to lease out the reserve forestland to four private companies for setting up of ship breaking yards. The deputy commissioner of Chittagong leased out the land to F&F Shipping Recycling, MS Tania Enterprise, Mbia Enterprise and Unique Traders in October 2008. None of them obtained clearance certificate from the forest department before they began the construction of the yards, prosecution lawyers said. An HC bench of Justice Md Imman Ali and Justice Md Abu Tariq delivered the verdict saying the government cannot lease out reserve forest area for constructing shipyards that cause environmental damage. -The Daily Star, September 14, 2010.

Post of tax ombudsman set to go

The government approved the draft of the 2010 Tax Ombudsman (Abolition) Bill to scrap the Tax Ombudsman Act, 2005. The decision came at a weekly cabinet meeting at the Secretariat with Prime Minister Sheikh Hasina in the chair. The four-year tenure of the first tax ombudsman expired on July 8, and Finance Minister AMA Muhiith the same day announced that the government would abolish the post of tax ombudsman. Abul Kalam Azad, prime minister's press secretary, told newsmen after the meeting that the government took the decision since the 2005 act was found to be conflicting with the rules and laws of the taxes and import duties. The BNP-led government set up the tax ombudsman's office in July 2005 under the Tax Ombudsman Act and Khairuzzaman Chowdhury was appointed by the then president as the tax ombudsman on July 9, 2006 for a four-year term. -The Daily Star, September 14, 2010.

War crimes probe lacks coordination

Finance Minister AMA Muhiith admitted the lack of coordination between prosecutors and investigators in the trial of war crimes. The war crimes investigation agency will have its chief appointed soon so that it can carry out probe for the trial smoothly, he said while talking to reporters after a meeting on war crimes trial at his office. Abdul Matin, the previous chief of the agency, resigned on May 5 amid controversy over his appointment and alleged affiliation with Islami Chhatra Sangha which was a student wing of anti-liberation force Jamaat-e-Islami until 1971. The finance minister said the chief investigator will have the status of an additional inspector general. A steering committee comprised of officials of the home, law and foreign affairs ministries will also be formed to monitor the trial process. -The Daily Star, September 9, 2010.

Two-thirds of Internet users hit by cyber crime: Norton

Computer security firm Symantec reported that about two thirds of the world's Internet users have fallen victim to cyber crime and few think crooks will be caught. China was tops when it came to online victims, with 83 percent of Internet users there having been hit by computer viruses, identity theft, online credit card fraud or other crimes, according to a Norton Cyber crime Report. Brazil and India were tied for second place with 76 percent, while the United States was next in line with 73 percent. While victims admitted to feeling furious and cheated, they were reluctant to take action because they felt efforts would be futile, according to a study by Symantec consumer division Norton. Reporting cyber crime is critical, because some times larger patterns can be pieced together by police fielding reports that, individually, appear minor. -The Daily Star, September 9, 2010.

Stalking victim kills herself

A schoolgirl in Satkhira killed herself by taking poison reportedly after failing to bear the brunt of stalking. In Chapainawabganj a man was beaten to death by stalkers as he protested teasing of his colleague's wife and daughter. The deceased girl, Chameli Khatun, 14, daughter of Shafiqul Islam of Manderbaria village at Koira upazila, Khulna, was residing at her maternal uncle's house here at Rajarbagan, reports our Satkhira correspondent. She was a student of Pallimongal High School in Satkhira town. Sadar Police Station Officer-in-Charge Shah Jahan Khan quoted locals saying Sumon, a student of Satkhira Government College, had been stalking the girl on her way to school for the last four months. Chameli went to Zia Hall of Satkhira Government College and took poison around 4:00pm. However, it is still unknown why she went there. Local people and students took her to sadar hospital where she died around 5:30pm. Soon after the incident, Sumon went into hiding. -The Daily Star, September 8, 2010.

Dear reader,

You may send us your daily life legal problems including family, financial, land or any other issues. Legal experts will answer those. Please send your mails, queries and opinions to: LawDesk, The Daily Star, 19 Karwan Bazar, Dhaka-1215; telephone: 8124944, 8124955, fax 8125155; email: dslawdesk@yahoo.co.uk, lawdesk@thedailystar.net

FOR YOUR information

What is an FIR?

First Information Report (FIR) is a written document prepared by the police when they receive information about the commission of a cognizable offence. It is a report of information that reaches the police first in point of time and that is why it is called the First Information Report. It is generally a complaint lodged with the police by the victim of a cognizable offence or by someone on his/her behalf. Anyone can report the commission of a cognizable offence either orally or in writing to the police. Even a telephonic message can be treated as an FIR. An FIR is a very important document as it sets the process of criminal justice in motion. It is only after the FIR is registered in the police station that the police takes up investigation of the case.

Who can lodge an FIR?

Anyone who knows about the commission of a cognizable offence can file an FIR. It is not necessary that only the victim of the crime should file an FIR. A police officer who comes to know about a cognizable offence can file an FIR himself/herself. You can file an FIR if:

- You are the person against whom the offence has been committed
- You know yourself about an offence, which has been committed
- You have seen the offence being committed.

What is the procedure of filing an FIR?

The procedure of filing an FIR is prescribed in Section 154 of the Criminal Procedure Code.

- When information about the commission of a cognizable offence is given orally, the police must write it down.
- It is your right as a person giving information or making a complaint to demand that the information recorded by the police is read over to you.
- Once the information has been recorded by the police, it must be signed by the person giving the information.
- You should sign the report only after verifying that the information recorded by the police is as per the details given by you.
- People who cannot read or write must put their left thumb impression on the document after being satisfied that it is a correct record.
- Always ask for a copy of the FIR, if the police do not give it to you. It is your right to get it free of cost.

What should you mention in the FIR?

- Your name and address
- Date, time and location of the incident you are reporting
- The true facts of the incident as they occurred
- Names and descriptions of the persons involved in the incident

RIGHTS investigation

India: Country rotten with rotting food grains

ON August 19, it was reported that around 8,500 kilograms of wheat was found rotten in a wagon that was lost in seven months back. The train containing 110,000 kilograms of wheat was then on the way to reach the ration shops (fair price shop) in Khandwa district, Madhya Pradesh, a district, which is predominantly occupied by tribes. It is one of the areas in which the Asian Human Rights Commission (AHR) has regularly exposed the seriousness of child malnutrition and discrimination since 2009.

This is not the only news of a similar nature and it does not appear to have happened by mistake. The Minister of Food and Agriculture Mr. Sharad Pawar admitted in the parliament last July that more than 11,700 tonnes of rice and wheat amounting for INR 6.86 crore (USD 1,462,527) were found damaged in storage facilities of the Food Corporation of India (FCI). News articles highlight various data regarding rotten food grains in several states such as Punjab, West Bengal, and Gujarat. However, Mr. Pawar said that the amount of damage was an exaggeration.

In contradiction to Mr. Pawar's statement, it is revealed that more than one billion tons of food grains were damaged in FCI storage according to the Right to Information query filed by Mr. Dev Ashish Bhattacharya in January 2010. The reply to the query also exposes the fact that for last ten years between 1997 and 2007, more than 10 millions tonnes of food grains including rice, wheat, paddy and maize were damaged in FCI godowns. This situation is reminiscent of the scene ten years ago when the Chief Minister of Rajasthan complained to the Union Minister for Consumer Affairs and Public Distribution that lakhs of tonnes of grains were sitting rotten in the FIC godowns and were allegedly going to be dumped in the sea to make space for the next crop. Just before this, the Supreme Court of India had made an order on right to food.

Minister Mr. Pawar suggested a comprehensive plan to create almost 15 million tones of stor-

age space implying that the reason behind the grain rotting is the lack of storage facilities. On the other hand, the FCI suggested exporting the grains as animal feed at lower price to neighbouring countries such as Bangladesh and Nepal to avoid further waste. However, it is also discovered that most of the FCI depots are not fully utilized. The question is therefore to know: why then have these grains been rotting here and there. More importantly, why is the government authority closing its eyes to it?

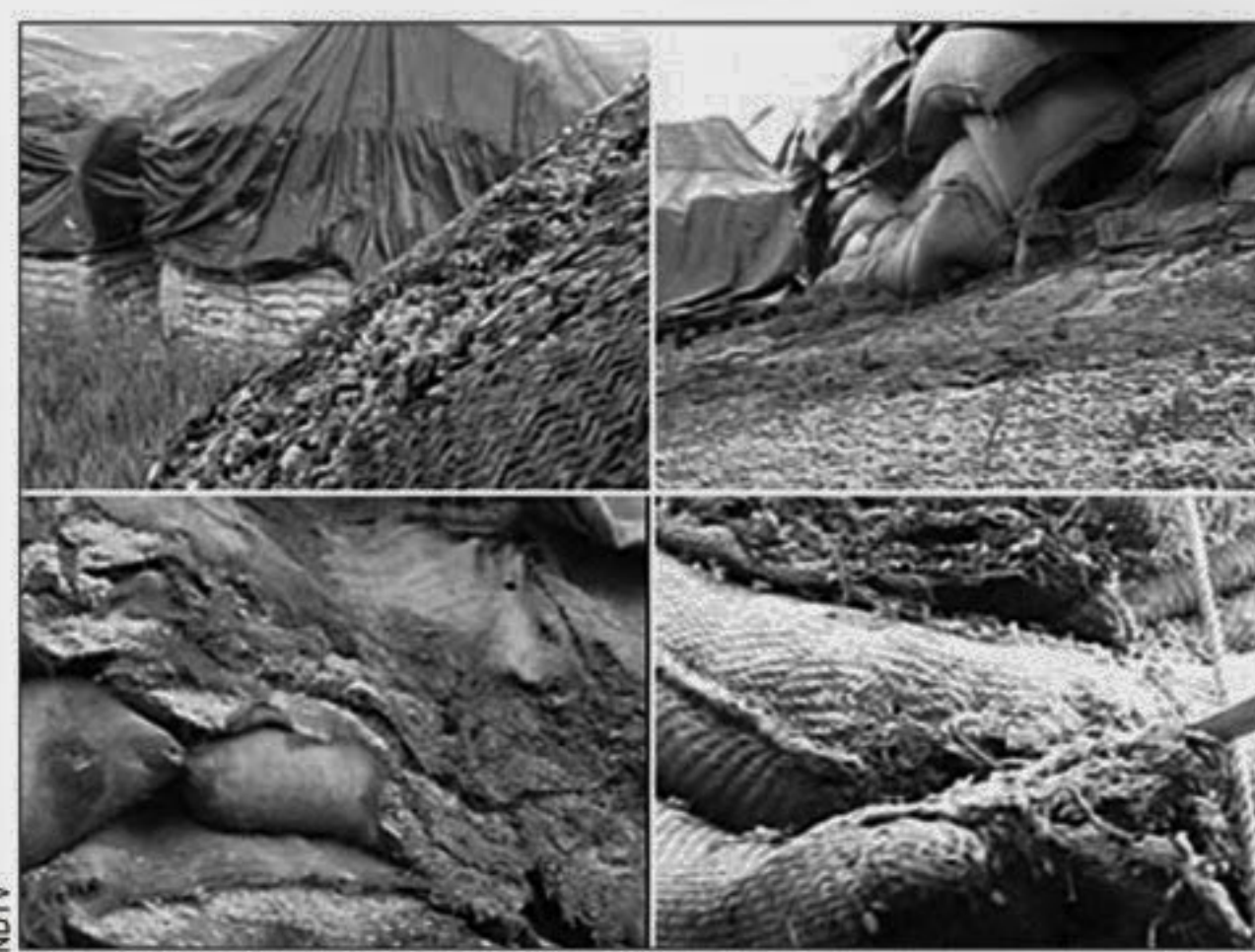
Some views have been expressed to explain the causes of the rotting. The rotten grains could be sold out to the commercial sectors of liquor production. Others suggest that damaging important amounts of grains damaged may help maintaining high prices in the market. In any case, the FCI implementing a Minimum Support Price (MSP) that aims to ensure remunerative prices to the farmers as well as reasonable prices to the consumers fails to provide the grains for the poor who starve. The government certainly fails to supervise it.

While people found 300,000 tonnes of rotting grain in an open field in Madhya Pradesh in late July, the New York Times on August 14 published a story of two children suffering from severely acute malnutrition in Jhabua district of Madhya Pradesh. It is also in this district that the AHR had revealed in January 2010 that within two months 28 children who died of malnutrition.

Madhya Pradesh is one of the major states procuring both rice and wheat in India according to the data by the Department of Agriculture and Cooperation, which means the state produces a surplus of rice and wheat. Whereas, the state is ranked third of 28 states in the Multidimensional Poverty Index (MPI), following Bihar and Jharkhand. The study shows that the poor living in Madhya Pradesh experience higher intensity of poverty than people living in the DR Congo, although the percentage of people who are multidimensionally poor is

slightly higher in the DRC. In addition, the analysis clearly highlights that out of ten indicators, nutrition is the indicator that contributes the most to the higher poverty index of Madhya Pradesh. The poor in Madhya Pradesh are deprived of their right to food and of their right to be free from hunger, the most fundamental factor in surviving as a human being in spite of surplus of food grains.

Nevertheless, the state governments always claim that they do



not have sufficient food grains to distribute to the poor under the Public Food Distribution System (PDS) and consequently the earmarked rice and wheat has been around 25 kilograms per month instead of 35 kilograms as stipulated in the Supreme Court Order.

The Minister Mr. Pawar said that the government has taken action to suspend some of the officers and that the investigation is going on. Someone needs to be suspended, investigated, and punished. Someone is corrupt and negligent. However, how can this chronic social disease and national crime be cured and charged? How will the Ministry guarantee that the same situation will not happen next year? While many people all over the world are worried about malnourished children in India shouting 'stop hunger', the government of India still does not pay attention to it nor takes more immediate and substantial steps.

16 years ago, the photographer

Kevin Carter who got a Pulitzer Prize for a Feature Documentary committed suicide reportedly condemning himself for taking a photo of a little girl starving in Sudan instead of taking her immediately to the hospital. After taking photos of the little girl, he indeed did take her to the hospital. It is felt that the Government of India does not have that shame and self-criticism for its national crime, and even a systemised plan to overcome it.



The Supreme Court of India again gave an order to immediately distribute the food grains to the poor while the Ministry refused to do so. With or without order from the Supreme Court, it is a duty of the state to prevent starvation and hunger and ensure food security at home. The Supreme Court orders on food security and hunger since 2000 till today reflects the fact that the government authority is not concerned about starvation deaths of the children and further has no willingness to make the country free from hunger, which is the first target of the Millennium Development Goals.

The AHR strongly urges the government authority to carry out its duty by distributing the food grains to the poor and it is further required for the civil society to monitor the distribution system.

Source: The Asian Human Rights Commission (AHR). AHR is a regional non-governmental organisation monitoring and lobbying human rights issues in Asia. The Hong Kong-based group was founded in 1984.