

LAW BOOK REVIEW

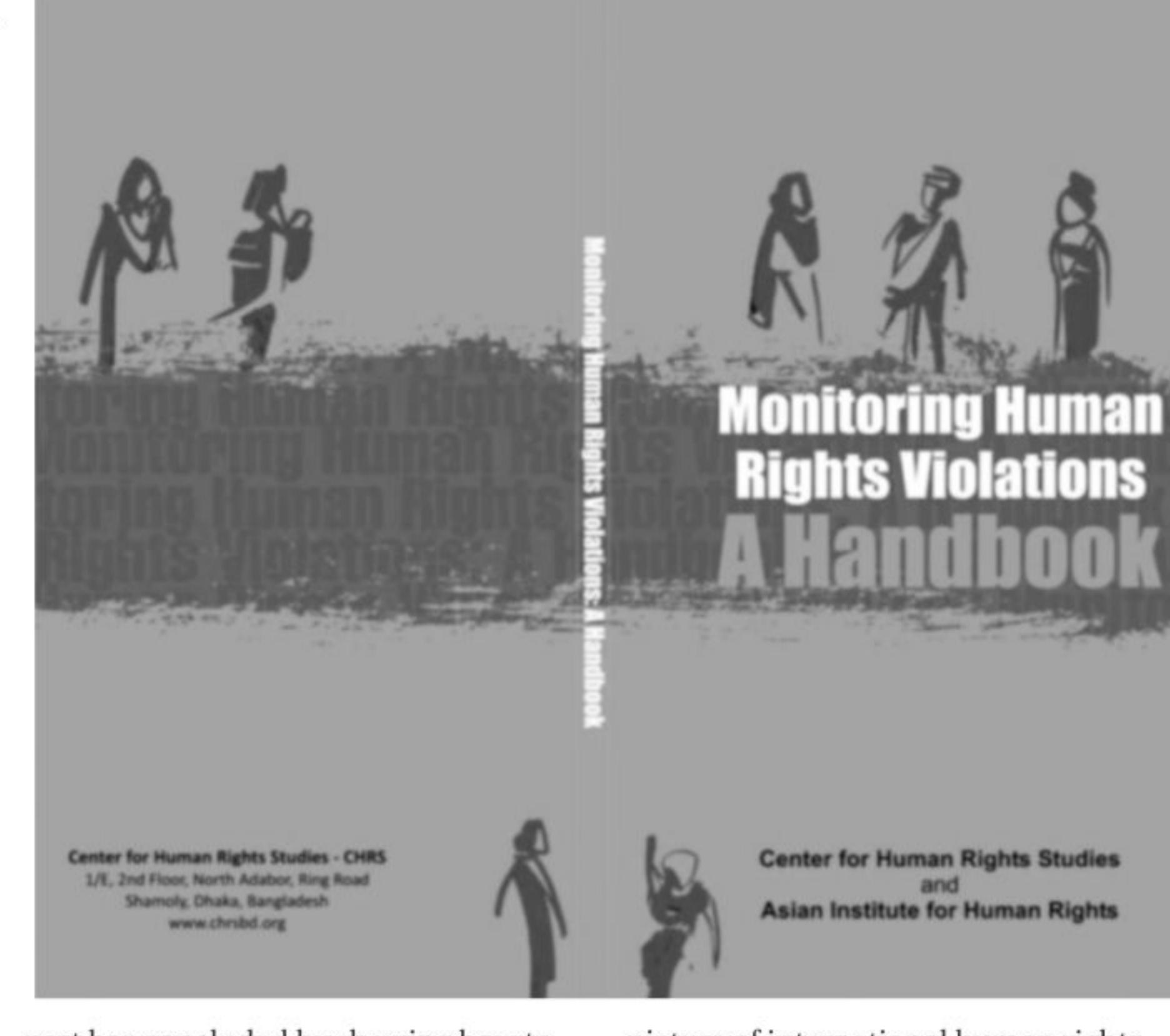
How to monitor human rights violations?

MD. ROBAY KHONDOKER

THE hand book on 'Monitoring Human Rights Violations' is a first of its kind in Bangladesh which provides an easy and simple understanding of what constitutes human rights and monitoring the human rights violations. What makes the book particularly valuable is that the contribution is elaborately discussed about the methodologies of investigation, procedures and documentation and the systematic reporting to the national and international bodies. The author tried to provide an up-to-date, concise and readable book on monitoring human rights violations.

Basically, we find a detail presentation of the international human rights standard and the effectiveness of the various mechanisms and frameworks, their differing legal and political characteristics and contexts and their interrelationship. After reading this book, the reader will be able to explain the key purpose and features of the international human rights system. Each part of the handbook gives a glimpse into the diverse range of ideas encompassing contemporary human rights issues.

This book has essentially a descriptive character. The work is divided into two parts. In the first part of the book, it focuses on fact-finding, documentation and reporting. In this part, it discusses about the importance of human rights information, way of building the context, how to collect information, recording and analyzing the information and report writing. Normally in monitoring human rights violations, interviews are taken from victims, witnesses and from different sources to get information. In this section, the reader will get a complete guide on taking interviews. This



part has concluded by showing how to use the information for the promotion and protection of rights with some meaningful examples.

And the second part discusses the normative content of rights and corresponding state obligations with illustrative examples. The reader will find the state obligations to take appropriate and effective measures to overcome any violence.

By drawing on human rights violation experiences in Bangladesh, the book brought some examples which illustrate how information obtained through fact finding helps to bring cases of rights violation before the notice of the court and the state response to it.

The reader will find a comparative

picture of international human rights standard and Bangladesh constitution. The book also discussed about the role of various civil society organizations in the process of litigation in different cases. The various examples showed in this book says how civil society groups have brought cases of human rights violations before the courts, the way in which courts have sought to give meaning to the rights guaranteed in the constitution and international human rights treaties, the nature of directions issued by the court to ensure that the state complies with its human rights obligations and the challenges involved in pushing for enforcement of such judgments.

Activating human rights monitoring

issues is an enlightening collection of well thought through cases aimed at human rights activist working in the field, academics and students. Hameeda Hossain, the prominent human rights activist in Bangladesh, in writing the foreword of the book has rightly pointed out that "human rights defenders, both individuals, such as press correspondents or lawyers, or institutions, such as legal aid and human rights organizations will find the guidelines provided in this manual very useful for their hands on work in protecting survivors and identifying perpetrators. At the same time the documentation should alert the state to its responsibilities".

Due to the scope of issues tackled in this volume and the brevity with which they are tackled, it is likely that the reader will find the roles, functions and responsibilities of various actors, organizations and institutions in international human rights law. But it would have been better if the book could add a concluding chapter by summarizing all the issues discussed in this book and by including more cases from the other countries from South Asia relevant for us. I hope the publisher will soon translate it in Bengali language to communicate with the wider audience in the grass root level.

Finally I would like to thank Center for Human Rights Studies (CHRS) and Asian Institute for Human Rights (AIHR) for publishing such a wonderful handbook which definitely comes as a valuable resource in our hand. This book fills a long felt desire for the human rights activist to investigate and document the violations of human rights in our country.

The Writer is a Freelancer.



Prostitutes: No further cast out

SHEKH MD. MUHIBBULLAH

THE great sin against humanity is not to hate it but to be indifferent to its cause. The world suffers a lot not because of violence of bad people but because of silence of good people. Prostitution is such a poignant issue which creates qualms of conscience but great silence waters down this burning. Prostitution in society has not been an unknown phenomenon; it is of ancient origin perhaps as old as the dawn of human civilization and has its appearance in various forms with varied degrees speculative on so-called social sanctions etc. The victims of this trap are the poor, illiterate, ignorant and background sections of the society and are the target group in the flesh trade; rich communities exploit them and harvest at their wretchedness and ignominy in an organised gangsterism.

Every element in the society is complementary to each other and prostitution is not an exception to it. Prostitutes are victims of absolute poverty, indiscriminate manipulation and ruthless betrayal by their fellow beings. The society pushes them to this living hell and makes them satisfy the carnal desire of lustful section of the society. These fallen women are not only deprived of social status but also refused of elementary human rights. It seems in the society that the prostitutes are not human beings but like an object of sexual entertainment and fulfillment of lustful desire.

Although prostitution is socially looked down upon in Bangladesh as in other parts in the world but this profession is not illegal in our country. In our constitution no express prohibition has been ever imposed over this flesh trade, but it never encourages this profession and state missionary is all out to prevent it by adopting various measures including rehabilitation scheme in consonance with our constitutional mandate in its directive state policy [article 18(b)]. Our constitution makers envisioned this problem and therefore they encoded it in the state policy.

But unfortunately prostitutes are not being treated as human being with minimum humanity and dignity. Article 11 of the constitution of Bangladesh declares that the republic shall be a democracy in which fundamental human rights and freedoms and respect for the dignity and worth of the human rights and worth of the



Right to life under article 31: One of the essential parts of right to life is protection and guarantee of right to livelihood because it is easiest way to deprive a person of right to life by depriving him of his livelihood.

Both Supreme Court of Bangladesh and India have held such deprivation of livelihood unconstitutional as it is tantamount to deprivation of right to life.

Another point needs to be highlighted that a man's houses is his castle, nobody could trespass and violate the privacy of the inmates of any houses, respectively prostitutes are the tenants under their respective landlords. The Premises Rent Control Act 1991 provides rights between the landlord and tenant to continue in the premises so long he/she is not evicted in accordance with law. A person is not only protected from the

violence of individual terrorists but also protected from the persecution of state sponsor terrorism. Unlawful entry, seizure, search are frequently being conducted by Law enforcing agencies. Thus fundamental right of the citizen to be secured in his home against entry has definitely been violated.

In recent time it has been observed that prostitutes and sex workers are blended with vagrancy in the same jar. Prostitutes or sex workers must not be confused with vagrant unless one is found to be so and other conditions for the purpose are complied with.

Way out: The solution of this problem lies in real appreciation of the causes of this prostitution. Some says that state can make a legislation banning this flesh trade but it shall never cure this poignant disease rather open up a new venue for underground business of prostitution. The solution not lies in clamping down the prostitution by coercive methods but in the rehabilitation of this fallen goddess. It is the society which has created them therefore now the society has to take steps to retrieve the same. The business of prostitution has been now a vicious circle and it cannot be subdued only by means of law. Once Justice Krishnya Iyer stated, 'the success of law lies not in making the good laws but in the proper materialization and implementation of the law'. Law unless backed by social forces cannot solve this corrosive social disease.

Rehabilitation may be an effective means by which the problem can be put an end but this rehabilitation approach must not be incompatible with the prostitute's dignity

and worth of human person but designed to uplift personal morals and family life including opportunity of job and better education, family connection and economic opportunities in order to minimize the conditions that gave rise to prostitution. Besides rehabilitation, psychiatric, moral and religious spirit and support needs to be addressed which will help them deleting their past story of animal existence from their mind. They should be given the lamp of enlightened life to enable them to dream of a better life free from violence, molestation, persecution and social stigma thereby casting them in the main stream of society from which they had been cast out one day.

The writer is a Student of Law, University of Dhaka.



LAW WEEK

HC asks for girl tortured by cops

The High Court on November 14 directed Bangladesh National Women Lawyers' Association (BNWLA), a rights organisation, to bring the girl who was allegedly tortured in police custody in Kushtia in September, before it on November 29. During hearing on a rule, the HC bench of Justice Naima Haider and Justice Muhammad Khurshid Alam Sarkar said it would exclusively record statements from the girl on November 29 about the torture allegation. According to a report published in the daily Prothom Alo on September 28, police detained the girl and her mother from Rajbari on suspicion on September 9, and tortured them for six days in the police station and the office of Detective Branch of police in the district. The same bench on October 1 issued a suomoto rule asking the government and police authorities to explain why they should not be directed to take action against the responsible persons. - *The Daily Star November 15 2012*.

HC stays housing project work in Ctg

The High Court on November 13 stayed for three months the proceedings of Sampan Satellite Town Project of Chittagong City Corporation (CCC) in Kalurghat area of the district. The court passed the order after hearing on a writ petition filed by M&M Services, a consultant organisation, challenging the legality of the city corporation's decision to appoint a developer company for the project after cancelling the appointment of the petitioner (M&M Services). Following the petition, the HC bench of Justice Naima Haider and Justice Mohammad Khurshid Alam Sarkar also issued a rule asking the CCC authorities to explain why their decision to cancel the appointment of the petitioner and to appoint another company for the project should not be declared illegal. - *The Daily Star, November 14 2012*.

HC rejects petition challenging legality of alleged detention

The High Court on November 13 rejected a writ petition which challenged the legality of the alleged detention of a defence witness of Jamaat-e-Islami leader Delawar Hossain Sayedee. The HC bench of Justice Naima Haider and Justice Muhammad Khurshid Alam Sarkar rejected the petition, considering that it was not placed before it. Abul Kalam Azad, a friend of the defence witness Shukho Ranjan Bali, had filed the petition on November 7 stating that law enforcers abducted Ranjan from the International Crimes Tribunals' entrance on November 5. The petitioner sought HC directives to produce Ranjan before the court to show that he was not illegally detained. - *The Daily Star, November 14 2012*.

Defence witness 'detention' plea rejected

The High Court on November 13 rejected a writ petition that had challenged the legality of alleged detention of a defence witness of Jamaat-e-Islami leader Delawar Hossain Sayedee. Abul Kalam Azad, a friend of defence witness Shukho Ranjan Bali, had filed a writ petition with the HC earlier claiming that law enforcers have kept Ranjan detained from November 5. Ranjan was picked-up from the main entrance of International Crimes Tribunal-1 on the day and was not produced before any magistrate till November 13. The HC bench of Justice Naima Haider and Justice Muhammad Khurshid Alam Sarkar rejected the petition on considering that the petition was not submitted before it. Earlier on November 7, Azad filed the writ petition with the HC seeking directives on the government to produce Ranjan before the court to show that he was not illegally detained. - *The Daily Star online edition, November 13 2012*.

ACC to sue more Sonali Bank officials

The Anti-Corruption Commission (ACC) will take legal action against more Sonali Bank officials reportedly involved in its 3,600-crore loan scam. "Apart from the accused officials of Sonali Bank, the bankers who showed negligence of duty in this regard will be sued," ACC secretary M Faizur Rahman Chowdhury told a monthly press briefing of the commission at its headquarters in the city on November 13. On October 4, the ACC filed 11 cases against Hall-Mark managing director Tanvir Mahmud and 26 others, including 20 Sonali Bank officials, with Ramna Police Station on charge of swindling out Tk 1,568 crore from the Ruposhi Bangla branch of the state-owned bank showing fake documents. - *The Daily Star online edition, November 13 2012*.

Contempt pleas against Sajeda, Matia disposed of

International Crimes Tribunal-2 on November 13 disposed of two contempt of court petitions filed against ruling Awami League leaders Syeda Sajeda Chowdhury and Matia Chowdhury for allegedly making statements disrespecting the tribunal. While passing separate orders on the petitions, the three-member panel led by its Chairman ATM Fazle Kabir said the tribunal expects a responsible person holding significant office of the government should be restraint and careful in making such comments on a sub-judge matter. In the orders, the tribunal said it was disposing of the petitions filed against Sajeda, also deputy leader of the House, and Matia instead of initiating further proceedings. - *The Daily Star online edition*

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