

RIGHT TO FREEDOM FROM TORTURE AND ILL-TREATMENT

This chapter reports on allegations of torture by law enforcement agencies and the absence of any corrective action. It shows that Bangladesh has failed to maintain its commitments under international treaties and its own Constitution.

Bangladesh is bound to prohibit torture and all forms of cruel, inhuman and degrading treatment, to investigate such allegations and bring all perpetrators to book, according to the Constitution and its own treaty obligations under the CAT and the International Covenant on Civil and Political Rights (ICCPR).¹ Despite these standards, and important safeguards enunciated in national laws and through judgments of the High Court, torture remains widespread across the country.

Under the state of emergency in 2008, the provisions of the Emergency Powers Rules, which appeared to sanction torture and to embed impunity for perpetrators, remained in force until 17 December. No steps were taken in this context to enhance the state's international obligations, either by ratifying the Optional Protocol to the CAT or the Statute for the International Criminal Court. Similarly no steps were taken to frame legislation which would incorporate any relevant international treaty obligations or even High Court directions regarding safeguards against torture into national laws. However, a series of judicial orders from the High Court provided protection against ill-treatment to under-trial prisoners.

Section 54 of the Code of Criminal Procedure (CrPC) empowers the police to arrest any person without any warrant on suspicion of committing an offence. According to Section 167 of the CrPC, a magistrate can remand an arrested into police custody for interrogation to extract information and evidence from the person. However, sub-sections (3), (4) and (4A) provide safeguards to prevent abuse of the provision of remand.

The High Court, in the judgement delivered in 2003 in *BLAST v Bangladesh*,² directed the Government to amend the sections to make them more consistent with constitutional provisions. The law, however, is yet to be amended as the Government preferred an appeal against the verdict. According to the directives, the interrogation on remand should be conducted in a specified way in a specified place - a room in jail with a glass-covered transparent wall. And during the interrogation on remand, any relative or lawyer of the arrested person may be present outside the specially built room, so that the interview can be observed.

Since the delivery of the judgement, hardly any interrogation has been conducted at the jail gate or in presence of the lawyer or relatives of the arrestee. In 2008, however, former prime ministers Sheikh Hasina and Khaleda Zia, her sons Tarique Rahman and Arafat Rahman and a few of Khaleda Zia's cabinet colleagues were interrogated at jail gates, and in some cases, in presence of their lawyers in accordance with court orders.³

Although the law enforcers argue that torture in remand for interrogation is a tool for extorting information from an arrestee, in the judgement in *BLAST v Bangladesh*,⁴ the High Court observed that in view of Article 35 of the Constitution, "any information which is obtained or extorted by taking an accused on remand and by applying torture, the same information cannot be considered as evidence and cannot be used against him." The very system of taking an accused into remand and extorting information by application of force is "totally against the spirit and explicit provisions of the Constitution," the High Court held.

1 See in particular Article 35(5) which stipulates, 'No person shall be subjected to torture or to cruel, inhuman, or degrading punishment or treatment' and Article 31 which enjoins that 'No action detrimental to the life, liberty, body, reputation or property of any person shall be taken'.

2 *BLAST v Bangladesh*, 55DLR (2003), p. 363.

3 Court permits ACC to quiz Khaleda, Tarique at jail gate, *New Age*, 21 July 2008.

4 *BLAST v Bangladesh*, 55DLR (2003), p 363.

The legal safeguards, along with the High Court directives, have reportedly been routinely violated in 2008.⁵

Incidents

According to newspaper reports, at least 166 people were killed extra-judicially by the law enforcers in incidents of “crossfire” or “encounter”. The government has to date not made public whether any inquiry has ever been held in respect of any such extra-judicial killings (see chapter on Right to Life).

Allegations against RAB

Torture of Joypurhat Bar Association Vice President

ASK investigations in April 2008 regarding allegations of torture on advocate Biman Chandra Basak, Vice President of the Joypurhat Bar Association, revealed that two persons in RAB uniforms, along with six or seven men in plainclothes, caught Biman at around 3:00 am on 3 April, about 200 yards away from his house. They tortured him and interrogated him about two statues. They took him handcuffed in their microbus to a school ground, where they poured water into his mouth and nose. As villagers gathered to protect Biman, the attackers, who introduced themselves as RAB members, threatened the villagers. After about an hour of torture, they left the place and Biman was admitted in Joypurhat hospital with severe injuries including a fractured leg. The commander of the Joypurhat RAB camp claimed that no one from his unit was involved in the incident. He mentioned that the Bogra RAB camp may have conducted the operation. Later, he claimed that the attackers were not members of RAB at all. Although Biman said he could identify the perpetrators, there was no report to date of any such identification having been made, or of any further inquiry into the matter.⁶

High Court orders RAB to produce detainee

The High Court on 26 October 2008 asked RAB to explain in three weeks why it should not be ordered to produce Hasan Khan, whom it had allegedly detained on 25 May 2008 and whose whereabouts were since unknown.⁷ The court passed the order after hearing a writ petition filed by ASK and Hasan’s wife Hasi Begum. ASK’s investigations indicated that a RAB team had arrested Hasan Khan of Dattapara, Tongi on 25 May 2008, when he, and his wife Hasi, were returning home after his appearance in a criminal case in Gazipur court. The RAB personnel gave no reason for the arrest, Hasi followed the microbus that took her husband towards the RAB office at Uttara. She was denied access to the office. ASK wrote to the DG RAB seeking information on Hasan’s whereabouts, but since they received no response, a PIL was filed by ASK.⁸

Allegations of Babul’s torture by RAB

Mohammad Babul (30 years), a cloth trader, of Ispahani area in Aganagar of Dakhin Keraniganj in Dhaka, on his way to Kaliganj, on 24 July, to collect dues from one of his customers, was suddenly arrested by a team of RAB-10 unit, blindfolded and driven away in a microbus. After some time, the black cloth was removed.

Babul was admitted to Dhaka Medical College Hospital, where he told journalists that he was taken to an empty field in Postogola, where “they tried to tie me down, I resisted. The RAB men fired blank shots and shouted, ‘The terrorist is fleeing. Catch him. Shoot him’.” “One of them stood on my chest and started beating me. All the time they were asking me to give them the firearms. One of them said, ‘Shoot him in the leg.’ I

5 See Chapter 3 on Judgements on Fundamental Rights at p. 39.

6 ASK Investigation Report. See full report at ASK’s web site- http://www.askbd.org/web/wp-content/uploads/2008/08/Joypurhat_adv_biman_final.pdf.

7 *Ain o Shalish Kendra vs. Govt. of Bangladesh*, Writ Petition No. 7894 of 2008.

8 See chapter 5 on Right to Liberty at p. 65.

was shot on the right leg. I screamed in pain. Another said, 'Shoot him again' and I was shot again in my leg. I was praying to Allah all the time for my life."

In RAB's version of events, after they arrested him on 25 July (not 24 July as Babul claims) and accompanied him to recover a cache of firearms, his "accomplices" fired on them. When Babul tried to flee during the gunfight he received bullet injuries. The RAB-10 commanding officer SM Kamal Hossain, accused him of being "a criminal in the guise of a clothes trader," running a syndicate of brand forgers and selling counterfeit clothes.⁹

Babul admitted that he had been earlier implicated in a fraud case but denied any other involvement in crime. This was confirmed by the Kotwali thana police Officer in Charge Abdul Hannan who commented that Babul "is not on the list of criminals, let alone being a top criminal."

Parents demand investigation into sons' death in RAB "crossfire"

Mosharaf Hossain Sentu (28 years), who had come from Korea, and his friend Rezaul Karim (27 years), a salesperson, were allegedly killed in "crossfire" by a team of RAB-10 on 14 July 2008 at Shyampur. At a press conference on 28 July, the parents of both men stated that a plainclothes team of RAB-10, instigated by some local drug-peddlers and land-grabbers, had picked their sons up on 12 July 2008 from near their residences. They contacted RAB-10's office, but RAB denied arresting them. After being informed by local people of their sons' deaths on 12 July 2008, the parents again went to the RAB office at night. They were told to contact the Shyampur police station. The parents claimed that there were no criminal records against their sons, and that their work with the local community to combat crime had resulted in their facing such reprisals. They appealed to the authorities including the Director-General of RAB to conduct a proper investigation and ensure punishment of the guilty.¹⁰ There is no information of any such investigation having been held to date.

The following allegations of custodial torture by RAB have also been reported, without any clear information as to action taken in respect of each incident:

- On 22 May 2008, Habibullah (10), who worked at the residential quarters inside the RAB-10 camp at Lalbagh, Dhaka, was found dead with marks of injury on his body.¹¹
- On 18 March 2008, Md. Afzal Khan (21), of village Binodpur, Charerkandi, District Shariatpur, was arrested by a team of the RAB-8, and died in Dhaka Medical College Hospital on 20 March. His father Abdur Rahman, a retired subedar of the Bangladesh Army said that on 21 March, on collecting Afzal's body from the DMCH morgue he found multiple injury marks. There were wounds on the left side of the forehead, on the cheeks, lips, gums and the rear end of the skull. Afzal's neck was also broken on the left side. His stomach was inflated, the veins of his legs had been slit and bore blood stains.¹²

Allegations against police

Several allegations of police torture reported in 2008 included the following:

- On 16 March 2008, a bakery worker, Nazrul Islam, was allegedly beaten and his leg fractured by Quamrul Islam, Officer-in-Charge of Srinagar police station in Munshiganj, because he bathed in the police station pond.¹³

9 "Mrityur Dhar Thekey Firey Asha Babuler Bibhishikhamoy Boarnoana" [Horrific Tale of Babul Returned from the dead], *Shamokal*, 29 July 2008.

10 *Parents demand investigation of sons' death in RAB "crossfire"*, *New Age*, 29 July 2008.

11 "Boy found dead in RAB mess", *The Daily Star*, 23 May 2008.

12 "Fruit vendor beaten by RAB to death", *New Age*, 26 June 2008.

13 ASK investigation report.

- On 17 March 2008 at around 3:00 am Munsur Ali (45 years), of Nayapara village of Saturia in Manikganj, and his daughter Rahima Akter, a college student, were allegedly tortured by policemen who accused them of abetting a man to escape arrest.¹⁴ No case was filed in either incident.



Custodial Rape

An incident of custodial rape was recorded by the police in Rajshahi on 9 October against an Assistant Sub-Inspector (ASI) of Boalia Police Station on charges of raping a field worker of an insurance company. According to the FIR, ASI Faruk used to harass the victim over phone and one afternoon he took ASI Abdul Hamid to the victim's house. The victim lived with her mother. The rapist threatened the victim saying that he is a policeman and raped her. Later, the victim narrated the incident to her mother who with the help of a person named Alam admitted her to the One Stop Crisis Centre (OCC). ASI Abdul Hamid and Faruk who were named in the first information report (FIR) went into hiding after filing of the case.¹⁵

Impunity in earlier cases of torture

Update on Rang Lai Mro

Rang Lai Mro, the head of the indigenous Mro community in the CHT, and a Union Porishod Chairman was arrested in February 2007 and held in Chittagong District Jail. He was charged with possessing a pistol without a license. Four months later he was sentenced to 17 years' imprisonment for the offence, though his lawyers informed the court that his pistol was licensed.

After his arrest he was, reportedly, severely beaten by army officers at the local army headquarters, Bandarban Cantonment. The incident of torture was never investigated. He was treated in Bandarban General Hospital, where doctors diagnosed a heart attack. He was sent back to jail without appropriate medical treatment. In October 2007 his health further deteriorated, and the doctors advised that he needed treatment in a specialised hospital. But he was once again sent back to jail, where his health deteriorated and he was at risk of a heart attack.

The Government has transferred over a dozen prisoners needing special attention to well-equipped hospitals this year, but Rang Lai Mro has not been one of them. Some of these prisoners have even been allowed to go abroad for treatment. On 12 February five organisations and prominent citizens wrote an urgent appeal to the Chief Advisor of CTG to take necessary action to ensure appropriate and prompt medical treatment for Rang Lai Mro. They also urged him to review the case, as they believe it involved a serious miscarriage of justice, and in particular to review the issuance of the sanction order in this case, and to ensure his speedy release.¹⁶

14 *Ibid.*

15 "Cop goes into hiding after being charged with rape", *The Daily Star*, 10 October 2008.

16 "Memorandum Seeking Urgent Release and Medical Treatment of Rang Lai Mro, Chairman of Mro Social Council and Sualok Union Porishod, Bandarban District", 12 February 2008.