

Human Rights Situation of Bangladesh in 2011

■ Legislative and Policy Developments

The state took several positive initiatives in the interest of justice and in defense of human rights. The major initiatives included:

--Establishment of the International War Crimes Tribunal following amendment by Parliament of the International War Crimes Tribunal Act, 1973;

--The Parliament enacted the Legal Aid (Amendment) Act 2011 to provide legal assistance to the poor and underprivileged and the Domestic Violence (Prevention and Protection) Act 2011 to ensure protection of women within the boundaries of the family.

-- The Cabinet approved the (1) National Policy on Children 2011 to protect the rights of children, (2) National Policy for the Advancement of Women, (3) draft bill for the Prevention and Elimination of Human Trafficking 2011 and, by a gazette notification authorized six months' maternity leave for women in government employment.

--The Ministry of Education issued a circular to all educational institutions, following a Supreme Court judgment banning eleven types of punishment in schools, to stop physical and mental punishment of students, and to instruct Teachers' Training Centres and governing bodies of educational institutions to implement guidelines issued by the Court.

--The Ministry of Women and Children's Affairs submitted the Sixth and Seventh report to the Committee on Elimination of All forms of Discrimination against Women (CEDAW).

-- The Ministry of Expatriates' Welfare and Overseas Employment established a Migrants' Welfare Bank to provide financial and other facilities to migrant workers.

-- A separate armed battalion of 371 female members of the Police force officially started its operation.

■ Judicial Developments for protection of fundamental rights

--The Appellate Division of the Supreme Court declared illegal penalties inflicted by declaration of *fatwa*. The judgment also stated that only persons adequately educated in religious affairs were qualified to deliver *fatwa* on religious matters.

-- On January 13, 2011 the High Court Division Bench delivered a judgment that held corporal punishment to constitute a clear violation of children's fundamental rights to life, liberty and freedom from cruel, inhuman and degrading treatment.

--The High Court Division declared the secret trial of one of the Sector

Commanders of the Liberation War, Lt. Col. M. A. Taher, in a special military tribunal on March 22, 1976 void and illegal. The Court also directed the government to recognize Colonel Taher as a martyr.

■ **Legislation that derogated from human rights**

Some legislation enacted by Parliament had negative implications for human rights. These included:

1. **The Fifteenth Amendment to the Constitution** declared the Fifth Amendment to be illegal in conformity with the Supreme Court judgement. While the amendment reverted to secularism as a fundamental principle of the state, it retained Article 2A (under the Eighth Amendment): “ The state religion of the Republic is Islam, but the State shall ensure equal status and right in the practice of the Hindu, Buddhist, Christian and other religions”. Thus it created a basis for discrimination between the majority of Muslims and persons of other faiths including Hindus, Buddhists, Christians, animists etc.
2. **Vagabonds and Homeless Persons’ (Rehabilitation) Act 2011** Originally meant to help rehabilitate homeless people, the Vagrant and Shelterless Persons (rehabilitation) Act 2011 has become a “tool” to put the shelterless behind bars. The law brands homeless people as possible criminals. It also gives law enforcers the authority to pick up any person at anytime.

Serious concerns were expressed by citizens at the poor implementation of reform measures by concerned agencies, and human rights organizations submitted memorandums to the government regarding law enforcement measures which were a source of insecurity and human rights abuses.

■ **Civil and Political Rights**

1. Right to Life

1.1 Disappearances

In 2011 ‘disappearances’ or ‘secret killings’ were reported in the media. Discovery of decomposed bodies of some of the victims, bearing visible marks of torture, such as tied hands and legs or uprooted finger nails was reported after complaints of disappearances. In some cases, the relatives of the disappeared or persons killed alleged the involvement of law enforcing agencies, particularly the elite force RAB.

Many human rights groups expressed their anxiety about recent occurrences, and were critical that relevant authorities rather than investigate complaints of disappearance and extra judicial killings, defended the actions of the law enforcement agencies. The Chairman of the National Human Rights Commission, Dr. Mizanur Rahman in expressing his concern regarding the recent

incidents of disappearance or secret killings was reported to have said, “The strategy of extra-judicial killing has now been changed. Previously there was "cross fire", now citizens are picked up and no trace is found. In many cases, their families cannot even find the dead bodies.”

In 2011, the total number of enforced disappearances were 58, out of which 16 dead bodies recovered.

1.2 Extra Judicial Killing

In 2011, the media reported on 100 incidents of extra judicial killings, 42 by RAB, 47 by police, five by RAB and police, four by RAB and Coast Guard and one by joint forces.

The Awami League, in its election manifesto had promised to end extra judicial killings and establish the rule of law. Families of victims have alleged that they have not been informed by RAB of any investigation into extra judicial killings nor of any action having been taken against RAB personnel. On the contrary, RAB officials have justified such killings as having resulted from "cross fire" with an armed gang, or in self defense. In the case of Limon, a college student from Jhalokathi district, who became disabled after being shot by RAB members, no action has been taken against the RAB personnel, and instead charges of his involvement with a criminal gang have been filed against Limon.

In 2011, 100 persons were reported to have been killed in custody of law enforcement agencies.

1.3 Mob violence

Allegations of criminal involvement of the police were reported in the media. On July 27 2011, in Companygonj thana of Noakhali district, the police handed over 16 year old Shamsuddin Milon to a mob which beat him to death. The police then took away his dead body. A video tape of this incident revealed a horrific scene where some members of the mob hit Milon with sticks, and crushed his head with a brick. This barbaric incident took place in the presence of some police on duty. An audio tape also recorded the police asking the mob to kill the young boy.

In another incident on July 18, 2011, six students, suspected of robbery, were reported to have died following a mob beating at Aminbazar, Savar. Evidence by Al-Amin, a friend of the six young victims, showed that a local mob had beaten his six friends to death in the presence of police. Al-Amin also said in an interview, “At one stage during the mob violence, one of the members of police asked the villagers to spare at least one, otherwise they will be in trouble if all of them are killed.” Thus, Al-Amin survived as the villagers stopped beating him on advice from the police.

Such acts of lawlessness in the presence of police indicate a loss of confidence in methods of law enforcement and in the criminal justice system. After the death of the six young boys, police ironically filed a robbery case against the victims. Newspaper reports compiled in 2011 indicated that 134 persons had been killed by mobs.

In another incident, on the night of July 15, 2011, Abdul Quader, a student of Dhaka University was arrested by the police and the officer in charge of the Khilgaon Police Station tortured him ruthlessly with a *Chapati* (type of knife). The torture had been so severe that Quader had to appear before the Court in a wheel chair. Mamtaj Uddin Ahmed, a lawyer, died under treatment in the prison hospital after his arrest on August 26 2011. His family alleged that his death was caused by custodial torture.

The number of deaths in jail custody in 2011 reached 116.

1.4 Border Killing by the BSF

This year 39 Bangladeshis were reported to have been killed by the BSF, 64 were injured and 30 persons abducted. A teenage girl, Felani was shot to death by BSF on January 7, 2011 at Anantapur border in the Fulbari upazila of Kurigram district. The Indian BSF shot dead four Bangladeshi citizens on the borders of Dinajpur, Meherpur and Kurigram districts on December 16 and 17. Although at a meeting between the two border forces, BSF agreed not to use lethal bullets, this decision does not seem to have been complied with, as deaths at the border were reported during the year.

2. Right to Assembly and Freedom of Association

2.1 Harassment of Political Activities

In 2011, the law enforcement agencies used excessive force, including mass arrests, to prevent observance of *hartals* (strikes) called by the opposition party. It was alleged that the latter used destructive methods such as arson and physical attacks to intimidate citizens into observing *hartals*.

This year mobile courts were used to instantaneously arrest participants in political processions supporting the *hartal* in different places and convict them for different terms. On the day before the BNP declared *hartal* of June 11 2011, 54 persons were arrested by mobile courts from different places in Dhaka. The political situation became more tense due to indiscriminate baton charge on passersby and treatment by the police of the opposition party chief whip Joynul Abedin. In another incident, on the night of July 5 2011, prior to the *hartal* of July 6-7 called by the BNP, party cadres set fire to the vehicle of Mosharaf Hossain, a fruit vendor, who was returning from Chapainawabgonj after purchasing mangos.

On December 19, 2011, one person was killed in a bomb blast in Dhaka during BNP's political programme and another person was burnt to death when a bus was set on fire in Sylhet.

2.2 Section 144

Section 144 of the Code of Criminal Procedure is used to prevent public assembly and to maintain law and order. According to media reports, this year Section 144 was enforced 133 times at different places in the country. The administration used section 144 to prevent meetings called by rival parties, particularly when members of the ruling party declared programmes at the same time and place as those announced earlier by the opposition parties. This was a clear violation of the freedom of association as guaranteed in Article 37 of the Constitution. Again, Section 144 was enforced at Sunetra in Sunamgonj district where the ruling party activists called a meeting at the same place where the National Committee to Protect Oil, Gas, and Energy Resources had earlier called a meeting. The Member Secretary of the Committee, Professor Anu Muhammed was physically assaulted by the ruling party activists.

3. Right to a Fair Trial

3.1 Political Consideration for Presidential Clemency and withdrawal of Cases

The President's announcement of clemency for Awami League Leader A. H. M. Biplob, son of Laxmipur's Mayor Abu Taher, who had earlier been convicted and sentenced to death for murder of Advocate Nurul Islam, a BNP leader of Laxmipur, gave rise to serious controversy. This year, the National Committee to withdraw Political Harassment Cases recommended withdrawal of cases on grounds that the charges were politically motivated. Charges filed on allegations of involvement in serious offenses such as murder, were also withdrawn for political consideration. Almost all of them had been filed against the ruling party leaders or activists. This tendency to withdraw criminal cases on political consideration without following proper judicial process deters the establishment of rule of law. In the last three years, during the term of the present government, the committee has recommended withdrawal of 7,100 (seven thousand one hundred) cases. Out of these 6,785 were regular criminal cases and remaining 315 were corruption related cases.

3.2 Trial of BDR Personnel

The trial for charges into the BDR mutiny started in February 2009 is now at its final stage. So far charge sheets have been filed against 850 members of BDR under the Penal Code and Explosives Act and trials of Penal Code cases are ongoing. Fifteen witnesses have been examined in this case during the year. The

families of BDR personnel have raised concern regarding the transparency of the trial. Different telegraph messages released by the Wikileaks in July and August 2011 revealed that many BDR personnel had died after torture in Army custody.

4. Right to freedom of Expression

4.1 Violence on Journalists

Throughout the year journalists have been subjected to torture by ruling party cadres, local influential leaders or law enforcement agencies. While discharging professional duty in 2011, journalists were subjected to harassment cases, threats to life and physical assault. This year 305 journalists were allegedly tortured.

Cases of violence included the following:

--A case for damaging vehicles was filed against 15 journalists in the incident of violence that occurred during protests by Jagannath University students demanding cancellation of Section 27/4 of the Jagannath University Act.

--Hasanul Huq, a journalist from Bangla Vision was assaulted by RAB;

--Gias Ahmed, the Joint Editor of *Desh* TV was beaten by the traffic police for questioning the timing of the traffic signal;

--While discharging his professional duty *Prothom alo* employee Manzur Ahmed was picked up by a RAB vehicle, after a squabble with the RAB officers.

After reviewing the draft broadcasting policy prepared by the government for private radio and television stations the Parliamentary Committee on Ministry of Information returned the draft with recommendations to redraft the policy to ensure freedom of the press as guaranteed in the Constitution. The draft had already triggered strong reaction in the media and amongst experts against its controls and they had recommended wide consultations in drafting a policy.

5. Beggars' Survey is a Violation of Human Rights

In 2011 a Beggars' Survey was conducted in Dhaka for the first time. Human rights organizations opposed the process followed for the survey and sought intervention of the National Human Rights Commission stating, "Such kind of survey is contrary to the principles of human rights. We also believe, as begging is an offense under the Dhaka Metropolitan Police, the registration of a person, as a beggar without proper verification would identify him/her permanently as a criminal.

6. Right to Information

Even two years after the enactment of the Right to Information Act, which aims to provide transparency and accountability of public and private institutions, citizens are not able to access information. The government needs to take up programmes to raise public awareness and to sensitize information officers in different institutions on procedures for maintaining and disseminating

information. Recently on receiving complaints of denial of information, the Information Commission delivered its first judgment against two health officers of Narayanganj; one of them was penalized and the other rebuked.

7. National Human Rights Commission

On June 22, 2010, the government appointed the Chairman and six members of the National Human Rights Commission, but has not met its staff needs in full. Although the Commission requested for 68 staff the government appointed only 28 persons, most of whom are support staffs. On September 29, 2011, Dr. Mizanur Rahman, the Chairman of the National Human Rights Commission went to visit Sylhet Jail, but was refused permission by the jail authority. Such an attitude of the prison authority set a negative example in upholding rule of law and effective monitoring of the human rights situation.

8. Rights of Women

8.1 Violence against Women

Despite many deterrent measures taken by the government and the administration, sexual harassment and stalking of women and girls has acted as a serious threat to the security of young school and college going women. In some cases the stalkers attacked those who protested sexual harassment. On November 26, 2011, in Barisal district, the stalkers stabbed Md. Jinat Ali, a school teacher and freedom fighter to death, when he protested harassment of his daughter and informed the police. In 2011, 33 women and girls committed suicide because they were being stalked and 23 were killed by the stalkers for protesting such acts.

Despite Appellate Division's judgment declaring extra judicial punishment in the name of *fatwa* to be a criminal offense, the number of incidents of violence against women in the name of *fatwa* or *shalish* (traditional arbitration) had increased in 2011 compared to the previous year. This year, 59 women had been subjected to torture by *shalish* or issuing of *fatwa*.

In several incidents, elected public representatives, local union council chairmen and members, local influentials, political leaders played a leading role in inflicting violence during *shalish* (mediation). Recently, the electronic channel showed a video of barbaric torture on two housewives, Happy and Shahida, at Badarganj, in Rangpur district, following a *shalish* decision. In another incident, in Shariatpur district, a teenage girl Hena was raped by her cousin Mahabub. But the village *shalish* ordered Hena to be flogged. When she became unconscious, she was admitted to the local health centre, but the *fatwa*-givers forcibly sent her home from the hospital, where she died without treatment.

Torture or humiliation in the name of *fatwa* is not only confined to women, rather

such practices are used against people of different religions and cultures. On April 4, 2011, in Rajbari district, the local Mufti (Islamic cleric) Riaz declared a *fatwa* at a *shalish* against Bauls (a community of bards practising their own culture with distinct religious belief), who joined a Baul song festival. Their head, mustache and beards were forcibly shaved, and they were taken to a nearby Mosque for conversion to Islam by pronouncing *tauba*, (repentance) which is very alarming.

Recently, a new dimension has been added to violence against women through misuse of information technology by recording and releasing of obscene video clips. Such offenses are committed by close relations of the victims such as husbands, boy friends or lovers as well as by rapists. Parimal, a teacher of the Vigarunnissa Noon School, not only raped his student, he also allegedly recorded the occurrence. Such recordings have even led to suicide by the victim. This year, 42 women were subjected to harassment/torture through misuse of information technology and two of them committed suicide.

This year, 502 women were subjected to violence for dowry demands, 62 were victims of acid violence and 782 were raped. Reportedly, 117 domestic workers were tortured this year. The emigrant husband of Hawa Akter Jui, a student of class twelve at the Narsingdi Government College, cut off four fingers from her right hand, because he disapproved of Jui's desire to continue her studies.

8.2 Workers' Rights

Labour protests took place in readymade garment industries at Siddhirganj, Narayanganj, Savar, Ashulia, Gazipur due to denial of proper payment of wages, increment and sudden lay off.

Following a clash between workers and police at Uttara EPZ of Nilfamari district cases were filed against 2,000 workers. At different times throughout the year cases against general workers including workers' leaders have been filed. With regard to a meeting arranged at the Central Shaheed Minar on April 27, 2011 demanding implementation of the declared minimum wage by the Board of Minimum Wages and the Labour Act, 2006 cases have been filed in Tejgaon, Paltan and Motijheel Police Station on May 1, 2011 against some union leaders and activists including Doctor Foyjul Hakim Lala, the President of Bangladesh Trade Union Federation, Razekuzzaman Ratan, the General Secretary of Socialist Workers' Front.

The death of construction workers at the work place due to non-compliance with the Bangladesh National Building Code (BNBC) has been a significant issue.

The Fourth Conference of Colombo Process on migrant workers held in Dhaka in

April 2011 was participated by representatives of international organizations, ministers from home and host countries and employers. Although the Conference agreed to promote adequate wages for migrant workers, to prevent harassment, cheating, exorbitant cost of migration has not been reduced yet.

On October 7, 2011, eight Bangladeshi migrant workers were beheaded in Saudi Arabia. The High Court Division of the Supreme Court issued a show cause on the government to explain if proper steps had been taken to prevent their execution. The Court also ordered the Foreign Secretary and the Foreign Employment Secretary to investigate the incident and submit a report within eight weeks.

Ship Breaking Industry

As in previous years the media has reported on deaths of workers in ship breaking industries caused by explosions. Despite guide lines issued by the High Court Division workplace safety rules are not complied with particularly in this industry. A draft of “Hazardous Waste and Management of Ship Breaking Waste Rules, 2011” has already been prepared but according to newspaper sources, without consulting the environmental experts and workers in the ship breaking industry.

9. Rights of Indigenous People

9.1 Chittagong Hill Tracts Peace Accord

There has been no progress in implementation of Chittagong Hill Tracts Accord since it was signed on December 2, 2011, The settlement of land disputes in the Chittagong Hill Tracts has not proceeded because the *Adibashis* ownership of land is communal, but the Bangali settlers have registered their allocated land as individuals, and allegedly taken over some land belonging to the *Adibashis*.

The council of advisors to the concerned ministry remains ineffective. The implementation of development projects is not effective. District Councils consisting of members nominated by the government instead of elected ones is unable to play an effective role in development relating to public interest. As a result violent clashes between the two communities have exacerbated political conflicts, ethnic and communal clashes and provoked violence against women.