



## Odhikar Observes International Day in Support of Victims of Torture 26 June 2010, National Press Club, Dhaka

On the occasion of the International Day in Support of Victims of Torture, Odhikar organised a discussion meeting at the National Press Club on 26 June 2010. Odhikar's human rights defenders also staged rallies in the districts of Munshiganj, Tangail, Sirajganj and Satkhira to observe the day. Advocate Adilur Rahman Khan, the Secretary of Odhikar, chaired the meeting while Farida Akhter, eminent women's rights activist and the Treasurer of Odhikar, presented a position paper on behalf of Odhikar. Advocate Yousuf Hossain Humayun, Presidium Member of the Bangladesh Awami League; Mirza Fakhrul Islam Alamgir, Senior Joint Secretary General of the Bangladesh Nationalist Party (BNP); Mahmudur Rahman Manna, an Awami League leader and former Vice President of the Dhaka University Central Students' Union (DUCSU); Mahbulul Alam, Member of the Central Committee of the Communist Party of Bangladesh (CPB); Saiful Haque, the General Secretary of Biplabi Workers Party<sup>1</sup>, Razekuzzaman Raton, Member of the Central Committee of Bangladesher Shomajtantrik Dol<sup>2</sup>; Dr. Mushtaq Hossain, former General Secretary of DUCSU; Dr. Piyash Karim, Professor of Sociology, BRAC University; Dr. Asif Nazrul, Professor of Law, Dhaka University; Dr. Faizul Haqim Lala, the Secretary of Jatiyo Mukti Council<sup>3</sup>; Mustain Jahir, Member of the board of editors of the fortnightly Bangla language magazine 'Chinta' and Abbas Faiz, Senior Researcher for South Asia, Amnesty International, spoke at the meeting.



Odhikar's position paper referred to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) and its implication in Bangladesh. In accordance with the resolution adopted by the General Assembly on December 12, 1987, it was decided that the June 26<sup>th</sup> of every year would be observed as the international day against torture. Human rights activists across the globe observe the day to express their solidarity with the victims of torture. In Bangladesh, incidents of human rights violation are increasing at an alarming rate with law enforcing agencies resorting to cruel, inhuman or

<sup>1</sup> Biplabi Workers Party is a revolutionary communist party in Bangladesh.

<sup>2</sup> Bangladesher Shomajtantrik Dol is a socialist party in Bangladesh.

<sup>3</sup> Jatiyo Mukti Council (National Liberation Council) is a political organisation.

degrading treatment towards persons in State custody. In recent times, allegations of assassination and abduction by law enforcement agencies have added a new dimension to the incidence of extrajudicial executions.

Bangladesh ratified the Convention against Torture on 5 October 1998. However, this highly volatile state of human rights has remained the same during every regime in the past – whatever the form of government may be. The practice of torture is supported by existing repressive laws and also with the abuse of laws. Lack of legal protection for the citizens has also contributed to the misuse of existing laws. Despite a long political struggle for democracy and demands from the human rights defenders, no change in the attitude of the ruling class has been visible.



During the immediate past regime of the unelected government (the military-backed 'caretaker' government), fundamental rights of the citizens, guaranteed by the Constitution, were suspended through the proclamation of a State of Emergency followed by different Ordinances that consolidated the base of the State oppression. People's ways to protest or express their opinions were narrowed down or banned. Despite all odds, and in the face of threats from the authorities, Odhikar made a strong stand against curtailment of people's rights during the State of Emergency. When all attempts of the authority to stifle Odhikar's voice were proved futile, its Director was picked up and harassed by law enforcers.

Torture by law enforcement agencies has long been quite habitual in Bangladesh. In general, torture is applied to extort information or confessional statements by force or to force the persons in custody to give false statements and sometimes to take revenge on the opponents. It is very difficult to find the actual statistics of the incidents of torture. However, evidence suggests that the number of victims who are being deprived of their human liberty and dignity through physical and mental torture is alarmingly high.

Bangladesh is still not complying with its international obligations to prevent torture. Inhuman and degrading treatment at detention centres still is done with absolute impunity. Between January 1 and June 24, 2010, at least 24 persons were reportedly tortured by the law enforcing agents. 8 of those 24 victims died due to torture. It is not easy to determine the actual number of torture victims as many of the victims do not share their experience due to fear for further torture. However, the reported numbers are enough to prove that the problem is a very serious one.



Odhakar has recently conducted fact-finding missions to enquire into a number of incidents of torture. In one incident, Mohammad Manik, a night guard of Anjuman Residential Hotel died while in the custody of the Kotowali Police Station in the Chittagong Metropolitan City on May 11, 2010. Manik's family alleged that Sub Inspector (SI) Younus Mia arrested Manik on May 10, 2010 and tortured him to death.

Rabiul Islam Khokon died in the custody of the Chatkhil Police Station in Noakhali district on May 13, 2010. Khokon's family alleged that he was admitted to Noakhali General Hospital in a critical condition after he had been physically tortured by Sub Inspector (SI) Abdul Mannan while in remand. When his condition deteriorated, he was moved to Dhaka Medical College Hospital where he died.

On June 2, 2010, Mahmudur Rahman, the acting editor of the Bangla daily newspaper 'Amar Desh', was arrested in a case filed at the Tejgaon Industrial Area Police Station. Five cases were filed against him following his arrest and he was also implicated in another case filed earlier. Subsequently, he was taken on a twelve-day police remand. At around 6.30am on June 23, 2010, he was taken to an unknown destination from the office of the Detective Branch (DB) of police by two cars that had no number plates. When he was produced before the court on the following day on June 24, he said that he was first taken to the office of

Rapid Action Battalion (RAB) 1, and then was allegedly left blindfolded and alone in a small dark chamber; he was kept standing throughout the day with his hands tied to an iron grille. Allegedly, he was also forced to put his signature and fingerprints on a blank sheet of paper. Article 35(5) of the Constitution of Bangladesh, the supreme law of the land, states that no person shall be subjected to torture, or cruel, inhuman or degrading punishment or treatment. However, incidents of torture and other cruel, inhuman or degrading treatment or punishment by the law enforcement agencies continue with impunity.

In Bangladesh, the term 'torture' has no legal definition. Sections 330 and 331 of the Penal Code state that whoever voluntarily causes hurt or grievous hurt for the purpose of extorting any confession or any information which may lead to the detection of an offence, shall be punished with imprisonment of either description for a term which may extend to ten years and shall also be liable to fine. However, application of these sections is hardly seen. Since torture has not been declared a punishable offence, incidents of torture are rampant in our country with no legal action taken against the perpetrators.



Exercise of torture does not conform to the democratic nature of a country. Many existing laws of Bangladesh make way for torture by the State. The ruling class uses these laws as tools for torture. Section 54 of the Code of Criminal Procedure (Cr. PC) of 1898 allows the law enforcers to indiscriminately arrest any person. This provision has long been abused. Section 167 of the Cr. PC provides for taking an accused on remand upon order from the court. It is a general perception that the term 'remand' is synonymous to 'torture'. Nonetheless, there is no initiative to make amendments to the laws that allow arrest without warrants and thus make room for torture. All governments in Bangladesh have always shown more interest in the application of repressive laws than in the fair laws.

In the judgement of the case of BLAST<sup>4</sup> versus Bangladesh (55 DLR, 363), the High Court Division of the Supreme Court of Bangladesh issued a set of directives for the Parliament to introduce laws for amendments of several legal provisions including sections 54 and 167 of the Cr. PC. However, those directives have not yet been followed. The High Court judgement gave specific directions on how a person should be interrogated. Magistrate Courts across the country, in contravention of those directions, are issuing remand orders quite liberally. The accused in the custody are being reportedly tortured physically and

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<sup>4</sup> BLAST: Bangladesh Legal Aid and Services Trust. A human rights and legal aid-providing organisation of Bangladesh.

mentally. There are also allegations of torture in the guise of interrogation at the Joint Interrogation Cells and Taskforce Interrogation Cells.

Successive governments have shown a tendency to keep control through repression and torture directed at their political opposition. They also tend to resort to the tool of torture to consolidate their power. The situation is not improving as there exists impunity for the perpetrators. Moreover, the repressive and colonial characteristics of the police system have been retained instead of developing it as a service-providing institution. A culture of fear prevails across the country; leading to the strengthening of a belief in the society that situation can be controlled by torture. It is impossible to find a way out from this situation unless we can pursue a wide scale change in the undemocratic and anti-people characteristics of the whole system.

Advocate Yousuf Hossain Humayun, Presidium Member of the Bangladesh Awami League, the current ruling political party, said that there is legal provision for remand but physical torture is illegal. He said that the practice of extrajudicial executions started through the Operation Clean Heart and formation of RAB after the four-party alliance government<sup>5</sup> came to power in 2001. He also said that if people are aware of their rights, those who exercise torture will also be aware of their responsibility. He emphasised on the importance of a discussion on 'crossfire' and 'remand' in the Parliament. Advocate Humayun said that, first of all, we have to develop a democratic culture and make people aware of their human rights.

Mirza Fakhrul Islam Alamgir, Senior Joint Secretary General of the Bangladesh Nationalist Party (BNP), alleged that the present Government was not honouring its election pledges to take strong measures to protect human rights and to ensure the rule of law. He said that Mahmudur Rahman, the acting editor of the Bangla daily newspaper Amar Desh, had been tortured in the way people used to be tortured in the medieval period. He alleged that the government is inflicting torture on the leaders and activists of the Opposition and the journalists. He said that the nation was undergoing an excruciatingly uncomfortable situation but the people cannot even express their grievances due to government repression. He called for national unity against torture.

Mahmudur Rahman Manna, a leader of the Bangladesh Awami League and former Vice President of the DUCSU, expressed his condolence to Mohammad Shahjahan, the father of Khokon who died in the custody of the Chatkhil Police, who was present at the meeting. He commented that the government should conduct a proper investigation into the incident of the killing of Khokon and those found responsible, should be brought to justice. He said that the present political leaders of Bangladesh lack values. He called upon all the political parties to correct themselves.

Mahbubul Alam, a member of the central committee of the Communist Party of Bangladesh, said that the culture of torture that prevails today is the result of conflict of interest. He commented that it is the political will that can stop torture. However, no government in

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<sup>5</sup> Four Party alliance government was made up of the Bangladesh Nationalist Party, the Jamaat -i-Islami, the Islami Okkyojot and the Jatiyo Party (M).

Bangladesh has played their role to stop torture. He questioned how torture can be stopped if a Minister of the present government speaks in favour of 'crossfire'.<sup>6</sup>

Saiful Haque, the General Secretary of the Biplabi Workers Party, said that the State itself was directly involved in torture. He commented that State is oppressive by nature. The Judiciary of the Government cannot operate independently even though it has been separated from the Executive. He alleged that the Government was playing tricks on the people by keeping all the repressive laws in force. Haque said that there was no guarantee that an arrestee would return in sound health after being arrested. The present Government pledged changes but has failed to meet the people's expectations though it has been in power for 18 months.

Razekuzzaman Ratan, a member of the Central Committee of the Jatiyo Shomajtantrik Dol, said that law enforcers are not involved in torture alone. He said that political thugs affiliated to the ruling party are also involved in the process. Law enforcement agencies were named 'Chita' (Panther) and 'Cobra', apparently to intimidate people. While speaking on crossfire, he commented that it was not 'crossfire' but direct firing. He termed the existing rule in the country as nothing but the 'rule of revenge'.

In his speech, Dr. Mushtaq Hossain, a former General Secretary of DUCSU, said that every government in Bangladesh has so far come up with the same form of repression – be it an elected government or an unelected government. The political parties forget their commitments once they are elected. While pointing to the behaviour of the police, he said that we had seen the police taking sides of the owners of garment factories and beating garment workers on rooftops of factories. He called upon everyone including the Judiciary, the Executive and law enforcement agencies to be respectful to human rights.

Dr. Piash Karim, a Professor of BRAC University, commented that Bangladesh has turned into an authoritarian State resorting to the rule of torture, ignoring the major problems that called for urgent attention. While commenting on the issue of crossfire, he said that what actually happens is that somebody is picked up and killed by law enforcers and a story of 'crossfire' is fabricated afterwards. He called for a united effort to fight against torture.

Dr. Asif Nazrul, a Professor of Law at Dhaka University, said that it remains with the court to protect human rights. However, the court cannot play its role properly as it has to act upon directions from the Ministry of Law. He referred to the directives that the High Court delivered in its judgement in BLAST versus Bangladesh (55 DLR, 363) and said that the directives were not being followed in case of remand.

Dr. Faizul Haqim Lala, the Secretary of the Jatiyo Mukti Council, said that the ruling classes use torture as a tool to continue with their pillage and corruption. The court grants remand even when it is aware that the accused would be tortured while in remand. Though a health check of the accused is mandatory before and after remand, it is not followed. He said that the structure of the State has turned fragile with laws favouring the rulers. The Government shows no tolerance to criticism. Lala said that workers had been arrested while they were staging peaceful demonstrations to press home their demands, which was no offence. He

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<sup>6</sup> On 28 March 2010, Home Minister Sahara Khatun commented that the police and RAB members are left with no option but to open fire when criminals shoot at them.

stated that the way to change the prevailing situation is to lay siege to the centres of power of the State.

Mustain Jahir, a member of the board of editors of the fortnightly magazine 'Chinta', said that following the fall of the autocratic government of HM Ershad, the Caretaker Government led by Justice Shahabuddin Ahmed repealed the very part of the Special Powers Act of 1974, which provided for State control over the press. Nonetheless, the freedom of the press has not yet been protected. He feared that all others might have to face the same kind of torture in future that Mahmudur Rahman is undergoing now.

Abbas Faiz, Amnesty International's senior researcher for South Asia, said that he has been involved with Bangladesh for the last 15 years and has observed that the use of torture has been a common phenomenon during every regime in Bangladesh. During every regime, members of the opposition parties fall victim to torture but when they return to power, they adopt the same path. No government in Bangladesh has played any role to stop torture. Torture has not yet been criminalised in our country and no laws have so far been introduced in this regard. If a law enforcement agent or a government officer directly or indirectly inflicts physical pain or other cruel or inhuman treatment on a person in custody for the purpose of extorting any confessional statement or any information, the treatment will be defined as torture. Religion or ethnicity might also be a reason behind torture. Section 54 of the Code of Criminal Procedure is a contributing factor in the practice of torture. He concluded by saying that though signatory to several anti-torture conventions, Bangladesh has failed to stop torture.

Mohammad Shahjahan from the village of Majgotpara under the Chatkhil Police Station in Noakhali district presented the story of how his son, Rabiul Islam Khokon, had been tortured by police while the President of the Dhaka Bar Association, Advocate Sanaullah Miah, gave an account of the mental torture and physical ill-treatment on Mahmudur Rahman, the acting editor of Daily Amar Desh.



