

## INTERNATIONAL DAY IN SUPPORT OF VICTIMS OF TORTURE

### ODHIKAR'S NATIONAL AND LOCAL-LEVEL ACTIVITIES

25 – 27 JUNE 2009

June the 26<sup>th</sup> is declared as the UN International Day in Support of Victims of Torture. In light of this, Odhikar, as part of its UN-OPCAT activities, took up a three-day programme from 25 to 27<sup>th</sup> June 2009. On the 25<sup>th</sup> and 26<sup>th</sup> June, memorandums were handed over to the Deputy Commissioners and Superintendents of Police, rallies and meetings were organised at the district level in the Odhikar's programme areas of Satkhira, Jessore, Kushtia, Sirajganj, Rajshahi, Dinajpur, Tangail, Munshiganj and Sylhet. On 27<sup>th</sup> June as the grand finale Odhikar organised an unprecedented event 'Tribunal against Torture' in order to increase public and media awareness about the rapidly degrading situation in Bangladesh with regard to torture. The tribunal was followed by a roundtable discussion, attended by among others, current and former Members of Parliament, journalists, lawyers, academics, politicians from the governing party and the Opposition, etc. This report highlights the activities of the three days and their outcome.

### **DAY ONE: 25<sup>th</sup> June 2009**

*Localities Covered:* Satkhira, Jessore, Kushtia, Sirajganj, Rajshahi, Dinajpur, Tangail, Munshiganj and Sylhet.

*Activities:* Memorandums were handed over to the Deputy Commissioners and Superintendents of Police in 9 districts and also to the Police Commissioners of the metropolitan cities of Rajshahi and Sylhet. The issues highlighted in the memorandum were: enactment of a national legislation criminalising custodial torture in Bangladesh; urge the government to lift the reservation on Article 14 of the Convention against Torture and sign the OP-CAT.



*Human rights defenders of Odhikar submitting a memorandum to the Deputy Commissioner in Munshiganj*



*Human rights defenders of Odhikar submitting a memorandum to the Metropolitan Police Commissioner in Rajshahi*



*Human rights defenders of Odhikar submitting a memorandum to the Deputy Commissioner of Police in Sylhet*



*Human rights defenders of Odhikar submitting a memorandum to the Additional Deputy Commissioner in Jessore*

**Outcome:** The civil and police administration of the programme areas have taken note of the contents of the memorandum and assured the HRDs that they would deliver the message to the government.

## DAY TWO: 26<sup>th</sup> June 2009

*Localities Covered:* Satkhira, Jessore, Kushtia, Sirajganj, Rajshahi, Dinajpur, Tangail, Munshiganj and Sylhet.

*Activities:* Human rights defenders of Odhikar organised rallies in 9 districts on the occasion of the UN International Day in Support of Victims. HRDs were assembled after the rally and delivered speech against torture. Memorandums were also read out at the meetings.



*HRDs of Odhikar organised a public rally observing the UN International Day in Support of Victims of Torture in Rajshahi and Tangail.*

**Outcome:** The participation at the rallies observed in nine districts was highly satisfactory. It brought people together under one umbrella to fight against torture. The people as well as the district authority are now well aware of the significance of the day.



## DAY THREE: 27 June 2009

*Localities Covered:* Dhaka, Tangail, Rajshahi, Jessore

This was the last day of the programme, and took place at the national level, in Dhaka. Odhikar organised a Tribunal against Torture in the morning, followed by a roundtable discussion focussing on torture, the CAT and OP-CAT. The events took place at the CIRDP Auditorium, Topkhana Road, Dhaka – a central location.

*Activities:*



*One of the victims of torture delivering his statement before the tribunal. The Jury sit in the centre.*



*Participants at the Tribunal against Torture organised by Odhikar and RCT, Denmark in Dhaka*

**The Tribunal:** The Tribunal against Torture was the first of its kind ever to be held in Bangladesh. Five courageous victims of torture and the wife of a deceased victim, made their statements to a packed auditorium of approximately 120 persons. Supporting them were two ‘experts’, who discussed the various provisions of the law under which the victims could seek justice and the perpetrators be punished, and a Jury of three eminent members of society.

## ***The Testifiers:***

### **1. Md. Din Islam Angel:**

Md. Din Islam Angel is a 4<sup>th</sup> year student of Mass Communications and Journalism Department of the University of Dhaka.. On 20 August 2007, an argument took place between the plain clothed Army personnel and students during a football match. At one point army personnel attacked the students and beat them up. This led students to bring out a procession, protesting against army personnel. The police and army threw tear shells and baton charged the agitated students in order to disperse them. Several students were injured during this attack and many students were arrested.

On 21 August 2007, army and police began to randomly beat students wherever they found them. The situation in university campus became complicated. Teacher’s student’s and senior army officers sat together to resolve the crisis, but soldiers were not ready to compromise. On the same day at around 12:30 pm some agitated students set fire on an army van. Students came out to the street and demanded punishment for alleged Army atrocities on students and the removal of the Army camp from the Dhaka University campus. The government imposed curfew on 22 August 2007. Din Islam Angel went back to his village home in Munshiganj. He came to know that he had been implicated in two separate cases filed at the Shahbagh police station in connection with setting fire to an army van and violating Emergency Power Rules. The army were looking for Angel to arrest him. On 7 September 2007 they went to Angel’s village and beat his sister and brother and took away their mobile phones. The army also tortured his father, mother and sister-in-law on 8 September to make them disclose Angel’s whereabouts.

On the morning of 8 September, the army came with Angel’s brother and father to Puradisi village and located him. Angel was taken to a temporary army camp at Munshiganj Municipality. The same day at around 10 am they put him in a van, blindfolded and hand-cuffed. He was taken to Dhaka where he was kicked and beaten severely by the army several times. Angel was taken into remand twice, for 7 days the first time and 4 days the second time. He was brutally tortured in remand. They beat him on the soles of his feet, which became swollen. Angel was not allowed to bathe or brush his teeth during remand. The army officials forced him to confess before the Court as per their directives. He was intimidated and also threatened with being killed in crossfire. Finally on 19 September 2007 he was sent to Dhaka Central jail. The conditions in jail made him suffer more. More than 200 inmates, including Angel, had to live in a cell which had capacity for only 65. Angel had to appear before the court 2-3 times a month. He spent five months in jail without any proof that he had committed any crime.

## **2. Salim Reza Newton:**

Salim Reza Newton is an Associate Professor of the Department of Mass Communications and Journalism of the University of Rajshahi. He became a victim of ill-treatment at the end of 2007 due to his participation in a peaceful procession against repression on students, in breach of the State of Emergency. Newton along with his colleagues took to the streets protesting against the brutality on students at Dhaka University. As a teacher and conscious citizen he led in some silent processions.

The Army and police raided the teacher's residential quarters after the protests and processions. Newton became a target of the military backed regime. Three of his colleagues were arrested by RAB at midnight while sleeping at home. Newton became a fugitive for some time. After a few days of filing a case against them, police framed a charge sheet and included his name for instigating violence in a public place. As per court order, Newton along with his colleagues surrendered before the Court. He had to spend three months in jail. Later the court gave him two years imprisonment.

## **3. Sandha Simsang:**

Sandha Simsang is the widow of prominent ethnic minority (Garo) leader, Choles Ritchil, who was taken away in the custody of the joint forces stationed at Khakraid under Modhupur Police Station, Tangail District on 18 March 2007, and tortured to death. In 2003, the government of Bangladesh announced a plan to create an Eco-Park in Modhupur forest and started erecting a wall around 3,000 acres of Modhupur forest without seeking the consent of the Garo people living in the area. About 25,000 Garo people faced eviction because of the Eco-Park. On 3 January 2004, thousands of Garo people staged a peaceful protest against the Eco-Park. There were several clashes between Garo protesters and the police, leading to injuries and deaths. Mr Choles Ritchil, who was one of prominent indigenous leaders to oppose the Eco-Park, was implicated in several false cases by the police, who considered him a trouble-maker. According to eye-witnesses, who were arrested with Choles Ritchil, Mr Ritchil was tied to the grill of a window and mercilessly beaten by nine law enforcement personnel. The Joint Forces personnel used pliers to press the testicles of Mr Choles Ritchil and stick needles in his fingers. They poured hot water into his nostrils. He was then hanged upside down and brutally tortured. He vomited blood again and again and fainted many times. At one point a physician in uniform accompanied by Major Toufique Elahi came into the room. Mr Choles Ritchil was taken out of the army camp. Mr Ritchil's dead body, which was handed over to the family members on 19 March 2007, bore evidence of torture – his eyes had been taken out, his testicles removed, anus mutilated, the palms of both hands smashed, nails of 3 fingers of the right hand removed etc. Though the deceased's wife, Sandha Rani Simsang, had filed a complaint with the Modhupur Police Station on 20 March 2007, no First Information Report (FIR) had been registered.

## **4. Mahbubur Rahman:**

Mahbubur Rahman is a staff reporter of the Daily Amar Desh, a Bangla daily newspaper. He was also a Dhaka University representative of the same daily. During the clash between the army and students on 20 August 2007, he was one of the eyewitnesses.

A huge number of police kept their position and surrounded the campus area. The students were gathering in large numbers near the *Shaheed Minar* at 12:00am. Pro-VC

Professor AFM Yusuf Haider went there to request the protesting students to return to their halls. At the same time, Professor Haider also requested police to leave the place. Nevertheless, police started a baton charge towards the gathered students. Professor Haider could not escape from police beating either. Mahbubur Rahman rushed to spot and tried to save the Pro-VC from the police batons. He protected Professor Haider with his arms. Police started beating indiscriminately. As a result, his right hand broke. Mahbub was admitted to the hospital for couple of days for treatment.

One day Mahbubur Rahman received a mobile call from unknown number. The caller asked him to go to the army camp set up in the Parliament Bhaban. He was taken inside the camp at gun point. After one and half hours, an Army officer came and wanted to know his identity. Another officer came with a recorder and sat in front of Mahbubur Rahman. He was asked questions and intimidated by the Army personnel. The Army officers accused him of being with the student movement. They wanted Mahbubur Rahman to identify students from pictures he had taken of the riots, so that they could make arrests. The Army gave him three days time and after three days he was called again in the Army camp and became a victim of mental torture. He was called by the Army seven times and humiliated very badly every time.

#### **5. ASM Nasiruddin Elan:**

ASM Nasiruddin Elan is the Director of Odhikar. On February 21, 2008, according to local media reports, investigations by local human rights organisations, and witness accounts, Lieutenant Commander S.M. Reza and a naval contingent from the navy camp in Char Fashion, Bhola, detained Khabirul Islam Dulal, a Ward Commissioner and accused him of possessing illegal weapons. After he denied the allegations, they threatened to kill his wife and children. They took Dulal to the navy camp, where they bound him and threw him into a pond, whereupon he drowned. Navy officials stated they had conducted an internal investigation that found Dulal had fallen into the pond and drowned while attempting to flee. According to an autopsy, at the time of Dulal's death, his body, including his genitalia, was severely bruised, some of his finger and toe nails were missing, and his throat was distended. According to the human rights organisation, Odhikar, when one of their investigators questioned navy personnel about the case in March, as part of a fact finding mission. A naval officer threatened to make him "disappear" if he did not stop investigating the case. Navy intelligence officers, on May 3, 2008 picked up Nasiruddin Elan and held him alone in a room at the Navy head quarters for five hours and later verbally abused him and threatened him and his family. They accused him of collaborating with foreign agents. They had done a detailed background check on him, and used it to threaten to harm his wife and child. The officers held a gun to his head and made him sign a blank piece of paper. The government supported the navy's version of events. No further investigation was conducted, and no disciplinary action was taken against the navy personnel involved.

#### **6. S M Akhtar Faruk Mintu:**

S M Akhtar Faruk Mintu is the Chairman of Monoharpur Union Parishad (lowest tier of the local government body) in Jessore. On 6 June 2007, Mintu went to attend a funeral in his locality. At about 5.00 pm, an officer of the Water Development Board called him up and introduced him to a colonel in the joint forces. The Colonel asked Mintu to meet

him within 20 minutes. Mintu was picked up by army officers in a van. He was taken to Shankarpur joint forces camp where he was interrogated by a Major, who asked him about some incidences that in no way involved him. Mintu was locked in a small and dark room. At around 12 am, an army official came to his room with a stick and beat him so badly that he was bruised and bleeding from his soles to his knees. After beating him for about 5-6 minutes the army officer left and another came in and abused Mintu again. He wanted to know why he had been arrested. Instead of replying, the officer kicked him in his groin. Over successive days, hot water was poured up his nostrils, his legs were broken, his toe nails ripped, boil eggs were forced up his anus and his finger nails were cracked with pliers. When the officers could get no statement from him, they decided to kill him, but he refused to eat or drink anything they gave him. He was forced to drink some water while his head was in a hood (he was being taken away in a microbus), and he managed to spit it out without being seen. The officers left him under a tree in a bazaar and he was able to notify a friend who took him to the hospital for treatment. His family have been under constant threat ever since and are too afraid to file a case against the perpetrators.

### ***The Experts:***

The legal experts highlighted legal points and elaborated the testimonials in the light of the Convention against Torture and existing legal regimes of Bangladesh. The experts were Advocate Shah Bakhtian Elias and Advocate Mohammad Assaduzzaman. Their job was to discuss the legal implications of the incidents of torture and whether it was possible for the victims to get justice. Both commented that there was ample opportunity for all the victims to file cases against the perpetrators, under the Penal Code, the Evidence Act and the Constitution of the People's Republic of Bangladesh. For example, the Penal Code has provisions for 'Grievous Hurt' and provides punishment for any one who commits such hurt in order to extract a statement or confession.

### ***The Jury:***

The Jury consisted of Major General (Retd.) Moinaul Hossain Chowdhury, former Adviser to the caretaker government in 2001; Mr. Farhad Mazhar, author, human rights activist and advisor of Odhikar and Dr. Mizanur Rahman, Professor of Law at Dhaka University and the Director of the Empowerment through Law of the Common People (ELCOP).

After hearing the testimonials, members of the Jury made their individual deliberations and collectively made a statement. They commented that regardless of the fact that all the victims had named their torturers and others involved in the crime, those who had filed cases against them had yet to see any justice. Other observations passed by the Jury were as follows:

- The Government must lift its reservation on Article 14 of the UNCAT and enact laws that provide for the compensation and rehabilitation of victims of torture and/or their families.
- The Government was in violation of the Constitution of Bangladesh as it allowed law enforcement agencies to act with impunity and torture detainees.
- The situation within the law enforcement agencies had deteriorated and that there was no accountability or discipline, which bred an enabling atmosphere for the use of torture.
- That the concept of ‘joint forces’ was wrong and that the army should only assist the civilian law enforcement in times of crisis. Since the State of Emergency had passed and we were now under an elected government, the system of ‘joint forces’ should be dismantled.
- Information gathered by use of torture has no legal value. Nonetheless, torture is being widely used by law enforcement agencies so we should look into the underlying reasons behind the use torture.
- Mass media can play a strong role against torture.
- If we let torture continue, we all will be held accountable for the practice of torture.
- Both individuals and the system as a whole are to blame for torture.
- Torture violates human dignity and since human dignity was one of the goals of our war of liberation so it is our national responsibility to stop torture to reach one of the great goals of our war of liberation.
- Freedom from torture and intimidation lies at the basis of human rights. We must stop torture and punish those responsible for torture to establish a society free from torture and intimidation.

**Collective Statement of the Jury:** The Jury of today’s Tribunal against torture believes that any form of torture is a blatant violation of human rights as torture degrades human dignity in the end. Torture cannot be accepted in any civilised society. Torture also obviously violates the Constitution of Bangladesh which is the supreme law of the country and is contrary to the values behind our war of liberation. It is to be remembered that the establishment of human dignity was one of the goals of our war of liberation. This is why there should not be any scope for torture in the executive or judicial mechanism of Bangladesh. Some of the victims of torture have given the testimonies to torture on them before the tribunal today. Those who were responsible for these incidents of torture must be brought to justice and given exemplary punishment. The sooner the State can try the perpetrators, the better.

**Outcome:** The Tribunal was highly appreciated by all present, who were both shocked and moved by the testimonials. Two of the victims thanked Odhikar for allowing them to unburden themselves and said they felt lighter by talking about their ordeal. The Tribunal received wide coverage in both the electronic and print media, due to the fact that it was a very rare occurrence, and this helped in raising the awareness that the Government must do something to criminalise torture and punish the perpetrators.



## ***The Roundtable Discussion***

The Tribunal against Torture was followed by a roundtable discussion on the issue of torture, the UNCAT and the UNOPCAT. The meeting was attended by approximately 150 people, including the following speakers:

- M. Asafuddowla, Former Secretary and Executive Director, Bangla Vision
- Barrister Moudud Ahmed, Member of Parliament and Member, Standing Committee, Bangladesh Nationalist Party (BNP)
- Dr. Mohiuddin Khan Alamgir, Member of Parliament and Presidium Member, Bangladesh Awami League
- Mahmudur Rahman, Chairman, *Amar Desh* Publications
- Saber Hossain Chowdhury, Member of Parliament and Organising Secretary, Bangladesh Awami League
- Dr. Salimullah Khan, Chief Academic Adviser, Department of Law, Stamford University
- Sigma Huda, Advocate, Supreme Court and human rights activist
- Matiur Rahman Chowdhury, Chief Editor, The Daily *Manabzamin*
- Saiful Huq, Secretary General, Revolutionary Workers Party
- Kazi Murshedul Haque, Joint Coordinator, Hizbut Tahrir Bangladesh
- Khairuzzaman Modhu, Convenor, Sharsha Upazila BNP, Jessore



*Lawmakers and human rights activists and other distinguished speakers at the roundtable discussion organised by Odhikar in association with RCT, Denmark in Dhaka*

### **Speakers:**

Odhikar President Dr. C R Abrar presided over the roundtable while Professor Dr. Salimullah Khan presented the keynote paper at the beginning of the session. Dr. Khan focused on the issues of torture and good governance in his paper. Adilur Rahman Khan, Secretary of Odhikar, moderated the programme.

According to Dr. Khan, one reason torture and other forms of cruel, inhuman or degrading treatment drew wider attention in the late 1940s was the experience of varieties of European fascism, an experience quite new for countries of western Europe in a while but very familiar with the peoples of countries colonized by European powers. That explains perhaps why certain colonialist circles vacillated on or even resisted the declaration of human rights and why the discourse of human rights eventually was appropriated by a racist ruling class on a world scale. The end of colonialism didn't mean the end of racism.

He continued by stating that the international community has recognised torture as one of the most brutal and unacceptable assaults on human dignity from which no region in the world has managed to free itself. The prohibition of torture, inhuman and degrading treatment or punishment is therefore expressly prohibited by countless international conventions, both universal and regional and international law doctrine has for several decades considered this prohibition to be part of international customary law, which cannot be derogated in time of peace or war, or under the pretext of imminent danger to national security. Accordingly, this unconditional ban on torture is an internationally recognised obligation for every State official, regardless of whether his or her government has ratified any human rights instruments. Yet, despite this universal condemnation, these appalling abuses still persist around the world.

Bangladesh ratified the Convention against Torture (CAT) in 1998 and International Covenant on Civil and Political Rights (ICCPR) in 2000. However, the Optional Protocol to the Convention against Torture and Rome Statute (1998) of the International Criminal Court that established the *International Criminal Court* has not been ratified by Bangladesh.<sup>1</sup> Both are crucial instruments to eradicate torture that may prevent torture and other cruel, inhuman and degrading treatment as well as punish the perpetrators. The Rome Statute adopted at a diplomatic conference in Rome on 17 July 1998 and it entered into force on 1 July 2002.

Bangladesh constitution explicitly states that 'no person shall be subjected to torture or to cruel, inhuman, or degrading punishment or treatment.' (Article 35(5)). However such explicit text is not sufficient indication to determine the locus of interpretation of this text and its implementation.

Recommendations that emerged at the end of the meeting were:

- Unjustifiable issues of remand should be stopped if we want to stop torture.
- Investigation should not be conducted by the members of the law enforcement agency that have been accused of torture. If the perpetrators are given the authority to investigate, aims of the investigation cannot be reached. When police are accused of a particular incident torture, the investigation into the incident must not be conducted by police.

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<sup>1</sup> Bangladesh signed but has not ratified Rome Statute. According to the Vienna Convention on the Law of Treaties Between States and International Organizations or Between International Organizations (1969) a state that has signed but not ratified a treaty is obliged to refrain from "acts which would defeat the object and purpose" of the treaty; however, these obligations do not continue if the state makes clear that it does not intend to become a party to the treaty. The Convention entered into force on January 27 1980.

- Implementation of laws relating to human rights is very difficult if Magistrates do not have effective power. Police should be brought under the supervision of the Magistracy to prevent police from abusing their power.
- Sections 54 and 167 of the Code of Criminal Procedure should be repealed as they allow police to abuse power.
- Judicial investigations should be conducted into incidents of extrajudicial executions.
- The political wing of the DGFI (Directorate General of Forces Intelligence), manipulating the national politics of Bangladesh should be banned.
- Political will is essential for prevention of torture.
- It is the State's responsibility to take steps to stop torture.