



ANNUAL ACTIVITY REPORT

Odhikar

2003

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ORGANIZATIONAL PROFILE

Odhikar is a human rights organization that works for the promotion of civil and political rights. *Odhikar* was founded on 10 October 1994 and has been registered with the NGO Affairs Bureau (registration number 924) on 25 March 1995. The organization formally began to operate from 2 March 1996. *Odhikar* is focused on working for prevention of human rights abuses and to protect and promote human rights by raising awareness about the civil and political rights situation in Bangladesh. It specifically concentrates on abuses of human rights by law enforcing agencies, violations that take place in police stations, prisons, border areas and abuses that affect minorities, women and children.

OBJECTIVES

The aims and objectives of *Odhikar* are as follows:

- Promotion of human rights;
- Advocacy and lobbying for incorporation and ratification of various international instruments by the government;
- Documentation and investigation of specific human rights abuses, including custodial death, rape, torture, political repression, violation of freedom of expression especially attacks on journalists and also rights to participate in governance, which is basically related to national and local government election;
- Promoting good governance through campaign, advocacy, lobbying, networking, training and monitoring in order to ensure people's civil and political rights as well as economic, social and cultural rights;
- To campaign for policy advocacy and awareness for ratification of the Statute of the International Criminal Court by Bangladesh
- Fostering mass awareness on rights and duties;
- Campaigning and monitoring for a free and fair electoral process to ensure voter's rights;
- Organizing seminars, workshops and discussion meetings on various human rights and related issues and attending such programs organized by others.
- Training human rights activist to develop their skill in defending human rights, and being Human Rights Defenders;
- Sending urgent appeals to national and international communities to protect human right;
- Extending solidarity to the people or communities who are victims of human rights violations across the globe.
- To monitor the implementation of international Conventions and Treaties by the Government and the legislature.

ACTIVITIES

The field of work of human rights NGO is very dynamic. Changes affecting the human rights of people occur all the time. A certain kind of flexibility to respond adequately to these changes is necessary. *Odhikar* tries to stay flexible while working for human rights promotion. *Odhikar's* work is concentrated

around five major activities; documentation of human rights violations, research and investigation of human rights violations, monitoring of police stations, training and election monitoring. *Odhikar* also files petitions, launches media campaigns and organizes seminars when it deems it necessary to respond to the prevalent human rights situation. A very essential characteristic of *Odhikar* is its focus on awareness raising. In all activities, *Odhikar* tries to send some message across the community to draw attention for awareness. Media campaigning through which tables and figures of human rights violations are disseminated and in-depth investigations and reporting about specific human rights violations are direct approaches through which *Odhikar* tries to intervene. Lobby and advocacy through local and regional networks and organizing seminars and workshops are other ways *Odhikar* works.

MEMBERSHIP STATUS

Odhikar is a member of the following organizations-

01. Asian Forum for Human Rights and Development (Forum Asia), Thailand
02. Asian Network for Free Elections (ANFREL), Thailand
03. International Movement Against All Forms of Discrimination and Racism (IMADR), Japan
04. International Commission of Jurists (ICJ), Geneva-Switzerland
05. International Federation for Human Rights – FIDH, France
06. World Organization Against Torture (OMCT), Switzerland
07. South Asia Forum for Human Rights (SAFHR), Nepal
08. Coalition for the International Criminal Court (CICC), USA

At national level, *Odhikar* works with key human rights and social development organizations on specific issue based agenda.

LIST OF EXECUTIVE COMMITTEE MEMBERS

The Members of the current Executive Committee of Odhikar are as follows:

Name	Profession	Gender	Function	Years on the board
Dr. Tasneem Siddiqui, President	Professor, Department of Political Science, University of Dhaka	F	a. She presides over all the meetings of the Executive Committee and the General Body. b. She advises and actively cooperates with the Director in implementing programs approved by Executive Committee. c. She asks Director to call Executive Committee meetings as and when felt necessary. d. She operates the Bank A/C of the organization jointly with the Treasurer and the Director.	2 Years
Dr. Tashmim Farhana Dipta, Vice-President	Physician	F	a. She assists the President in performing her duties and functions and in absence of the	

Name	Profession	Gender	Function	Years on the board
			<p>President presides over the meetings of the Executive Committee and General Body.</p> <p>b. In case of President's inability to perform her constitutional obligations for some reason or in case of President's absence from the country for more than twelve weeks she performs all other functions of the President assigned by the rules and regulation of the organization.</p>	
Dr. Saira Rahman Khan, Treasurer	Director Programmes, Acid Survivors Foundation	F	<p>a. She jointly with the President and Director operates the Bank Accounts of the organization. She manages and support accounts and expenditures according to decisions taken by the Executive Committee.</p> <p>b. She provides all necessary support to and cooperate with the Director in implementing the decisions of the Executive Committee.</p>	
Mr. A.F. Hassan Ariff, Member	Senior Advocate, Supreme Court of Bangladesh	M	<p>They attend the meetings of the Executive Committee and General Body and take active part in discussions and making decisions. They also cooperate with and provide necessary support to the Director in implementing decisions of the Executive Committee and running the programs/projects properly.</p>	
Mr. Adilur Rahman Khan, Member	Advocate, Supreme Court of Bangladesh	M		
Mr. A.H. Monjurul Kabir, Member	An independent expert on human rights	M		
Mr. Masood Alam Ragib Ahsan Member	Director, Odhikar	M		

2003:PROJECT SUMMARY

In 2003, *Odhikar* implemented the following projects. Some of the projects started before 2003 and continued during 2003 and some of the projects continued beyond 2003.

Sl. No.	Name of Project	Development Partner	Period	
			Commencement of the project	Completion of the project
01.	Documentation and Reporting on the State of Justice and Violence against Children in Bangladesh	Save the Children UK	November 2001	January 2003
02.	Human Rights: Fact Finding, Research and Action Programme	Bangladesh Freedom Foundation (BFF)	June 2002	May 2003
03.	Monitoring the Situation of Human Rights in Thanas within the Dhaka Metropolitan Area	Bangladesh Freedom Foundation (BFF)	September 2003	August 2004
04.	Investigation, Research and Publication of Human Rights Violations Program	Academy for Educational Development (AED)	January 2003	December 2005
05.	National Workshop on Media, Democracy and Human Rights	Forum Asia	May 15, 2003	June 25, 2003
06.	Monitoring the Union Council and Municipal Elections 2003 Programme	Friedrich Naumann Stiftung (FNSt)	January 2003	March 2003
07.	Monitoring Netrokona-3 Parliamentary By-Election Programme	Friedrich Naumann Stiftung (FNSt)	August 20, 2003	August 22, 2003

1. Documentation and Reporting on the State of Juvenile Justice and Violence against Children in Bangladesh

From November 2001 to January 2003, *Odhikar* carried out a project 'Documentation and Reporting on the State of Justice and Violence against Children in Bangladesh' with the assistance of Save the Children UK, Bangladesh Programme.

Rationale

In Bangladesh, laws regarding children's rights and protection are not contained in one statute, rather they are presented in various laws and statutes, such as the Constitution, the Penal Code and the Children's Act. Children who come in conflict with law do not always get the protection provided by the law, from the police, magistrates and probation officers or jail wardens. Some progressive laws, such as the Children's Act 1974, give the state a positive image but offer little protection to children because of their poor implementation. Furthermore, not all juvenile offenders up to the age of 16 can be protected by the Children's Act. Some of them are detained under security laws and tried in courts where children are not considered differently from adults.

The provisions for 'safe custody' and arrest under the vagrancy law result in deprivation of liberty of children. Unfortunately, many children are deprived of their legitimate rights when they come in contact with the legal system. Incarceration in jail or correction centre may be for indefinite periods. Children are denied basic necessities of life and have to endure abusive behaviour from adult prisoners and jail authorities, as well as authorities at the National Correctional Institute.

In view of the above situation, *Odhikar* felt the necessity of building up awareness about these issues concerning children, with hard evidence and practical examples. Accordingly it was planned to document the state of juvenile justice and the incidents of violence taking place against children.

Methodology

To obtain hard evidence and practical examples, *Odhikar's* work under the project evolved around three activities; the documentation of violations of Child Rights, investigations into reported violations of Child Rights and research into the state of juvenile justice and violence against children. For documentation purposes, nine newspapers were scrutinized everyday for Child Rights violations. These results were published on a monthly basis. *Odhikar* also carried out twelve investigations into Child Rights violations. The last activity carried out under this project, the research into the state of juvenile justice system and violence against children, resulted into publication of a yearbook on children justice and violence.

Findings (Documentation)

The following data of Child Rights violations in 2003 was obtained from the newspapers:

Table 1: Violence against Children-2003

Month	Raped	Killed	Committed Suicide	Kidnapped	Acid Victims	Arrested	Trafficked
January	14	29	6	8	6	14	6
February	18	27	5	6	2	-	5
March	34	32	9	15	4	6	18
April	51	35	17	25	3	-	10
May	60	41	13	40	3	-	5
June	58	37	10	26	9	1	-
July	54	51	12	60	4	5	17
August	47	56	9	35	13	10	26
September	54	34	5	41	5	6	14
October	50	55	6	21	5	3	9
November	30	41	8	16	3	-	5
December	24	39	1	15	4	1	15
Total	494	477	101	308	61	46	130

Summary of research findings

- ❑ Despite the existence of the Children's Act 1974, a lot of children are still denied their rights when it comes to juvenile justice system. From the moment children get in touch with the police, to their release or admission into jail or correction centre, several problems have been detected.
- ❑ Police are generally not aware of special rights for children, nor are they keen to apply what they know. The police, therefore, send many children to jail registering them as over aged and place them under arrest for charges, which are not juvenile crimes. The study shows that a majority of the children are arrested under other laws such as the Special Powers Act, the Arms Act, the Drugs Act, the Public Safety Act, Section 54 of the Code of Criminal Procedure and Section 86 of the Dhaka Metropolitan Police Ordinance (the last two allow police to arrest anyone on 'suspicion' without a warrant or magistrates permission). These laws do not distinguish between adults and children, but merely look upon the criminal offence. Children are often held according to these laws, which by practice prevent their trail as juveniles. Although the Children Act 1974 lays down certain procedures such as recognition of a child as minor, the recognition is denied when children are charged under these laws.
- ❑ Violence at the police station is also common practice in Bangladesh. While a police may wish to be different, it appears that the situation force them to be brutal as the capacity for crime detection is limited and physical abuse is also a substitute for investigation and modern methods of detection. Violence at the police station is actually considered an information gathering process. Adding the fact that children are used for political agitation and that they are the ones who throw stones and bombs at police during hartals, a hostile attitude of police is created against such children.
- ❑ When the cases against the children are filed, the children go to court. It was found that the judicial system is indifferent to children. Basic issues like taking children handcuffed to court and lack of any communication with the judges was common to all. Families face harassment and pressure from unprofessional lawyers and corrupt court officials. The lawyers came out as hostile towards children in the report and this group was seen as taking advantage of the distressed indigents.

- ❑ The process through which justice is delivered and conflict is expected to be managed is one of the problems. The Juvenile courts are not functioning at the optimum. No attention is paid to the factors that lead children towards crime. Understanding of the family and economic background, the socialization process etc. are necessary in dealing with children offenders. The causes of criminalization need to be known in order to find good ways of dealing with children commit criminal offences.
- ❑ When a court passes judgment and a child is found guilty, it will be sent to a correction centre or to jail. There are two Juvenile Correction Centers in the country, one in Tongi under Gazipur district and the other in Jessore district. Both the correction centers comprise of a Juvenile Court, a Remand Home and a Correction Centre. The Remand Home houses children under trial and on probation. Since the children have to wait for adjudication, they are not allowed to participate in any recreational activity and are not permitted to attend school or skill training. It is observed that the remand or under trial period can be very long due to the absence of proper case documentation.
- ❑ The Correction Centre houses “convict” children and guardian-referred children. Although police referred “convict” are given priority since the centre focuses on juveniles offenders, the number of guardian-referred cases is usually higher, because the institutes receive an insufficient number of police referred cases. Most of the guardian-referred children are brought in because the parents do not know how to deal with their unruly children.
- ❑ The Correction Centers are not institutions on anybody’s priority list and related officials raise questions about the usefulness and expenditure. The judges who are linked to the juvenile court mentioned that there is no real scope to deal with the problem of children in conflict with law within the present arrangement. The staff is not motivated about correction and rehabilitation because the functional objective of the Correction Centre appears to be internment for children and not correction of rehabilitation as such. There exists no long-term planning and there is lack of resources. After many years of service, staff members have developed a cynical attitude and are just doing their job. They believe that all children that have been admitted are criminals and are basically not rehabilitable.
- ❑ Although the correction centers are designed for juveniles, many children are sent to jail violating the spirit of Children Act 1974. Children accused of crime are not the only ones who end up in jail. Female inmates are allowed to keep their young children with them while serving jail sentences.
- ❑ For children the jails are especially a bad place to be in because they are more vulnerable. Convicted, under-trial and protective custody children are kept with adults in jail. They are an easy victim of abuse for the adult prisoners who are physically and mentally superior. Abuse of children by police and other inmates is common.

<p>2. Human Rights: Fact Finding, Research and Action Programme and Monitoring the Situation of Human Rights in Thanas within the Dhaka Metropolitan Area</p>
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From June 2002 to May 2003, *Odhikar* implemented a project titled ‘Human Rights Fact Finding, Research and Action Program’, and from September 2003 to August 2004 a project titled ‘Monitoring the Situation of Human Rights in Thanas within the Dhaka Metropolitan Area’ funded by the Bangladesh Freedom Foundation.

Rationale

Under Section 54 of the Code of Criminal Procedure of 1898 and Section 86 of the Dhaka Metropolitan Police Ordinance 1976, individuals can be arrested under suspicion of criminal activity without any order from a magistrate or a warrant. Some persons initially so detained are subsequently charged with a crime, while others are released without charge. The term "reasonable suspicion", which appears as a ground for arrest, is one of the reasons why these sections are so misused.

Section 54 of the Code of Criminal Procedure of 1898, has been a part of the law since its introduction in the subcontinent. It allows the police to arrest any person, in several given circumstances, under 'reasonable suspicion' and without a warrant or magistrate's order. It is alleged that there have not been open complaints about its misuse till recently. During the colonial period, the section was, however, apparently used by the British as a weapon against anti-British rebels. Therefore, its use for political suppression is historical.

The Dhaka Metropolitan Police Ordinance came into effect in 1976, five years after the country's independence. It is used by the police force in Dhaka City as a procedural law for effective policing in the capital city. The aims of the Ordinance are the creation of a separate police force for the capital city and rules and regulations for carrying out its activities. It not only has a law similar to Section 54 of the Code of Criminal procedure, but also contains provisions denoting the creation of the Dhaka Metropolitan Police force, its administration, its powers and duties, special provisions for safeguarding citizens in Dhaka (Sections 36 to 45); crimes and their punishments (Sections 46 – 103); and procedural laws. Section 86 of the Dhaka Metropolitan Police Ordinance deals with the punishment of persons arrested on suspicious motives between the times of dusk to dawn. The law states that if a person is seen between the hours of dusk to dawn, acting under several stated circumstances, then the police can arrest him/her under reasonable suspicion.

During the year 2000-2001, *Odhikar* carried out a human rights, fact finding, research and documentation program with the support of the Bangladesh Freedom Foundation (BFF). This program was directed to cover human rights violations by various agencies leading to the deprivation of rights of women and children. *Odhikar* monitored 22 thanas in Dhaka Metropolitan Area and conducted fact-finding investigations to research the human rights violations. Taking into account the recommendations made in the evaluation, the project was extended into its second phase in the year 2002 and third phase in the year.

Methodology

To investigate the human rights situation in the police stations, *Odhikar* carried on its monitoring activities and extended the number of thana's to 22 encompassing all the thana's in DMP area. The investigators went to the thanas to physically monitor the condition, the number of arrests under specific laws, police attitudes and acts of impunity. These monitoring activities were based on a self-developed check-list.

For its human rights investigations, *Odhikar* undertook 2 fact-finding missions a month. Important cases of serious human rights violations affecting women and/or children reported in the newspapers or by local networks were selected. Investigators conducted investigation and interviewed all relevant stakeholders in order to reconstruct the actual incident. Furthermore *Odhikar* compiled incidents of human rights violations affecting women and children from 9 national dailies for documentation purposes.

Findings

The investigators found that there was a vast difference between the statements of the detainees and the statements made by the police. Some detainees said that they were innocent and falsely arrested under

section 54 of the CrPC or section 86 of the DMP Ordinance, whereas the police recorded them as 'dangerous criminals'.

It was learned from the investigations that a large majority of persons arrested under section 54 of the CrPC and section 86 of the DMP Ordinance were from very poor economic backgrounds. They were homeless persons, rickshaw pullers, small-scale vegetable and fruit vendors, street children, destitute women who, being abandoned by their husbands, turn to drug peddling, selling second-hand clothes and manual labour, and also professional sex workers.

Furthermore, during times of political unrest, for example, during hartals, children are arrested and put in police cells with adults and common criminals, in total contravention with the Jail Code and the Children's Act 1974. Besides, people that refused or simply were not able to pay money, (unlawfully) demanded from them by police officers on the streets, were arrested under the aforesaid sections. The police officer in one of the project thanas even admitted that section 54 of the Code of Criminal Procedure was a way for the police to get money. Other reasons why people are arrested under these sections are political rivalry and the fact that vested interest groups pay corrupt police officers to harass rivals by arresting them.

It is common for persons arrested under either section 54 of the CrPC or section 86 of the DMP Ordinance to find themselves later charged under the Special Powers Act of 1974, a repressive law used by all the governments. This conversion occurs when a prayer or petition, for detention under the Special Powers Act, is submitted to the District Magistrate from the concerned police station, through the Superintendent of Police. The District Magistrate then issues a detention order and sends it for approval to the Ministry of Home Affairs. There have also been cases where the police have arrested a person under section 54 of the Code of Criminal Procedure and then included his name in a criminal case - even though his name was not found in the First Information Report (FIR). Thereafter, the unfortunate detainee was 'charge sheeted.'

Other investigations by *Odhikar* have shown that women and children that have been picked up from the streets at random and charged under section 54 CrPC are sent to the various shelter homes and jails in the country, as being under 'safe custody'.

All the arrested persons that were interviewed by *Odhikar* have stated that the police had asked them or their relatives for money for their release. When they could not pay, they were kept in the police lock-up and presented before the court as charged under the mentioned sections. Due to poor economic background of most of the persons, their families had to sell something, borrow or beg the money to give to the police. Some former detainees who were interviewed, said that after they had been picked up, the police asked them for Taka 100 / 200 and said that they would be freed from the police van if they paid up. Those who could not pay found themselves in the police lock-up, where the police demanded Taka 2000 - 3000 for their release. If the person held was affluent, more money was demanded. Occasionally, the police threatened those who could not pay. One of the most common threats was to include the unfortunate's name as a suspect or as accused in an unresolved police case. Some were also beaten.

The findings of this project show that there exists a major misuse of section 54 of the Code of Criminal Procedure and section 86 of the Dhaka Metropolitan Police Ordinance under which persons are arrested on the ground of 'reasonable suspicion'. More investigations are needed to reveal the truth about these practices and to put an end to this blatant violation of human rights.

3. Investigation, Research and Publication of Human Rights Violations Program

PROJECT GOAL/OBJECTIVES:

Project Goal:

To highlight the violation of civil and political rights through investigation and research and to monitor the activities of law enforcing agents in order to help contribute towards the movement for good governance.

Specific Objectives:

- Investigate the human rights abuses perpetrated by law enforcing agencies, including the abuse of specific laws, torture in remand and other forms of verbal and physical abuse, as reported in newspapers and through *Odhikar*'s local networks.
- Monitoring 4 police stations (Thana) every year, (4Thanas x 3years =12 thanas), which includes the 6 Thanas already monitored, as a follow-up programme, with regard to the use of Section 54 of the Code of Criminal Procedure, Section 86 of the Dhaka Metropolitan Police Ordinance (a law similar to S.54) and the Special Powers Act of 1974.
- Arranging a discussion meeting every year in order to highlight the findings of the investigations and create an awareness of the abuses for the policy makers and implementers. The meeting will invite representatives from concerned government agencies and ministries, member of parliament, major political party, media and civil society including other human rights organizations. Five prominent human rights activist and advocates from south and south-east Asia will be invited to participate in this meeting in order to formulate a comparative study of such police abuse in the region. There will be a separate topic for discussion every year, related to the project activities.

PROJECT ACTIVITIES:

(a) Investigation:

Investigation of human rights abuses perpetrated particularly by law enforcing agencies was the main activity under the project. *Odhikar* investigation covers torture, cruel, inhuman and degrading treatment or punishment and abuse of some specific laws leading to human rights violations, repression against innocent people and application of unnecessary force by law enforcing agencies.

For investigation component of the project, *Odhikar* depended largely on incidents of human rights violations, which have been reported in the newspapers but needed further enquiry to find out the actual abuse faced by the victims, causes and the persons responsible who were mostly from the law enforcing agencies. While media focus on human rights violations are more from journalistic perspective confining within reporting the incident only, *Odhikar* investigation goes deep into the incidents from socio-legal perspective.

For the investigation component of the project, no time frame could actually be determined. Among a number of incidents of police abuse reported in the newspapers, selective incidents were investigated. Nature of severity of harm caused, vulnerability of the victims particularly women and children, nature of

abuse inflicted by perpetrators, location of incident, repercussion among the local people etc. were taken into consideration in determining the incidents to be investigated.

Following investigations were carried out during the year 2003.

January 2003

- i) Police torture in Keraniganj in Dhaka
- ii) A wrong newspaper report of Police torture in Khulna

February 2003

- i) A Juba Dal Leader was beaten up mercilessly in Khulna.
- ii) Accusation of repression by a woman against the G.R.P police of Chittagong.

March 2003

- i) Mostafa Sheikh: Killed after Surrendering.
- ii) Clash between villagers and police in Narayanganj.
- iii) An accused person killed in thana custody in Jessore.

April 2003

- i) Suicide attempt of a Prisoner in Tangail Jail
- ii) A Youth tortured to death by police in Khulna

May 2003

- (i) Death of a day labourer by police torture in Mohonpur in Rajshahi.
- (ii) Farid Uddin was tortured to death by police in Dhaka .
- (iii) Death of a freedom fighter in Gaibandha.

June 2003

- (i) Police Inspector's rumour leads to attack on the Hindu community.
- (ii) Harassment by police due to refusal to pay toll in Munshiganj, Dhaka

July 2003

- (i) Death of a labour leader due police brutality in Mirzapur, Tangail
- (ii) A pregnant woman hospitalized due to police oppression in Khulna

August 2003

- (i) Police atrocity in arresting accused persons
- (ii) Excesses committed by uniformed forces during law and order improvement drive

September 2003

- (i) Death of a criminal by police firing in Munshiganj, Dhaka
- (ii) A housewife raped by the Officer-in-charge of Jiban Nagar Thana in Kushtia

October 2003

- (i) Housewife raped by a member of the armed forces in Satkhira
- (ii) A police constable kills his brother-in-law in Kushtia
- (iii) A young man dead due to police torture at Khilgaon Thana in Dhaka
- (iv) Death of an accused at Koira thana custody in Khulna
- (v) Death of a person by police brutality in Gulshan Thana custody in Dhaka

November 2003

- (i) Excessive use of force by Police was allegedly responsible for Narayanganj Labour tragedy
- (ii) Death of an accused at thana custody in Kurigram

December 2003

- (i) Mysterious death of an accused in DB police custody in Chittagong
- (ii) Death of a person in police custody in Shabujbag Thana in Dhaka

Summary of investigation findings

- ❑ In investigating any incident of crime, Police sometimes commit excess, which leads to violation of civil right.
- ❑ Police maintains close relation with criminals for getting undue share of illegal businesses.
- ❑ Moral character of some police officers has been found very degraded which leads them to commit crime and deprives people of their rights.
- ❑ Local units of national political parties sometimes try to provide shelter to identified criminals.
- ❑ Police and criminals have a tendency to influence medical reports to fabricate those in their favour to cover up their misdeeds.
- ❑ Local human rights activist and organizations are not always aware of violation of human rights by police. Their role is not always proactive in protecting victims of violations.
- ❑ Common people are conscious and they try to protest any violations of human rights by police.
- ❑ Enquiry of violations of rights by police officers is entrusted to other police officers which cannot ensure fair investigation and findings.
- ❑ Women and children are specifically vulnerable to police's brutal behaviour.
- ❑ Police is sometimes used by some people to harass other people.
- ❑ In some incidents, allegations against police were exaggerated and not supported by facts.

(b) Thana Monitoring

Torture and cruel, inhuman and degrading treatment or punishment, repression against the innocent people, use of unnecessary force and abuse of legal provision by the law enforcing agencies is a growing phenomenon in Bangladesh. Apparently, arbitrary arrest on the ground of "reasonable suspicion" under Section 54 of the Code of Criminal Procedure (Cr.P.C.), Section 86 of the Dhaka Metropolitan Police Ordinance (DMP Ordinance) and the Special Powers Act of 1974 and torture by the police in Thana custody have all turned into common incidents. The law enforcing agencies engaged in the practice of torture are entirely contrary to the universally accepted international human rights instruments like UDHR, ICCPR, CAT and also to the domestic legal provision and constitutional bindings and guidance. Section 54 of the Code of Criminal Procedure, Section 86 of the Dhaka Metropolitan Police Ordinance and the Special Powers Act.

Under Section 54 (S54) of the Code of Criminal Procedure of 1898, individuals may be arrested under suspicion of criminal activity without any order from a magistrate or a warrant. According to the section, there are nine specific reasons for which the police may arrest someone under this law. These reasons (summarized from the original) are:

- If the person arrested has been concerned in any cognizable offence or if there has been credible information against him or the police have reasonable suspicion to think so;
- If the person has in his possession any implement of house breaking and cannot give a lawful excuse for doing do;

- If a person has been proclaimed under this or any other Code, or by Government Order, to be an offender;
- If there is reasonable suspicion to believe that the person possesses stolen property;
- If the person obstructs a police officer on duty; or if he has or attempts to escape from lawful custody;
- If the person is a deserter from the armed forces of Bangladesh;
- If the person has been concerned in; or if there is credible information of his being so involved in; or there is reasonable suspicion that he concerned in committing any act abroad which would have been a punishable offence in Bangladesh (if committed in this country). He would be detained under custody in Bangladesh under the Fugitive Offenders Act 1881 or under extradition laws.
- If the person is a released convict, he can be arrested if he does not notify the sentencing judge of his change in address or absence from residence;
- If the arrest of a specific person for a specific crime has been made by another police officer by requisition.

Some persons initially detained under Section 54 are subsequently charged with a crime, while others are released without charge. However, as can be seen, the term “reasonable suspicion” appears in several of the reasons under which a police officer can arrest a person under Section 54 of the Code of Criminal Procedure. Unfortunately, this term is one of the reasons why this section is so misused.

Section 86 of the Dhaka Metropolitan Police Ordinance echoes the provision of section 54 of the Code of Criminal Procedure. However, Section 54 of Cr.P.C. is applied all over Bangladesh but Section 86 of DMP Ordinance is used for arrests in the Dhaka Metropolitan area only. It is also common for persons arrested under Section 54 of the Code of Criminal Procedure, to find themselves later charged under the Special Powers Act 1974, a repressive law favoured by all the governments, or the Drugs Act or even the Explosives Act. This conversion occurs when a prayer or petition, for detention under these Acts, is submitted to the District Magistrate from the concerned police station, through the Superintendent of Police. The District Magistrate then issues a detention order and sends it for approval to the Ministry of Home Affairs.

The Special Powers Act 1974 is deemed by human rights activities and other members of civil society as a repressive law. The use and abuse of this Act in the name of protecting the security of the State has resulted in a steady pattern of human rights violations. The Act provides ‘special measures’ for the prevention of pre judicial activities, for a speedy trial and punishment for grave offences. Under prejudicial acts, the law includes acts that are pre judicial to:

- The sovereign and /or state; to the maintenance of friendly relations between other states and Bangladesh;
- To the security of Bangladesh;
- To the safety or maintenance of public order;
- To the peaceful coexistence among different classes and sections of the community;
- To the maintenance of law and order;
- To the security of any section of the public;
- To the economic and financial interests of the State.

There have also been cases where the police have arrested a person under S. 54 of the Code of Criminal Procedure and then included his name in a criminal case even though his name was not found in the First Information Report (FIR). Thereafter, the unfortunate detainee is charge sheeted.

Thus, both Section 54 of the Code of Criminal Procedure and Section 86 of the Dhaka Metropolitan Police Ordinance allow police to arrest persons on ground of ‘reasonable suspicion’ without a warrant or the permission of a Magistrate.

Odhikar also found that, ‘police remand’ was being used as an excuse to physically torture detained persons. Corrupt police officers used ‘remand’ as a tool for collecting bribes from the arrested persons. *Odhikar* talked to several remand victims in monitored thanas. They alleged that the police tortured them inhumanly after taking them into remand and they were given no food during their detention under remand.

Who are detained under Section 54, Section 86 and the SPA?

Investigations carried out by *Odhikar* since January 2003 have shown that the large majority of persons arrested under Section 54 and Section 86 and under the SPA are from very poor economic backgrounds. They are either homeless persons, rickshaw pullers striving to make ends meet, small-scale vegetable and fruit vendors, street children, destitute women who, being abandoned by their husbands, turn to the streets to try and support their children and youths suspected as terrorists, extortionists and for rival political activities.

Furthermore, during times of unrest, for example, during hartals, children are arrested and put in police cells with adults and common criminals, which is in total contravention with the Jail Code and the Children’s Act 1974.

One of the reasons why people are randomly arrested under S 54 or S 86 or the SPA is police corruption. *Odhikar* thana monitors have learnt of cases where persons had been arrested on the grounds that they could not comply with request of police officers for money and therefore, arrested under section 54 of the Cr.P.C.

One of *Odhikar*’s main activities was follow up ‘fact finding’ of thana monitoring. Investigations carried out by *Odhikar* in cases of police arrest and torture revealed that the police, citing Section 54, had arrested most of the victims. Through the course of various fact-finding missions and investigations, *Odhikar* has learnt that there is a lack of proper and efficient implementation of the existing criminal laws. This is due to several factors: criminalization in the law enforcing agency, poverty and lack of awareness of legal rights. Such misuse of the law not only violates the human rights of the victims that fall under such malpractice, but also their families. The general public needs to be aware of the fact that such violations of the law occur and that immediate legal recourse needs to be taken as soon as the illegal arrest is learnt of.

From the experience of thana monitoring, it has become clear how Section 54 of the Code of Criminal Procedure and Section 86 of the Dhaka Metropolitan Police Act and the Special Powers Act can be misused to inflict human rights abuses. Not only does the detainee suffer the loss of liberty; he also has to face humiliation and police torture. The phrase ‘with reasonable suspicion’ gives the green light to unscrupulous police to misuse and abuse these Sections and contravene all Constitutional guarantees of the rights to life, liberty and equality before the law.

Not much research has been carried regarding the application and implementation of Section 54 of the Code of Criminal Procedure and Section 86 of the DMP Ordinance by the police. Since *Odhikar* is an

organization which is mainly interested in monitoring the condition of the civil and political rights of the citizens of Bangladesh, it feels that there is a need for an in-depth investigation and research into the use and misuse of such laws in different thanas of the country. It believes that a continuous monitoring of various thanas in different areas of the country – both urban and rural- will help expose the misuse of law and highlight the human rights violations such misuse causes.

Methodology:

(i) Thana Monitoring:

During the year 2003, *Odhikar* monitors visited four thanas, 5 times each a month, in order to monitor the number of people arrested under the said laws and the various reasons why they had been picked up by the police. Following information were collected during each visit of thana monitoring:

- Number of persons arrested including male, female and children
- Number of arrests under section 54 of Cr.P.C.
- Number of arrests under Section 86 of the DMP Ordinance
- Number of persons under remand
- Number of arrests under specific cases
- Number of arrests under Section 54 of the Cr.P.C. or Section 86 of the DMP Ordinance but subsequently shown arrested in other cases
- Number of arrests under Speedy Trial Act 2002
- Number of arrests under court warrant
- Whether any arrested person was kept in thana custody for more than 24 hours
- Living environment and cleanliness for arrested persons in thana custody
- Whether information records/registrars are properly maintained in thanas
- Whether special treatment was provided to women and children arrested persons
- Whether there was any complaint/allegation against police officials on duty in thana

(ii) Thanas Under Investigation:

Odhikar sent one investigator to each of the selected thanas. They monitored arrests and their consequences, under the said laws. The investigators interviewed persons incarcerated under Section 54, Section 86 and the SPA during the course of the investigation, both in the police lockup (when permitted to do so) and upon their release from lock-up or jail, and also interviewed police officers and persons who had experienced such arrests under the laws in the recent past and were freed on bail.

(iii) Documentation and Research:

The researcher at *Odhikar* completed the legal and archival side of the investigation, in order to prepare this report. A certain amount of documentation was necessary in order to glean any newspaper reports of the misuse of the laws by law enforcement agents. *Odhikar* has a documentation unit, which collects such information from eight national dailies.

Summary of findings of thana monitoring

- Large majority of persons arrested under section 54 of the Cr.P.C. and section 86 of the DMP Ordinance are from poor economic backgrounds. They are homeless, rickshaw-pullers, small traders, workers in small industries, vendors, street children, destitute women.
- The notion of ‘suspicion’ is a very subjective term and police applies it subjectively to harass people.
- In many of the incidents of arrest, police could not justify the reason for arrest and used the ground of suspicion as reason for arrest.
- Subjective application of the term ‘suspicion’ has made it a tool for abuse by police.
- Police abuse arrest on suspicion for taking bribe from arrested people to set them free in exchange.

- ❑ Sometimes police arrests people under section 54 and implicates them afterwards in other laws.
- ❑ Police is not always co-operative in providing information to human rights organizations.
- ❑ Police does not always record personal information of arrested people in thana registrars.
- ❑ The environment of thana custodies are not always healthy and clean.
- ❑ Arrested persons are not always provided with food in thana custody.
- ❑ Although there is a legal provision to produce arrested people before court within 24 hours of arrest, police does not do that. Rather police tend to get bribe from arrested people and let them free from thana.
- ❑ Police torture on people in remand is a common phenomenon.
- ❑ If police is bribed, police does not torture people under remand.
- ❑ There are some unknown people found in some thanas who act as mediator between police and relatives of arrested people for release of arrested people in exchange of money.
- ❑ In some cases, police behaved well with arrested people.

High Court Directives

In April, 2003 the High Court (HC) Division of the Supreme Court recommended some directives about the application of Section 54 and Section 167 of the Code of Criminal Procedure and the Special Powers Act. The court recommended that the Government make certain amendments regarding Sections 54 and 167 of the Cr.PC within the next six months. Section 33 of the Special Powers Act 1974. The Court also promulgated that a person arrested under Section 54 cannot be taken into police remand for interrogation without the consent of the Metropolitan Session's Judge or the District and Sessions Judge. The High Court elaborated certain mandatory directives such as the fact that the police have to immediately inform the relatives of a person who has been arrested on suspicion. The government appealed to the Appellate Division of the Supreme Court against the Session's Judge or the District and Sessions Judge. The High Court elaborated certain mandatory directives such as the fact that the police have to immediately inform the relatives of a person who has been arrested on suspicion. The government appealed to the Appellate Division of the Supreme Court against the verdict of the High Court Division regarding the application of Section 54 and Section 167 of the Code of Criminal Procedure.

As a result of the High Court Directives, the number of arrest under section 54 of the Cr.P.C. reduced in Ramna, Lalbagh and Keraniganj thana. But Section 100/86 of DMP Ordinance was used randomly instead of Section 54 of the Cr.P.C in DMP area.

(c) Discussion meeting

As part of the project activities, *Odhikar* arranged a discussion meeting in December 2003 on the theme **Breaking the Chains of Impunity: Human Rights Intervention in South Asia**. By investigation of incidents of human rights abuse by police and by thana monitoring, *Odhikar* learnt that although police is violating human rights, but in very few cases, action is being taken against police. Thus police is enjoying some sort of impunity despite violating human rights. While they should be held accountable and punished for such violations, they remain out of long hand of law. This is why the theme was chosen for further discussion and advocacy.

The discussion meeting was aimed at sharing the experience of *Odhikar* on police impunity with civil society actors and police makers. It was also aimed at getting the existing scenarios on impunity in other South-Asian countries in a comparative perspective. The discussion meeting was held on 19 and 20 December. Apart from a good number of lawyers, human rights and civil society activists, the key participants were

Justice K. M. Hasan
Barrister Moudud Ahmed
A.F. Hassan Ariff

Honourable Chief Justice of Bangladesh
Honourable Law Minister of Bangladesh
Honourable Attorney General for Bangladesh

Abdul Matin Khashru	Former Law Minister of Bangladesh
Ataus Samad	Prominent Journalist
Gopal Shiwakoti Chinton	Center for Human rights and Humanitarian Law, Nepal
Professor Buddhadev Chowdhury	Calcutta University, India
Zia Ahmed Awan	Center for Human Rights and Legal Aid, Pakistan
W. R. Sanjeeewa	Asian Human Rights Commission, Sri Lanka
Dr. Asif Nazrul	University of Dhaka, Bangladesh
A. H. Manjurul Kabir	UNDP, Bangladesh

The discussants and participants in the meeting condemned the vicious circle of nexus between politics, crime and corruption, which is making common people victim of police abuse. They commented that denial of human rights creates conditions for social and political unrest sowing the seeds of violence and conflict. Impunity, in any form, is violation of human rights as well as direct threat to rule of law, which is necessary basis for democracy. Victims do not resort to court as offences go unpunished because of ignorance of law, poor economic condition of ordinary people and fear of reprisal in many cases. The participants from other South-Asian countries opined that impunity to criminals persists in the region mainly due to government's intentions to cling to power for long abusing state power. Absence of independent judiciary and virtually non-functioning parliaments are the other causes of impunity to human rights violations. The discussants said although there are national human rights commissions in some South-Asian countries, they can only make recommendations. These bodies should be given judicial powers to make them effective. Rule cannot be established if the chains of impunity cannot be broken, concluded the participants of the discussion meeting.

The meeting ended with a number of recommendations, which include adoption of a SAARC framework convention on torture and impunity, formation of a SAARC task force to draft a South-Asian Charter on Human rights, adoption of national legislations on impunity in all countries of South Asia and cancellation of all bilateral agreements on impunity,

4. National Workshop on Media, Democracy and Human Rights

Relation among media, democracy and human rights are so interlinked that these cannot be separated from each other. Historically media played an important role in every democratic movement in Bangladesh whether it is against the military regime or elected illiberal political actor. Basically these democratic struggles have created peoples' aspiration for participation in governance and also for the enjoyment of universally accepted human rights. But there is a gulf of difference between aspiration and reality as there is lack of political willingness to implement the state obligations in accordance with international human rights instruments, which Bangladesh has already ratified. Through exposing this unwillingness and by focusing on the human rights violation and also by creating mass awareness, media is traditionally playing a positive role to protect and promote the respect for universal human rights. Even by covering international issues like war, conflict, racial discrimination, xenophobia, state sponsored torture, globalization and so-called national security law and counter-terrorism, our national media cover the wider global issues which are related with human rights. In that sense, Bangladeshi journalists are also human rights defenders like others as Special Representative to the UN Secretary General Ms. Hina Jilani mentioned in her definition of human rights defenders. As a result, they are also sometimes treated as enemy of the State as well as enemy of the perpetrators of human rights violations. They are often being targeted, attacked and harassed by those violators, rather than enjoying protection as human rights defenders. Not only by the perpetrators of human rights violations, the journalists also suffer from imposed censorship from owners of the media to protect vested personal or ideological interest. What is regrettable is that there is no strong alternative media as such to resist such pressures.

Most of the journalists in our country are not familiar with relevant international human rights instruments, humanitarian law, state obligation, regional and international mechanisms and procedures to get remedy for the victim of human rights violations. They are not familiar with the information and communication technology based alternative media outlet, which can play an important role to break the window of censorship to ensure the access to free flow of information on human rights violations.

To bridge these gaps and also to discuss some of the challenges faced by most of the journalists to protect and promote the human rights and democracy, *Odhikar* in collaboration with FORUM-ASIA organized a 6 day long national workshop from 11 June 2003 to 16 June 2003 on “Media, Democracy and Human Rights”. Total 30 media activists from national and local media as well as from media related NGOs participated in this residential workshop. The workshop covered wide spectrum of human rights norms and their relations with media and democracy. The scope of workshop ranged from peace-time to war-time, from local to national and international issues with regard to media, democracy and human rights.

5. Election Monitoring

Odhikar has been monitoring and observing national and other important elections in Bangladesh since 1996. As an Executive Committee member of the Asian Network for Free Elections (ANFREL), *Odhikar* is also engaged in international election observation. The monitoring and observation work of *Odhikar* is not only limited to the observation on polling day, but also covers the observation of pre and post election situations. To develop skills of election monitoring and observation, *Odhikar* conducts training programs, orientation courses and also pre and post assessment surveys regarding human rights situations in relation to elections.

From January 2003 to March 2003, *Odhikar* monitored elections to Union Council and Municipal Elections and from 20 August 2003 to 22 August 2003 *Odhikar* monitored Netrokona-3 Parliamentary By-Election Programme with the financial assistance from Friedrich Neumann Stiftung.

6. Documentation of Human Rights Abuses

The documentation Unit at *Odhikar* keeps the organization updated with information/news of human rights abuses published in nine national dailies. The work of the Documentation Unit is to gather and document relevant information from daily newspapers, personal and organizational sources and networks. Everyday, data related to human rights abuses is entered into the computer. The newspaper clippings are also pasted in subject-wise files, kept in the office library. There are several categories of documentation: Murder/ Rape/ Torture by law enforcing agencies; Accountability of Law Enforcing Agencies; Death in Prison, Thana and Court custody; Political Repression; Political Violence (Hartal and Section 144); Freedom of Expression; Violence Against Women; Human rights situation in the Chittagong Hill Tracts; Election Monitoring; National Security Laws; Human rights Situation in the Border Areas; Minority Rights; Statistics on Human Rights Issues; Rape; Child Rights; Acid Throwing; Dowry and Fatwa; Judiciary; Sensational cases (e.g. Mujib Killing, grafting case against Ershad, Jalal Murder and Rubel Murder) and Miscellaneous.

In 2003 a number of human rights violations were published in the national dailies. *Odhikar* documented the reporting of these human rights violations from ten newspapers. Major of them are The Daily Ajkr Kagoj, The Daily Inquilab, The Daily Janakantha, The Daily Prothom Alo, The Daily Jugantor, The Daily Manavjamin, The Daily Ittefaq, The Daily Independent, The New Age and The Daily Star. The findings on human rights abuses have been summarized in the following tables.

Table 2: Reported Human Rights Violations in the Border Area

Month(s)	Injured	Killed	Arrested	Kidnapped	Missing	Raped	Mugging/ Robbery
January	-	4	-	1	4	1	-
February	36	3	-	2	-	-	-
March	-	1	-	6	3	1	2
April	4	2	1	1	-	-	-
May	-	2	4	4	-	-	1
June	-	1	9	5	-	-	-
July	2	1	3	24	-	-	1
August	2	10	3	1	-	-	-
September	10	8	1	13	-	-	1
October	7	2	-	22	-	-	1
November	21	4	-	3	-	-	2
December	-	5	-	38	-	-	-
Total	82	43	21	120	7	2	8

Table 3: Reported Human Rights Violations in relation to Politics

Month(s)	Injured	Killed	Arrested
January	164	13	105
February	416	21	119
March	576	26	218
April	376	47	144
May	502	50	139
June	677	42	461
July	428	38	185
August	919	40	238
September	760	29	276
October	511	39	137
November	479	50	232
December	473	41	127
Total	6281	436	2381

Table 4: Reported Human Rights Violations in CHT

Month(s)	Injured	Killed	Arrested	Kidnapped	Missing	Raped
January	7	3	7	6	1	-
February	1	-	-	4	-	-
March	6	1	-	10	3	-
April	11	1	2	7	-	1
May	4	5	3	14	7	-
June	2	2	2	3	-	-
July	10	9	1	19	-	-
August	36	4	2	20	-	9
September	7	2	60	2	-	11
October	4	5	-	8	-	-
November	2	6	-	17	-	-
December	9	5	-	44	-	-
Total	99	43	77	154	11	21

Table 5: Reports of Attacks on Journalists

Month(s)	Injured	Killed	Arrested	Kidnapped	Assaulted	Threats	Case filed
January	5	-	5	-	-	9	2
February	2	-	-	-	-	8	-
March	8	-	2	-	2	4	3
April	4	-	1	1	-	1	-
May	3	-	5	-	1	8	9
June	7	-	1	-	-	8	3
July	6	-	1	-	5	12	11
August	12	-	2	-	12	9	2
September	4	-	-	1	2	3	-
October	2	-	1	-	6	9	14
November	3	-	1	-	1	16	2
December	9	-	-	-	12	3	16
Total	65	-	19	2	41	90	62

Table 6: Reports of Dowry Related Violence

Month(s)	Killed	Suicide	Torture	Acid Throwing	Divorce	Total Dowry related violence
January	5	1	2	2	-	10
February	14	-	2	-	-	16
March	14	3	3	2	-	22
April	23	2	10	1	1	37
May	34	5	12	-	-	51
June	18	2	9	1	1	31
July	23	-	9	1	-	30
August	23	6	11	3	-	40
September	32	1	10	2	-	41
October	28	2	6	1	-	45
November	30	-	5	1	-	36
December	17	1	6	1	-	25
Total	261	23	85	15	2	384

Table 7: Reports of Acid Attacks

Month(s)	Female	Male	Children	Total
January	8	2	6	16
February	5	-	2	7
March	10	6	4	20
April	14	1	3	18
May	20	15	3	38
June	20	16	9	45
July	23	12	4	39
August	17	15	13	45
September	25	13	5	43
October	19	6	5	30
November	13	5	3	21
December	7	4	4	15
Total	181	95	61	337

Table 8: Reported Incidents of Rape

Month(s)	Total Rape	Killed after being raped	Committed Suicide after being raped
January	36	11	2
February	46	2	-
March	93	15	-
April	130	10	1
May	181	17	4
June	139	21	1
July	137	12	1
August	120	9	-
September	157	10	4
October	133	14	1
November	94	11	1
December	70	10	2
Total	1336	142	17

Table 9: Reports of Death in Prisons

Month(s)	No. of Inmates
January	12
February	5
March	10
April	4
May	5
June	7
July	7
August	6
September	5
October	10
November	8
December	11
Total	90

Table 10: Reports of persons killed by Law Enforcing Agencies

Month(s)	No. of Victims
January	4
February	3
March	5
April	9
May	4
June	7
July	6
August	7
September	12
October	9
November	8
December	7
Total	81

Table 11: Reports of persons raped by Law Enforcing Agencies

Month(s)	No. of Victims
January	-
February	-
March	-
April	-
May	1
June	-
July	-
August	-
September	1
October	4
November	-
December	-
Total	6

DEVELOPMENT PARTNERS/DONORS

Odhikar would like to thank its following partners/donors for their partnership and financial support:

- Save the Children UK (SC UK)
- Bangladesh Freedom Foundation (BFF)
- Academy for Educational Development (AED)
- Friedrich Neumann Stiftung
- Forum Asia

INTERNS

In the year 2003, one person worked as intern with *Odhikar*. Mr. Peter Navrat came from Czech Republic and worked during July 2003-September 2003.

NUMBER OF FULL-TIME AND PART-TIME STAFF BY CATEGORY

Designation	Total	Full time	Part time
Director	01	01	-
Researcher	02	02	-
Coordinator	02	02	-
Accountant	01	01	-
Investigator	04	04	-
Office Assistant	01	01	-
Volunteers	05	-	05
Total	16	11	05

LIST OF PUBLICATIONS

Odhikar publishes its research, investigation findings and monthly and annual reports on the state of human rights in Bangladesh, bulletins on specific subjects books, and reports in print media format. The following are Odhikar's list of publications to date-

01. Murder, Mayhem, Land and the State
02. Breaking the Cycle of Impunity
03. Women and Children in Disadvantaged Situations
04. Abuse of Section 54 of the Code of Criminal Procedure
05. Reasonable Suspicion Vs Unreasonable Impunity
06. Newsletters on the electoral process of the October 2001 National Elections.
07. Newsletters on the rights of children in Bangladesh.
08. Our Children In Jail
09. *Manobadhikar O Police: Prekkhit Bangladesh* (Human Rights and Police: Bangladesh Perspective)
10. Media, Democracy and Human Rights
11. Police Reform in Bangladesh

CONCLUSION

Odhikar has attempted to highlight the human rights situation in Bangladesh with documentation, investigation, research and monitoring activities. This means especially highlighting the negative side of the balance. The situation in the police stations is still something to worry about; inmates are harassed, the system is corrupt due to various factors and innocent people get arrested under harsh laws. The jail situation is deplorable too. Jails are overcrowded, in deplorable condition, nutrition and hygiene are grossly inadequate and it definitely not a place for women and children.

In 2003 *Odhikar* raised awareness about these and other issues. *Odhikar* believes that stressing the negative side of the human rights balance will make people realize the necessity for a healthy State respecting human rights and, in the end, hopefully make it put much more weight on the positive side of the balance.

ODHIKAR: THE ORGANOGRAM

