



**Economic and Social
Council**

Distr.
GENERAL

E/CN.4/2005/NGO/9
27 January 2005

ENGLISH ONLY

COMMISSION ON HUMAN RIGHTS
Sixty-first session
Item 9 of the provisional agenda

**QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND
FUNDAMENTAL FREEDOM IN ANY PART OF THE WORLD**

**Written statement* submitted by the Asian Indigenous and Tribal Peoples Network
(AITPN), a non-governmental organization in special consultative status**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[30 December 2004]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

Lawless law enforcement in Bangladesh

Article 32 of the Constitution of the Peoples' Republic of Bangladesh provides that no person shall be deprived of life or personal liberty save in accordance with law. However, legalisation of extra judicial executions has reduced such constitutional guarantees to mere inscriptions. As many as 111 people were killed at the hands of law enforcers in Bangladesh during the first nine months i.e. from January to September 2004. Out of these, at least 43 people were killed by Rapid Action Battalion (RAB) in the so-called 'crossfire'. RAB launched operations against the alleged criminals on 21 June 2004. In addition, 71 more people were killed under police custody during the same period. In October 2004, 42 persons were killed in custody. Of them, 22 were killed by the RAB, 4 by Cheetah and Cobra and 16 were killed by the police. 38 persons died in alleged crossfire and the rest allegedly from torture in RAB and police custodies. In November 2004, as many as 44 persons died in 'crossfire' with Rapid Action Battalion and police.

Formed by an executive order of 1 March 2004, the RAB has reported strength of 4,525 personnel drawn from five military and para-military forces - army, air force, navy, Bangladesh Rifles and Ansar and Bangladesh Police. The deployment of members of the armed forces in combat areas amounts to imposition of undeclared emergency. The members of the RAB, which are not trained for policing, have been responsible for blatant extra judicial executions of the alleged criminals. The notoriety that the RAB earned within a short period is evident from the fact that alleged criminals were reportedly surrendering before the courts to go to jail to avoid being killed by RAB in so-called cross fires.

On the night of 9 October 2004, an imam of a mosque, Anwar Hossain, 45, also a teacher of a local Madrassah at Sreepur under Gazipur in Dhaka died allegedly from police torture within hours of his arrest. The family members of the deceased alleged that the police had been threatening to arrest him and demanded Taka 5,000 as bribe. As he failed to pay the bribe, a local police squad comprising Assistant Sub-Inspector Ashraf, constable Borhan and one Dulal, a police informer, arrested Anwar from a tea stall of a market at around 9 pm. While being escorted to the police station, Anwar jumped into a pond and the policemen chased him and caught hold of him. The policemen dipped Anwar into the water till he became unconscious. The policemen then left the place dumping Anwar's body into a dark place near the house of one Tarabanu. Hearing the news of the arrest, Anwar's family members went to the police station and inquired of his whereabouts. But the police did not provide any information and drove them out of the station compound. The family members later found Anwar lying unconscious and took him to a nearby hospital where the doctors declared him dead. Anwar's body had injury marks in the chest and elsewhere. The police stated that he was wanted in a case filed with the Dhanmondi police in Dhaka under the Women and Child Repression (Prevention) Act.

On 4 October 2004, Anisur Rahman Anis, a ward-level leader of Jatiyatabadi Chhatra Dal succumbed to his injuries at the Dhaka Medical College. He was arrested alongwith two other friends by the RAB-4 squad in front of Chhati Masjid near his house at Rayerbazar in Dhaka at 2.30 am on 1 October 2004. They came out of the mosque after offering their Lailatul Barat prayers. The RAB personnel allegedly tortured him brutally and when his condition became serious they admitted him to the Dhaka Medical College hospital.

On 15 July 2004, RAB personnel allegedly picked up one Sumon Ahmed Mazumdar, 30, vice-president of Jubo League's ward No. 10 unit. The deceased's mother, Solema Begum alleged that two hours before RAB personnel picked up Sumon, police officials of Tongi police station accompanied by a BNP leader raided his house at Amtali, Tongi. The police went to Sumon's house to search for firearms but left the place finding none. On their way to their camp, the RAB officials also allegedly picked up Sumon's cousin Lokman and Akbar Hossain Pinku, both Awami League's youth front activists, and took the three to a camp by pickup van after blindfolding them.

The malaise lies in unrestricted powers given to the Bangladesh Police under section 54 of the Bangladesh Criminal Procedure Code for arrest without warrant. The High Court of Bangladesh in a judgment on 7 April 2004, while disposing a writ petition challenging persisting abuse of the power and authority under sections 54 and 167 of the Criminal Procedure Code directed the government to amend some sections of the Criminal Procedure Code and the Penal Code of Bangladesh within six months. The High Court recommended the incorporation of the following provisions:

- Police must disclose their identity to the relatives of the person before arrest from the residence or office;
- Police must inform the relatives of the arrested person over telephone or by sending special messenger within three hours of arrest from out side the residence or office. Medical check up of the person must be done after arrest;
- No detention after arrest under Section 54 of the Criminal Procedure Code;
- No remand under police custody under section 167 of the Criminal Procedure Code;
- Only the investigating officer to interrogate the alleged accused in the jail custody but no other agency;
- Use of a separate glass covered room in the jail custody for interrogation and the relatives or lawyer of the accused can observe it;
- Examination of medical report of the accused, special diary opened after arrest, hearing of the accused and his lawyers have to be taken into consideration if the magistrate wants to grant remand in other cases;
- The magistrate must show the reasons to grant remand. The remand order passed by the magistrate has to be approved by the District and Sessions Judge or Metropolitan Sessions Judge;
- The magistrate should take action against investigating officer if there is any allegation of torture to the accused during the remand and the allegation proved through medical examination;
- Enhance the punishment for illegal confinement under section 220 and for custodial torture under 248 of the Penal Code from two years to seven years and fine.

The directions by the High court had little impact as the extrajudicial executions by the RAB indicate.

Impunity to the law enforcement personnel accentuates the illegal measures that the High Court sought to curb. On 23 February 2003, the Bangladesh Sansad (Parliament) passed the Joint Drive Indemnity Act barring people from seeking justice through the courts for the deaths and human rights violations that occurred during the "Operation Clean Heart" anti-crime drive, which caused custodial death of 51 persons and involved an unknown number of torture victims. Despite intervention of the High Court on 13 April 2003 by issuing a show cause notice to the government regarding the legality of the Indemnity Act, the law continues to be in force and therefore no action is maintainable before the courts of law. In the few instances where charges were levied, punishment of those found guilty was predominantly administrative. The RAB personnel enjoy similar impunity and the courts can do little.

Undoubtedly, there has been increase of criminal activities in Bangladesh primarily as a result of poverty, corruption and nexus between the politicians and criminals. Many of the well-known criminals are Members of Parliament and serve in various capacities including as advisor to the Prime Minister Khaleda Zia. The government has legitimate right to take appropriate measures to provide security to the citizens against crimes but the RAB has been openly resorting to blatant human rights violations including extra judicial executions. In addition, no action is being taken against politicians who are well known criminals. The "Operation Clean Heart" failed to cleanse criminals in Bangladesh; the RAB will meet the same fate. However, the campaign by RAB, who have been deployed in all the 64 districts, will have significant impact prior to the next parliamentary elections as political activists of opposition political parties are also being targeted. According to a report by Dhaka based NGO Odhikar, 395 people were killed, 5,004 were hurt, 2,436 arrested and 22 abducted in political violence. Police in two drives arrested 8,500 people from 18 to 25 April 2004 and 5,748 from 23 to 29 September 2004. Under the garb of combating the rising crimes, Bangladesh National Party is also consolidating its position across the country.
