

Bangladesh's criminal justice system delivers injustice

Asian Human Rights Commission

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A media report implies serious questions about the credibility of Bangladesh's criminal justice system, including the investigation, prosecution and the judiciary, as well as the qualifications of the concerned professionals in those institutions.

A Dhaka based national daily newspaper, the *Prothom Alo*, reported on 13 March 2008 that a court convicted three persons to rigorous life imprisonment--which is a 14-year sentence--for the alleged kidnapping of a girl in Jhalakathi district, when the said crime did not in actual fact take place.

According to the news report, Ms Liza Akther alias Fuli, who is now 19-years-old, fled from her maternal uncle's house eight years ago as a result of intolerable treatment inflicted upon her by her uncle and aunt, Mr Anowar Hossain and his wife, Mrs Shefali Begum. Strangely, four years later, Mr Anwar lodged a complaint of kidnapping and trafficking with the Jhalkathi police station on 31 May 2004 against three persons; Mr Rustom Ali Shikdar, a petty fisherman, Mr Harun Hawladar, a day labourer, and Mr Nuru Hawladar, a small businessman. The Jhalkathi police recorded the case under the Women and Child Repression Prevention Act.

After police investigation, the men were charged with kidnapping and trafficking and convicted of the same by the Special Tribunal of Women and Child Repression Prevention of Jhalkathi on 7 February 2007. The judge sentenced each of them to 14-years rigorous imprisonment with a fine of 10 000 taka. When the three men appealed the conviction before the High Court Division of the Supreme Court, bail was granted for Harun and Nuru, who were released from detention on February 27, while Rustom's petition was rejected.

When Liza heard that three persons had been convicted of her 'kidnapping', she immediately visited Jhalkathi and lodged a General Diary with the Jhalkathi police station. She also went to a Notary Public and recorded her testimony in an affidavit. Liza told the media that she had fled to Dhaka from her uncle's house following intolerable torture by her uncle and aunt, and managed to get a job in a garment factory. She later married a businessman.

The lawyer of the three convicted persons, Mr Abdur Rashid Howlader, told reporters that Liza was produced before the Chief Judicial Magistrate's (CJM) Court on March 5, and the Court was requested to record her testimony in a petition. The CJM judge, Mr Reza Tarique Ahmad, who was also the judge of the Special Tribunal that initially found the three men guilty, rejected the petition however, and released Liza under her own custody.

The Officer-in-Charge of the Jhalkathi police station Mr AKM Faruk, while admitting this miscarriage of justice, told the media that one of the two investigation officers of this case, Inspector Mr Sohrab Ali, had already passed away while the other, Sub Inspector Mr Muzibur Rahman, was in service elsewhere.

The families of the convicted men suffered immense loss, including financial and social dignity, following the case. In terms of civil and political rights guaranteed to citizens, this incident reveals gross abuses: police investigators failed to critically examine the fabricated charge of kidnapping as well as of attributing the crime to these three suspects; the prosecutors failed to scrutinize evidence before filing charges; and the judiciary failed to ensure a fair trial.

All those concerned about human rights and rule of law in Bangladesh should commend the reporting of this case by the media. The Asian Human Rights Commission encourages such reporting, which countries

like Bangladesh require regularly. This report obliges policy makers to look into Bangladesh's existing criminal justice system. The investigators, prosecutors and judges in this case created a case of fiction instead of facts while they arranged depositions from so called prosecution witnesses to convict the three men. This could only have happened amidst dysfunctional institutions. Government authorities, as well as professionals related to the justice delivery system, must ask themselves whether any of the three justice mechanisms have the necessary levels of efficiency, commitment and accountability required for upholding the law of the land.

The three victims and their families need to be compensated for the grave suffering that has been caused to them. Moreover, the incident needs to be thoroughly investigated and all those directly involved as well as those indirectly involved by way of command responsibility should be brought to justice. Until this happens they should all be removed from the positions they hold within the criminal justice system of Bangladesh.

The Asian Human Rights Commission urges the Bangladeshi authorities to conduct an immediate and thorough investigation into this case, which can be the basis for urgently needed reforms of the criminal justice system. A high level commission can be formed, comprising of legal experts and practitioners, to examine similar cases, determine the loopholes and propose the necessary changes.