

## **Dysfunctional institutions and the absence of remedies in Bangladesh**

### ***Meryam Dabhoiwala***

Three cases of threats and abuse faced by Bangladeshi human rights defenders—two current ones and one from 2011—delineate clearly how unsafe and treacherous the country has become. Of the current ones, there is the case of Shahed Kayes, where thugs with political backing are unchecked as they harass, abduct and torture an activist who has been attempting to safeguard the rights of a particular community from sand grabbers. The other current case is that of Adilur Rehman, a prominent human rights defender who the government arrested as a way to silence his criticism. In Razzak's case, he was targeted by influential persons who made use of the country's justice institutions for their own benefit. Ultimately, the dysfunctioning of institutions meant to protect individual rights makes it irrelevant whether it is state or non state actors violating your rights; the bottom line is the same; no remedies are available.

A society that offers its citizens no remedies for violence, injustice and impunity cannot possibly grow or flourish. Such a society only instills fear, uncertainty and greed. There can be no social development, no progress in such a society. Democracy, economic development, an educated youth; these are all possible only when there is political stability. And stability cannot coexist with violence and impunity. Remedies to violence are essential if such violence is to be eliminated from society.

### **Razzak's story**

There is numerous documentation available on Bangladesh's dysfunctional justice institutions—police, prosecution and judiciary. The brutal attack on human rights defender FMA Razzak in 2011 delineated how the police and judiciary were working to protect violence and impunity, and resulted in much analysis of the government and its institutions<sup>1</sup>. Razzak's arrest, detention and torture over a period of several years categorically demonstrate what happens when justice systems do not function and how people indirectly associated with powerful politicians or the military can easily misuse the systems for their own benefit.

A veteran human rights defender for close to 20 years, FMA Razzak has had his life threatened on several occasions. The latest and most brutal attempt was in April 2011, after Razzak had been implicated in yet another fabricated case by police and military officers for whom his human rights work was becoming very troublesome. Razzak was already in hiding at this time, as for a few months mobs led by the brother of an army major had been attacking his home and family.

On 29 April 2011, around 40 men surrounded Razzak and his younger brother as they were trying to hire a car. Razzak recognized them as men attached to the major's family. Kazal, the major's brother, was also present. In Razzak's words, this is what followed:

Immediately, the gang jumped on me. They began to indiscriminately hit me: my head, back, chest, hands, legs—every part of the body. Kazal and his gang tried to push fingers into my eyes to gouge the eyes out. I tried to block the eyes with my hands. Then, they severely pressed on my testicles. I was about to die! I had to move my hands from the eyes to the testicles at that moment. Immediately, they pushed fingers and a rod into my eyes and kept moving the rod inside the eyes. They tried to take out my eyeballs.

Simultaneously, many others were hitting me with rod and stick. I cried out for help. But nobody responded to my cry. Only my younger brother tried to rescue me. But the gang caught him and brutally beat him, taking him a few yards far from where I was being beaten. I had no scope to follow or understand what was happening to my brother. I could do nothing to save myself. They knocked me down to the ground and jumped on my body and hit me as they wished.

They constantly hit my right leg, which broke on the scene as I fell. When I tried to block the hits with my right hand, they hit my right hand, which also broke. I became completely motionless. They took away my mobile phone and some money that I had in my pockets. I was almost dead there.

Razzak then feigned death, lay still and listened to the men talk. Kazal called his brother, Major Mustafizur Rahman Bokul. He put the phone on speaker:

"Brother, the kuttar bachha (son of dog) is caught in our hands now!"

"Only caught? What do you mean? Break his legs and hands! Take out his eyes!"

"We have already taken out his eyeballs making him blind and have broken his hands and legs!"

"Where are you now?"

"We are in front of the paribahan (long route bus) counter."

"Throw his body into some ditch!"

Instead of following the order, Kazal and the mob took Razzak in a van to a place where other members of the officer's family and more people were present. The group again assaulted him. Kazal then called the officer in charge of the Paikgachha police station, who said he would send police officers there.

After two police arrived, they began coordinating with the attackers. Neither the police nor the family wanted to take Razzak's body away. Finally, the police agreed to escort the attackers to the hospital, with the latter bringing Razzak by van. At this time it seemed that he was dead, or would soon die. Hospital staff kept him on the verandah and offered no help. Later, they sent him on to Dhaka, where at last he received treatment. According to medical tests, Razzak has lost 75 percent of his right vision.

### **Dysfunctional institutions**

The role of the police in enabling the attack and colluding with the attackers is obvious. No investigation was conducted after the attack, nor did the police record Razzak's testimony. While the police did record a First Information Report about the incident, which listed 38 persons as accused, no charges were brought against any of them. Instead, the police lodged two further fabricated cases against Razzak, his brother, wife and some other relatives and supporters. One journalist implicated in these cases was detained.

The local judiciary initially placed some of the accused in custody, but because Razzak's lawyers could not bring a proper medico-legal certificate to court in time, the judge released 14 of the 15 persons detained. In other words, to benefit the accused, the responsibility to ensure that official medical examinations are properly recorded and brought to court, is placed on the victim, rather than the justice system.

The army has taken no action against Major Bokul, who continues in his post as usual, despite requests for him to be suspended coming from high levels inside the country and abroad, and despite public rallies in Khulna calling for his dismissal.

Not even the National Human Rights Commission took any action in this case. It is quite outrageous that without recording any statement from Razzak, the NHRC chairman seemed to believe Major Bokul's lies, that Razzak was a criminal, and the attack related to a personal dispute rather than human rights work.

And so rests Bangladesh's justice system, unable to protect or offer remedies to victims of abuse. The justice institutions are perverted to protect the perpetrators and further harass those seeking justice and remedies. Two years after the attack on Razzak, he and his family continue to face harassment—in April 2012 two of his brothers were attacked by Major Bokul's thugs—while all the perpetrators remain free.

## Shahed's story

The current plight of Shahed, and his long standing attempts to obtain justice for the Mayadip and Nunertek communities is yet another story delineating the same systemic flaws and dysfunction. In his case, the perpetrators, associated with powerful politicians, got their thugs to beat him up, taking justice into their own hands, while the country's justice institutions remain dysfunctional and silent.

Shahed was abducted from a boat on 25 July 2013, by a group of people who reportedly told him, "...you are fighting against us and we have lost lot of money because of your movement in our deals. We made the mistake of not killing you before. This time we will kill you. We will cut your arteries on your wrists and legs, tie your hands and legs, and throw you in the river." Shahed was sailing towards Ramprasad Chor Island when he was intercepted by the thugs in motorboats. They were not bothered that Shahed was with an American Peace Fellow and several others. They tried to force everyone into their motorboats and only spared the others when Shahed agreed to go with them without resisting in exchange for their safety.

He was then taken to a nearby island on the river, Faraji Kandi, where over 40 others joined the abductors. Shahed was brutally beaten with rods and sticks before being stabbed in the neck and having his left wrist slashed.

The abductors are involved in illegal sand mining near Mayadip and Nunertek islands, against which Kayes and the islanders have been protesting<sup>2</sup>. Their enormous struggles have born little fruit, largely because the perpetrators are allied with Bangladesh's ruling political party, the Awami League; political support has greater weight than justice and professionalism.

Alerted by the American Peace Fellow, local journalists were able to get the Sonargaon police to rescue Shahed. The Superintendent of Police of Narayanganj immediately alerted his counterpart in Comilla and requested them to save Shahed's life and arrest the perpetrators. Comilla Police then reached the spot and rescued Shahed. They only arrested one of the assailants, seemingly under the influence of a local parliamentarian, a retired army major general. The parliamentarian brashly admitted that his men had not wanted to kill Shahed and he had 'scolded' them for their misadventure.

Shahed was taken to a private hospital in an unidentified location, as his security in a public hospital could never be guaranteed with the major general around. In fact, the retired army officer is still trying his best to find out where Shahed is getting treated, claiming to want to 'talk to him', but many strongly suspect that Shahed would be killed if found.

Shahed's work against illegal sand extraction, which has led to acres of lands from Mayadip island eroding into the river Meghna, has affected the sand miners' earnings from the lucrative trade. This is why they deployed every possible method, from threats to fabrication of criminal charges against Shahed and other activists, in order to stop them.

When these strategies failed, the sand-miners started directly attacking activists. August 2012 saw one of the most serious such incidents, where hired thugs went into villages across Mayadip and attacked the fisherfolk and their families. Not even the elderly, women or children were spared. Armed squads of the sand miners also stopped fishermen from fishing in the Meghna river on many occasions, while several activists were jailed under fabricated charges filed by them.

The sand mafia had tried to abduct Shahed previously as well, on 3 September 2012. Shahed and the Assistant Commissioner of Land of the Sonargaon sub-district were on a court ordered visit of the area to assess the problem at that time. The perpetrator surrounded their speedboat in the middle of the Meghna river for more than two and a half hours and left only when a large contingent of police arrived.

Silencing Shahed would in effect silence the entire community. In fact, with Shahed out of the picture for at least some time, the sand mafia is already preventing the fishermen from fishing in the Meghna River.

### **Dysfunctional institutions**

From the beginning, government officials, including politicians and a former Assistant Commissioner (AC) of Land of the Sonargaon Upazilla Administration, have been supporting the company committing illegal sand extraction. Two-thirds of the neighboring islands of Nalchar and Ram Prasader Char were eroded by the company's sand extraction, forcing residents to relocate in search of food and livelihood. Even though the company has no permit to extract sand from Mayadip and Nunertek, it falsely informed the villagers that it had permission to extract sand at the Nunertek sand extraction point. Bangladesh's Balumahal and Soil Management Law 2010, which prohibits illegal sand extraction and promotes environment protection, is being ignored and violated by both the company and local government. But who is taking note?

After the Mayadip residents wrote a petition regarding the erosion of their island in September 2010 and subsequent media attention, the AC of Land visited Mayadip and gave a public order that the company must not come beyond the extraction point for sand extraction. His announcement, however, proved that the administration still allowed the illegal extraction as the company did not have a lease. Similarly, although the Deputy Commissioner (DC) of Narayanganj district publicly announced in October that the company has never been given the license to extract sand from Mayadip and assured the villagers that the administration would always be with them, on the following day administrative officers led by the AC of Land came to the island to make a geographical boundary to mark the point that the company must not cross. This boundary was blithely crossed by the company only a couple of days later, and continues to be crossed on a regular basis to extract sand after midnight. All subsequent complaints by the villagers to the local administration have fallen on deaf ears. In fact, this one-step forward, two-steps backward dance performed by the local government bodies and officers, clearly indicates its unwillingness to genuinely take any steps against the influential perpetrators. The persistence of the islanders and activists forces them to shuffle some papers and scrape some chairs, but their dysfunctionality—lack of independence and professionalism—prevents them from doing more.

The same can be said of the Sonargaon and Meghna police stations, who assisted company staff to file false cases against the villagers in December. The police were reportedly bribed by the company, as well as under pressure from the ruling party. The way the Bangladeshi police function is that rather than conducting a proper investigation of the case, they submitted a fabricated investigation report to the Judicial Magistrate Court of Comilla district, which tallies with the complaint made by the sand-grabbing company. As a result, the accused persons have to go to court every month. On those days, not only are they unable to earn their livelihood, but they have to instead pay their transportation, food and legal fees. Once again, it is the complainant who is being harassed, while the perpetrators continue their horrid practices.

Even the courts seem helpless to take effective action; on April 26, the Supreme Court issued a stay order against the government's April 20 public notice of areas leased for extracting sand in Nunertek and Mayadip. The order has made no difference to the company, which continues to extract sand. The overlooking of a Supreme Court order by an ordinary company is not to be taken lightly; this is the extent to which justice institutions have weight, and the extent to which persons and groups with money and influence are able to make them dance to their tune.

## Adilur's story

Dysfunctional as justice institutions are, they become more dangerous when misused by the state. Not just Bangladesh, but many countries in Asia and elsewhere, use justice institutions not to protect, but to punish its citizens. The recent arrest and detention of Adilur Rahman is yet one more such case for the Bangladesh government to add to its list. His case demonstrates how the system works to target government opponents and critics.

Secretary of Odhikar, a prominent Bangladeshi human rights organization, Adilur was arrested by the Detective Branch Office in Dhaka at 10:20 pm on 10 August 2013. Adilur has also served as the Deputy Attorney General of Bangladesh and is a Senior Lawyer practicing at the Supreme Court. Adilur was arrested by about 8-10 men in civilian dress, who came in two vehicles to his home. They surrounded Adilur's car when he returned home with his wife and children. He was forcibly taken into one car without being informed of the reason for his arrest, or where they were taking him.

The reason subsequently given for the arrest was Adilur's apparent violation of the Information and Communication Technology Act, 2006. The use of this Act as the basis of the arrest was associated with a report prepared by Odhikar about the massacre of 61 people during an operation conducted by law enforcement officers on 5 May 2013 against the Islamic activists in Motijheel area. The government demanded Odhikar to produce proof regarding the murder of these people, with the details of the family members, who spoke to Odhikar in confidence. Fearing that the government would then hunt down these families, Odhikar requested the government to constitute an independent enquiry commission to probe the deaths, and assured the government that it will produce its findings before such a body and not to the government. In fact, the government has been denying any deaths in the May 5 incident and has been trying its best to silence everyone who has spoken against the killing spree that hit the country in May this year.

The day following Adilur's arrest, August 11, Odhikar's office was raided and documents and computers seized. This is blatant proof that the government wishes to silence/punish those speaking out against it.

Adilur himself has noted that it is not uncommon for Asian states to enact laws that are in fact repressive: "In the 10 years since 9/11, Asian countries have enacted many national security acts and emergency laws. In 1974, Bangladesh did the same. Torture is legitimized by law! Therefore we cannot only talk about rule of law. The 1982 Citizenship Act made the Rohingya non-citizens of Myanmar, although these people have been living there 500-700 years.

At 12:30am, on August 11, Odhikar went to the Detective Branch Office at 36 Minto Road, where the sentries denied them entry into the office. At 2am, Odhikar went to the Gulshan Police Station, and the police there denied having registered any case against Adilur and claimed that they learnt about Adilur's arrest through the media. This indicates that the case was later filed to justify his arrest, rather than the other way around.

This misuse of state institutions is a sign of politicization, which is an evil present throughout Asia. Until this is removed, until justice institutions are reformed and made independent, there can be no awarding of genuine remedies for injustice. This is a chilling thought for those continuing their work as human rights defenders, as critics of illegality and immorality. The least we can do is stand with them in solidarity, and provide as much international pressure as possible on the Bangladeshi government to ensure their safety and the continuance of their work. The work of these defenders involves many ordinary people,

their struggles and aspirations. When these defenders are targeted, or when their voice is silenced, it makes a serious impact on society, particularly their circle of contacts.

1. See <http://www.article2.org/mainfile.php/1002/> and <http://www.article2.org/mainfile.php/0801/335/>
2. See Shahed Kayes, 'Bangladesh: People's movement against sand-grabbing', Ethics in Action, vol 5 no 3, June 2011.

For the latest information on Shahed and Adilur's cases, as well as other issues in Bangladesh, please see <http://www.humanrights.asia/countries/Bangladesh>