

Families suffer more than victims of human rights abuse

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Human rights defenders F M A Razzak and Shankar Kumar Dhali were arrested by five police officers, Sub Inspectors (SI) Mr Ainuddin, Mr Mahbub, Mr Shushil, Mr Ayub and Assistant Sub Inspector (ASI) Mr Moidul on the morning of 3 November 2008 without any warrants, and taken to the Paikgachha police station in Khulna district, south western Bangladesh. They were arrested from a motor workshop at Agorghata Bazar, where they had an appointment regarding the resolution of an abduction case implicating them, filed in court on 22 October 2008.

Razzak is a law graduate, aspiring to be a lawyer; he is at present working as a lawyer's assistant. He makes his living by editing a fortnightly newspaper, Gonomichhil, which has published many stories critical of the police and judges, as well as the bribery prevalent in the area. Shankar comes from a Hindu family, who have a shrimp cultivation farm. Both are from the rural middle class. [photo 1 and 2]

After being informed of the arrest, their family members went to the police station at about 11am. They asked the men if the police had tortured them in custody, at which the men started crying instead of answering the question. Their unusually swollen faces indicated that they had in fact been beaten. Their shirts had also been removed, and they were forced to sit on the floor of the cell.

Razzak's wife Rahima was told by the Officer-in-Charge (OC) Mr Ali Hashem Khan that, "I am under pressure from the court to arrest him. I did not have any choice but to do this. We will produce him before the courts tomorrow (November 4)". In fact, the court had issued no warrants for the men's arrest, but the magistrate was informed of their arrest by the OC via cell phone. It was reported that one month before, the magistrate had announced in an open court, "If anybody files any case against Razzak, I would issue a warrant of arrest without any delay or hesitation."

Since then, Razzak and Shankar's families pursued the case by speaking to anyone they thought could convince the police to release the men. Their rationale was that the police should release them in due honour as there was in fact no case against them. Moreover, even if there was a case, the men should not be ill-treated or tortured. With Razzak being the only breadwinner, Rahima had to borrow money from her relatives. She also sent her three young children to stay with her sister, so that she was free to visit the police station and other places as necessary. When she was not running other errands, Rahima spent her time outside the police station in fear that something would happen to her husband. In order to see Razzak, she had to bribe the officers.

At 3:10pm on November 3, the OC went to visit Birashi village to inquire into the alleged abduction case. The court had in fact ordered the police to conduct an inquiry on October 22, but even 10 days later, nothing had been done. OC Khan returned 20 minutes later and at 4pm the abduction complaint was recorded as a First Information Report (FIR) (No 4, under sections 364/34/385 of the Penal Code).

In the evening, the Government Record Officer (GRO), a police officer dealing with public records in the magistrate court came to the police station to see Razzak and Shankar after receiving information of their arrest. He told the two men that he would meet them in court on the following day.

Razzak and Shankar help victims of rights violations; annoy police and perpetrators

Razzak and Shankar have been providing legal advice to Mrs Khodeza Bibi regarding a fabricated land case filed by her neighbours in 2005. Police officers attached to the Paikgachha police station were allegedly receiving bribes from Khodeza's neighbours to harass her. As the neighbours continued to demand money (to settle the case) and threaten her over the past three years, most recently she lodged a complaint against them at the Paikgachha police station (No 22) on 13 February 2008. When the complaint was forwarded to the Senior Judicial Magistrate's Court of Paikgachha for trial (Government Record case no 85/08) the magistrate ordered the detention of the neighbours. After they were released on bail, they cut her trees and bamboos in revenge. When the police refused to file Khodeza's complaint against this behaviour, she lodged a petition with the court (Petition Case Number-683-08), which ordered the police to record her complaint as a First Information Report (FIR) on 15 October 2008.

Mrs Jahanara Begum, the wife of Mr Abul Hossain Gazi, one of the neighbours involved in the harassment of Mrs Khodeza, thereafter lodged a complaint before the court on October 22. Using the name Mrs Nilufa, she claimed that her 13-year-old daughter Khaleda was abducted by Mrs Khodeza Bibi at around 6pm on October 15, and that Khodeza demanded 50,000 taka as ransom, or her daughter would be killed. Mrs Nilufa also claimed to have seen Khodeza in a secret meeting with Mr Md Yunus Sardar, Mr F M A Razzak, Mr Shankar Dhali and Mr Alauddin Raza, leading her to suspect they were all involved in her daughter's abduction. The court thereby ordered an investigation into the complaint (although the police did not comply until November 2, and nor did they record it as an FIR).

In an affidavit on October 28 however, Mrs Hamida Begum, the first wife of Abul Hossain Gazi and the real mother of Khaleda, said that her former husband and his second wife Jahanara Begum had hidden her daughter with a view to taking revenge against Khodeza and her supporters. According to the affidavit, Abul confessed to Hamida that the daughter was not abducted but sent to an unidentified place.

A copy of the notarized affidavit was submitted to the Paikgachha police on October 30, informing the Officer in Charge Mr Ali Hashem Khan about the conspiracy behind the abduction case.

Apart from this case, Razzak's work in assisting individuals to obtain redress from the courts and other relevant authorities has long created pressure for the local police, who have attempted to implicate Razzak on fabricated charges more than once. In 2004, the local police misdirected the Rapid Action Battalion (RAB) of the Khulna region to arrest him on the grounds of being a 'criminal'. Following immediate intervention from human rights groups, senior officials of the RAB investigated the matter and found Razzak to be innocent. They subsequently handed him over to the police without any charges being laid against him.

More recently, Razzak and Shankar played very important roles when Sub Inspector Manjurul Alam of the Paikgachha police illegally intervened in a land dispute case, which was pending trial. The police arrested and detained people, extorted bribes, as well as ill-treated others, including women belonging to the Hindu community. After the Asian Human Rights Commission publicized the case, senior police authorities ordered a departmental inquiry. SI Manjurul was later transferred to the Dighalia police station.

Razzak also assisted Ms Tapati Rani Mondol in a defamation case, after she was targeted and traumatized by two journalists who wrote about the rape and suicide of her younger sister, Laxmi. Laxmi, a student, was raped by three youths at 8:30am on 27 May 2002 and committed suicide at 4pm in her room by taking poison. The Paikgachha police did not investigate and only lodged an Unnatural Death (UD) case on May 28. Her dead body was cremated without any postmortem.

Nine months later, her family found her diary describing the rape and Tapati demanded that the police change the UD case to a murder case. The police did not do so, allegedly having received bribes from the perpetrators of rape.

In April 2003, Tapati then lodged a complaint (Complainant Register-C R 71/2003 under section 302 of Penal Code of 1860) asking the Senior Magistrate's Court of Paikgachha to bring a murder charge against the alleged rapists. The court ordered the police to record the complaint as an FIR, which they also did not do.

However, a probe committee consisting of officers of the Ministry of Home Affairs and the police was formed on May 23, which investigated this case and ordered the police to record it as a murder case. The Paikgachha police finally recorded an FIR (No. 15, dated 25 May 2003) and arrested five persons for rape and murder, all of whom were later granted bail by the court. (This case is currently pending before the Special Tribunal for the Prevention of Women and Children Repression in Khulna, case number 255/2003).

In the meantime, two journalists, Mr Gazi Md Mizanur Rahman of the Daily Lokshamaj and Mr Md Abdul Gafur of the Daily Anirban, contacted Tapati saying they had good connections with the officer in charge of the Paikgachha police station. They extorted about 30,000 taka from Tapati, assuring her that they would persuade the police to conduct a proper investigation and publish the obstacles in prosecuting the perpetrators. Later, when Tapati asked about their progress, the journalists published a series of nasty reports attacking both Tapati and her deceased sister Laxmi, causing her significant trauma and social stigma.

In 2005, Tapati came to Razzak for help. Amongst other things, Razzak helped Tapati lodge a defamation case (No Mani 6/2005) on October 11 with the Senior Assistant Judge's Court of Paikgachha against the two journalists, as well as the alleged perpetrators of the rape and their fathers.

On 25 September 2008, the court ordered the accused to pay compensation of 100,000 taka to Tapati with eight percent interest on the amount since the case was lodged with the court. Half of the compensation was to be paid by the journalists. Tapati has so far received nothing.

The police officers who allegedly received bribes from the perpetrators of the rape case, reportedly got annoyed with Razzak for his intervention against the police.

Razzak and Shankar's families were very concerned that the two men would be spending the night in police custody, where they were likely to face torture and ill treatment. When these concerns were expressed to the police, the OC told Razzak's uncle—an acquaintance of old—to slaughter a goat and bring some mutton for a meal. In addition, both families paid the officers 10,000 taka (1 USD = 68.5 taka) to prevent any beating. Rahima also brought food for the two men, which was never given to them.

At about 8:25pm that night, the Asian Human Rights Commission contacted officer-in-charge Mr Khan, who refused to provide any details of the case, but gave assurances that the men would face no torture or ill-treatment.

The two men were brought before the Senior Judicial Magistrate's Court of Paikgachha at 1pm on November 4. Even though Rahima had hired a rickshaw, the police forced the two men to walk to the court with handcuffs and their arms raised in front of them. At the court, the police showed that the FIR of the abduction case was recorded "at 8:45 on November 3", without mentioning morning or evening. The police requested 10 days remand for each detainee, but the court gave five days. It is alleged that the OC

and the magistrate had privately settled the remand sentence amongst themselves. From the court, Razzak and Shankar had to walk back to the police station in the same humiliating manner as before.

In Bangladesh, police remand commonly equals torture. Rahima was very worried about this: “Razzak is sick, if they even beat him a little, he will die.” The police reportedly demanded 50,000 taka from the men’s families to ensure they would not be tortured during the remand period. Rahima paid 20,000 taka on November 4 to prevent torture. The men and their families were further worried that the police could implicate them in other cases.

In the next few days, the OC kept telling Razzak’s uncle to “bring money”. At the same time, Rahima had to arrange all the meals for the two men, as the police did not provide them with any food. To ensure that her meals were given to the men, she had to pay the police officers 50-100 taka for each meal.

The men’s families were told by Mr Khan that, “When we bring people like you in police remand for five days we have to pay money to our superior officers. We need money for fuel and many other things. Shall I bring money from my home by selling my cattle and my ancestors’ properties? If you don’t pay money get ready to sustain torture in the last night of the police remand (after 7 November midnight).” [photo 3]

The OC also threatened to implicate the two victims in three more fabricated cases—one for murder, one for illegal possession of arms and one for extortion—during or after producing them before the Court. Shankar’s family therefore paid 70,000 taka to the Paikgachha police, for which the police noted in their investigation report that apart from the complainant’s report, there was no other evidence found against him. The 50,500 taka paid by Razzak’s family was only enough to prevent him from being tortured in custody, however.

Police ‘investigation’ into the abduction of 13-year-old Khaleda

On 6 November 2008, at about 7pm, Sub Inspector (SI) Mr Mahbub, the Investigation Officer (IO) of the fabricated abduction case (No. 4 dated 3 November 2008, under Section 364, 385 and 34 of Penal Code) went to the village of Birashi to conduct his investigation.

Eyewitnesses observed that Mr Mahbub went to the house of Mrs Jahanara Begum (who called herself “Mrs Nilufa” in the complaint). He informed her that his senior officers were supposed to come to interrogate her, and suggested that she tell the story of abduction as alleged in her complaint.

At about 8:15pm, OC Mr Khan and ASP Mr Shamim arrived at Jahanara’s house, and interrogated her in the presence of her neighbours. Jahanara gave different versions of the so called abduction of her stepdaughter Khaleda Khatun to the three different police officers, contradicting her claims in the complaint.

At around 10:30pm, the Additional Superintendent of Police (Additional SP) of Khulna Headquarters Mr Abdur Rouf also arrived to investigate the case. Jahanara told him that Khaleda was found missing from 8am on 15 October. She admitted that she has no children of her own and that Mrs Hamida, not herself, was Khaleda’s real mother.

While she claimed she saw Razzak, Shankar and Raza meeting Mrs Khodeza Bibi in Khodeza’s house, she failed to describe them in sufficient detail for identification purposes. Some of her testimony was also factually incorrect.

For instance, she said that one of the accused, Mr Alauddin Raza, was the next door neighbour of Mrs Khodeza in Birashi village, while Raza's house is actually in Ghoshal village, about five kilometers away.

Jahanara also admitted that her husband Abul was in Dhaka to arrange for bail from the High Court, as he and his friends were charged with cutting down trees on Mrs Khodeza's land.

After recording her statement, the Additional SP publicly read out the abduction complaint. Referring to the time of the alleged abduction, he pointed out that according to the complaint the girl was found missing at 6pm, but during the interrogation Jahanara said the incident happened at 8am.

The Additional SP then went to Mrs Khodeza's house at around 12:30am on November 7, but the 72-year-old woman was in Khulna city at that time. In her absence, the police officer asked her grandson, relatives and neighbours about the abduction case. They narrated how a group of people led by Akbor Gazi, Abul Hossain Gazi, journalists Mizanur Gazi, Gaffar Gazi and Khokon Gazi cut down trees from Khodeza's land. To counter Khodeza's case on this matter, they lodged a false abduction case against Khodeza and those assisting her, including Razzak, Shankar and Raza. The Additional SP verified that a large number of trees had been cut down on Khodeza's land.

The Additional SP also went to Shankar's house at around 1am on November 7 at Paikgachha town. He did not succeed in speaking to anyone however, as everyone was asleep. He also wished to interrogate Razzak's family, but he later changed his mind.

At the end of their remand on Saturday November 8, Razzak and Shankar were brought again to the Senior Judicial Magistrate Court of Paikgachha at 3pm. As Saturday is a holiday in Bangladesh, the Court Sub Inspector (CSI) Mr Isahak went to the magistrate's residence to get the documents signed. While the magistrate ordered their detention in the Khulna prison, the defence lawyers had no chance to submit a bail petition as the court was officially closed.

According to the report submitted to the court by the Investigation Officer (IO) of the abduction case, Sub Inspector (SI) Mahbub Rahman, the police had obtained information and evidence regarding Razzak's involvement in the case. In reality, no such details or witnesses had been found when the police investigated the case late at night on November 6. Moreover, the police report differs from the original complaint: while the complainant said the girl was found missing after 6pm on October 15, the police report noted that Khaleda was missing between 8am to 6pm of that day.

After obtaining the court detention order, CSI Isahak suggested that since it was late, Razzak and Shankar should return to police custody. Both Isahak and the police constable with him argued that it was impossible to hand the two men to the prison authority in Khulna, which is 61 kilometers away from Paikgachha, due to lack of transportation. Fearing the consequences of Razzak and Shankar staying the night in police custody, their relatives agreed to pay the bus fare for Razzak, Shankar and one police officer. The police constable refused to travel by bus however, forcing the family members to rent a car at 1,800 taka, for a round trip from Paikgachha to Khulna. They were further forced to pay 1,500 taka for food and refreshment. At 4pm, the police left for the Khulna District Jail where Razzak and Shankar were to be detained.

On November 9, Razzak and Shankar's lawyers submitted a bail petition to magistrate Mr Syed Habibul Islam, who did not hear the petition but instead fixed the date of November 12 for hearing it.

Razzak and Shankar's families had to pay a substantial amount of money to the lawyers as well. In Bangladesh, every piece of paper in the legal process requires money, whether for the bench clerk, the police-led prosecution (at the magistrate level) or legal assistants. In order to pay for the lawyers' cell phone communications to senior lawyers in other cities, Rahima topped up their prepaid cards on several occasions. Such cases are like a festival to make money for everyone involved.

After Razzak was detained in the Khulna prison, Rahima brought their three children back home. While she was busy with the case however, her two sons aged eight and four got lost. She later found them in the nearby town of Kapilmuni Bazar, Khulna. [photo 4]

Finding the 'abducted' girl

After the police investigation report noted that no evidence was found against Shankar, there was greater pressure on Razzak's family, particularly his wife. Rahima tried to convince the missing Khaleda's family to look for her whereabouts, even offering to pay for their transportation, food and work compensation. After initially asking for 100,000 taka, the family accepted 47,000 taka.

Khaleda was found in Mongla Port in Bagerhat district, working at a restaurant, although her family was unable to convince her to return home with them. On hearing this, Rahima sold the little jewellery and ornaments she had, for 70,000 taka. She took 50,000 and went to Mongla Port herself with a few relatives and a representative from Khaleda's family. Once there, after some difficulties, she was able to convince the restaurant owners and Khaleda to make a report at the Mongla Port police station that she was not abducted. After some reluctance, the police wrote down the report and called the Paikgachha police, who—also reluctantly—sent a couple of officers to collect Khaleda. When the officers arrived, in a hired van, they required Rahima to pay for their vehicle, as well as their lunch. At the restaurant, the entire party ordered the most expensive items on the menu, while Rahima herself ordered a simple egg.

On arriving back at Paikgachha, the police then took Khaleda for a medical examination, which also had to be paid for by Rahima, even though at the last moment the girl refused to go through with the examination.

After all this, SI Mahbub took 10,000 taka from Rahima on November 18, in order to submit a Final Report (no 60, which noted that the original complaint filed by Jahanara was false) to the magistrate on November 19. The next hearing at the magistrate's court regarding the case is on 15 December 2008.

Razzak and Shankar were released on interim bail on November 27 by the Sessions Judge's Court of Khulna, while the final bail hearing is set for 12 January 2009.

Razzak is at the time of writing suffering from a water-borne disease contracted in jail. His wife is also sick, due to prolonged stress and fatigue.

Implications

As indicated from the experiences of Razzak and Shankar's families, particularly Rahima, the security of detainees and their families is a pressing problem in Bangladesh. Anyone can be arrested and implicated for anything. As a result, people try to meet the demands of the police rather than pursue any legal process, which is not followed by the country's police or courts, and does not provide any effective or timely remedies to victims and complainants.

The tarnishing of individual reputations and social standing is another problem, also greatly affecting Razzak and Shankar. In Razzak's case, his reputation as an honest human rights defender is affected, with many rumours regarding the causes and circumstances of his arrest and detention rife in the local community. Shankar has been severely traumatized by his experience and is even thinking of moving from Paikgaccha with his wife and children. Both Razzak and Shankar worry about how the troublesome rumours surrounding them will affect their children as well as other family members.

[photo 5]