

Interview 17: BANGLADESH: Shamim Ara

Ms. Shamim Ara is the Chairperson of the Department of Law at the Dhaka International University. She expresses her views about the issues of torture and policing in Bangladesh in an interview with the Asian Human Rights Commission.

What do you think about the policing system in your country?

In Bangladesh, we live in a democracy where our Constitution protects and ensures fundamental rights for every citizen. But at the same time it is blatantly obvious that the concerned law enforcement agencies, especially the police, do not have respect for the rule of law and fundamental rights as enshrined in the constitution. Article 27 of our Constitution says 'all citizens are equal before law and are entitled to equal protection of law.' But what happens in reality is that victims are deprived of the opportunities of ever receiving justice. It is a fundamental principle of law that every person is innocent before the law until proven guilty. Hence until it is proved in court with all safeguards provided by our criminal justice system that a person is guilty, he or she should not be branded a 'criminal' and the innocent should not be subjected to torture in remand as practiced by our law enforcement officers. Furthermore, Article 31 of our Constitution provides 'to enjoy the protection of the law, and only in accordance with law, is the inalienable right

of every citizen, wherever he may be, and of every other person for the time being within Bangladesh, and in particular no action detrimental to the life, liberty, body, reputation or property of any person shall be taken except in accordance with law. Article 32 provides 'everyone has the right to life, liberty and security of person.' Article 33 ensures 'safeguards from arrest and detention.' But in reality, the police do not allow a detainee to consult with his lawyer while under arrest. As a result, victims are subjected to violence and torture in custody. In recent years, there have been at least 1051 extrajudicial killings perpetrated by Bangladesh's law enforcement agencies. In not a single one of these cases has there been any information available about specific legal proceedings undertaken. Torture at the hands of the law enforcement agencies of Bangladesh is a blatant violation of the fundamental rights that are enshrined in the Constitution.

What do you think of the police's use of torture?

Torture that is used as a means of investigation and to control offences is brutally used in Bangladesh. People have a right to be presumed innocent as well as a right of access to justice as is implicit in Article 31 and 32 of the Constitution. It cannot be said that this right has been dealt with by the law unless a person has a reasonable opportunity to approach the court in vindication of this right on grievance. Anyone, even a fugitive, is entitled to a legal defense when the death penalty is involved. The use of torture should not be taken as a means to keep law and order as it contradicts fundamental rights.

What are your views on the public relations of the police?

The law enforcers should behave in such a manner so that people can treat them as their friends, and fundamental human rights, which are guaranteed in the Constitution, should not be violated by their activities.

If you have a problem these days would you go to the police station? Absolutely not! Nobody trusts the police as professionals that should be responsible for taking care of people's social security, and the law and order of the nation.