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Bangladesh: Failure by state protects alleged rapists

The acquittal last week of four policemen accused of raping a young woman, Shima Chowdhury, in their custody in October 1996 is a culmination of a series of failures by the Bangladesh authorities to protect human rights and provide justice, Amnesty International said today, as protests gather throughout the country.

The four policemen were acquitted by a trial court on 14 July. The judge reportedly deplored the fact that government lawyers had presented weak evidence and witnesses. No one in the jail administration has even been held to account for alleged negligence after Shima Chowdhury died in "safe-custody" in mysterious circumstances four months later.

"A series of failures by different institutions of the state has effectively allowed the police to get away with rape -- and led to Shima Chowdhury's death several months later," Amnesty International said in a report released today. "It is time the Home Ministry, the police, the court, the jail administration and hospital authorities all acknowledge their responsibility in this."

Amnesty International is calling on the Government of Bangladesh to promptly investigate these failures seriously with a view to bringing to justice not only those who raped Shima Chowdhury, but also those whose alleged negligence caused her death.

Two inquiries into Shima Chowdhury's death instituted by the government and by the parliament have been disappointing. More than five months after their establishment, they are yet to produce any reports and recommendations.

However, following protests by women's rights groups including *Sammilito Nari Samaj* (United Women Community) and *Ain O Salish Kendra* (Law and Mediation Centre) the government announced that it would appeal against the acquittal of the four policemen.

"Shima Chowdhury should never have been in custody in the first place. At the very least, she should have been released as soon as her medical condition deteriorated, as women's groups and human rights organizations were urging," Amnesty International said. "Instead, she was left to cope with her own traumatic experience, and with a serious illness without medication or necessary treatment."

The practice of so-called "safe-custody", a form of imprisonment ordered by the judge on application from the police, continues to be allowed even though victims and human rights activists have urged its abolition on the grounds that it violates the women's fundamental right to liberty, as well as facilitating ill-treatment. Some women have been kept in "safe-custody" for up to four years.

Background on the case

Police arrested Shima Chowdhury, an 18-year-old garment factory worker and her boyfriend, Abdul Hafiz, on 8 October 1997 on the grounds that a woman may not walk with a man to whom she is not married. Police reportedly did not keep a record of their arrest, and failed to produce the couple before a court even though Bangladesh's Constitution requires any detainees to be seen by the court within 24 hours of their arrest. The couple were then transferred to a police station and were held in separate rooms.

On the night of 9 October, while in the custody of police, Shima Chowdhury was drugged and raped to the point of unconsciousness.

Shima Chowdhury, who had marks of injury on her body, was transferred to the Chittagong Medical College Hospital. A medical board concluded on 15 October that on the basis of the evidence they had examined, she had been raped. Meanwhile, the police told reporters that she was a prostitute and had been raped by her own boyfriend and not by police personnel.

Shima Chowdhury was kept completely isolated from the outside world; she was not allowed visits from her family, her friends and human rights organizations. Four policemen accused of raping her were arrested and sent to Chittagong Jail after the findings of the medical board.

On 15 October, the court, on plea from the police, sent her to so-called "safe-custody" at the Chittagong Jail. This form of custody is used for women victims of rape, sexual assault, trafficking in women, and kidnapping. It purports to provide safety for those in danger of further assault, but in reality it is a form of punishment. The women are kept with other prisoners and are treated as if they are charged with, or convicted for, an offence. There is no legal basis in Bangladesh law for such custody to which women may be sent solely on the discretionary power of the judge.

The judge who ordered the "safe-custody" clearly had other options. Several women's rights groups and human rights organizations appealed to the court for custody of Shima Chowdhury, but the court persistently rejected their appeal. It is not clear if she received further medical treatment for her injuries from rape.

According to reports by Bangladesh human rights groups, Shima Chowdhury remained in detention without access to a lawyer or visits by her family and friends. In January 1997, her condition deteriorated, but the prison doctor reportedly did not visit her for three weeks. Eventually, he authorized her transfer to hospital on 7 February but no ambulance was called and Shima Chowdhury was taken to the hospital in a pedal rickshaw several hours later; she was declared dead on arrival. A postmortem was carried out, but on police insistence, her body was cremated immediately.

For further information, please refer to report, *Bangladesh: Institutional failures protect alleged rapists* (ASA 13/04/97).