



BAR HUMAN RIGHTS
COMMITTEE OF
ENGLAND AND WALES

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PRESS RELEASE

Following concerns raised by the Bar Human Rights Committee of England and Wales (“BHRC”) on November 16th 2012 as to the fairness of proceedings before the Bangladesh International Crimes Tribunal (“ICT”), the BHRC now urgently calls for there to be a retrial in the case of Delwar Hossein Sayedee.

The Chairman of the ICT, and presiding Judge in the Sayedee trial, Justice Mohammed Nizamul Huq, resigned on December 11th 2012 following the publication of emails and audio conversations between himself and a Bangladeshi expatriate lawyer. These raised serious and legitimate questions as to the Chair’s conduct both in respect of the Sayedee case as well as to the fairness of the proceedings before the ICT more generally. The Economist then published further correspondence which raised profound concerns as to the fairness of proceedings, notably in respect of the relationship and alleged collusion between the ICT Judges, the prosecutors and the Bangladesh government.

The ICT has indicated that the trial is to continue, with imminent judgment expected to be delivered by Justice Kabir, who was re-allocated to the Sayedee case on the 12th December, and the two remaining judges on the Sayedee case. Those two remaining judges themselves have not heard the totality of the evidence, having been brought in at different stages of the trial. Justice Huq, before his resignation on December 11th, was the only original member of the three-judge case. Whilst Justice Kabir initially did form part of the three-judge panel, he was transferred from the case in March 2012 to another trial.

This now means that no judge giving judgment in this capital case will have heard the totality of the evidence. Notwithstanding that Bangladesh legal practice allows for trials to continue with a judge being replaced, the Sayedee trial now appears to be reaching a conclusion without a single member of the final panel having heard the totality of the evidence. This is a grave denial of the most basic fair trial standards.

The BHRC has noted already its concerns that the ICT is failing to meet requisite standards of transparency, fairness and due process and has called on the Bangladesh government to address those concerns. The recently published evidence alleges that there have been serious improprieties in respect of the relationship between the ICT Judges, prosecutors and the executive and such serious allegations require an immediate, thorough and impartial inquiry.

Consideration must also now be given to whether the outstanding trials at the ICT are compromised by the published allegations.

However, the most recent developments as to the constitution of the court mean that no fair trial is now possible for Sayedee. The BHRC considers that a re-trial must be ordered, both for the fairness required by international standards for the accused, as well as to ensure legitimacy of the ICT process more broadly.

BHRC supports the process of bringing an end to impunity, but that guilt must be determined by proper and fair standards, which include that a verdict must be reached upon a full, proper and balanced assessment of all the evidence, which includes assessment of witnesses and credibility. Such assessment can only be made by judges who have heard all the evidence and are therefore best placed to make an assessment of innocence or guilt. This is, of course, exceptionally important where a guilty verdict may lead to death.

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NOTES FOR EDITORS

1. The Bar Human Rights Committee of England and Wales (“BHRC”) is the international human rights arm of the Bar of England and Wales. It is an independent body concerned with protecting the rights of advocates, judges and human rights defenders around the world. The Committee is concerned with defending the rule of law and internationally recognised legal standards relating to human rights and the right to a fair trial. The remit of BHRC extends to all countries of the world, apart from its own jurisdiction of England & Wales. This reflects the Committee's need to maintain its role as an independent but legally qualified observer, critic and advisor, with internationally accepted rule of law principles at the heart of its agenda.
2. On November 16th 2012, the BHRC issued a statement expressing concern that the International Criminal Tribunal in Bangladesh (ICT) is failing to meet international fair trial standards. To see the statement click [here](#)

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