



BAR HUMAN RIGHTS
COMMITTEE OF
ENGLAND AND WALES

London, 11 November 2014

STATEMENT

BHRC calls for immediate suspension of death sentences handed down against Muhammad Kamaruzzaman and Motiur Rahman Nizami

The Bar Human Rights Committee of England and Wales (BHRC) calls for the immediate suspension of the death sentences handed down against Muhammad Kamaruzzaman and Motiur Rahman Nizami by the International Crimes Tribunal (ICT).

Whilst BHRC cautiously welcomes the recent suggestion from the Attorney General that the execution of the capital sentence for Muhammad Kamaruzzaman will be delayed, BHRC respectfully submits that this does not go far enough.

As with other cases before the ICT, about which BHRC has previously expressed concern, there is evidence that the trial of Muhammad Kamaruzzaman was flawed, in particular in respect of arbitrary limitation of witness evidence, limited ability to cross examine key witnesses and concerns relating to the impartiality of judges which resulted in an application to recuse two judges for bias being summarily dismissed.

Further, on 29 October 2014, following substantial delay, the verdict in the case of Nizami was delivered and the death sentence was pronounced, despite well-founded submissions to the ICT illustrating grave and numerous shortcomings in the trial.

The BHRC has, over the past two years, expressed serious concerns in relation to the fairness of the procedures employed by the ICT. The flaws in the trial processes led to BHRC calling for the ICT to be halted pending a full and impartial investigation into serious allegations of malpractice and unjust procedure.

The range of matters complained of in the ICT proceedings have included failures to provide such fundamental protections as the presumption of innocence; clarity and specificity of

charges; the right to appoint counsel of one's own choosing; sufficient time to prepare a defence; the right to call witnesses, the right to be tried by an independent, impartial tribunal illustrated by alleged collusion between ICT judges, the prosecution and the government supported by the publication of emails and audio conversations and the right to challenge interlocutory decisions. The number and nature of these flaws means the whole process should be suspended and a thorough impartial and independent investigation should be conducted into the allegations. Credible evidence of a flawed judicial process should result in convictions being set aside- if international norms of fairness are respected- and any retrials should take place within such international fair trial norms.

Moreover whilst the BHRC is opposed to the death penalty in all circumstances, international law is clear that 'super due process' must be applied in capital cases. States must ensure that all of the minimum guarantees and safeguards for a fair trial imposed by Article 14 ICCPR, to which Bangladesh is a state party, are provided for defendants facing the death penalty. It is thus of particular concern that the above alleged flaws attach to a tribunal where capital sentences are routinely to be considered following conviction.

BHRC is committed to a process of accountability in Bangladesh for the grave crimes committed in 1971. However, such accountability can only be provided in accordance with international fair trial norms and guarantees to which the Bangladeshi Government has in the past expressed its own commitment.

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 independent of the Bar Council and works to protect 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. See previous statements related to the International Crimes Tribunal (ICT) of Bangladesh [here](#).

BHRC website

<http://www.barhumanrights.org.uk/>