

CONCERN OVER DISCREPANCIES WHICH LED TO TEACHER'S ACQUITTAL, 12 MAR 2010

IT WAS recently reported that a teacher was acquitted at the end of a full trial of charges of outraging the modesty of three “deaf-mute” female students in 2005. The sessions court judge reportedly said the prosecution had failed to prove its case beyond a reasonable doubt and that the charges were not specific. While respecting the criminal justice process and the right of an accused to a fair trial, the Women’s Centre for Change, Penang (WCC) remains deeply concerned about the prosecution and outcome of sexual crime trials, especially those involving special needs individuals.

In the above case, given the hearing and speech impairments of the victims, how did the investigating officers and the court communicate with them or assess the accuracy of information given via interpreters (assuming sign language was used)? How much time did the prosecution spend with the victims, preparing them for the trial? What sort of preparation went into the case if the judge stated that the charges against the accused “did not state what the criminal intimidation was that he was alleged to have committed to outrage the modesty of the victims and how he had done so, and there were also discrepancies in the dates of the incidents given by the victims”? Why were the discrepancies not sorted out prior to the trial or even amended during trial?

Sexual crime victims have little choice but to place their trust in the justice system, where the state prosecutes the perpetrators on their behalf. Given that only a fraction of reported sexual crimes result in the accused being charged, it becomes ever so important that the state mounts a well-prepared prosecution. The WCC’s research into sexual crime cases tried in subordinate courts in Penang between 2000 and 2004 showed the following with regard to outraging modesty (S354 of the Penal Code). Of the 125 cases which went to full trial, only 2.4% resulted in a guilty verdict, 27.2% resulted in acquittal, and 63.2% a discharge not amounting to acquittal (DNAA). The low conviction rates and the high rate of DNAA verdicts send a shocking message on justice for sexual crime victims.

The WCC maintains that for such victims to get justice, there must be careful and thorough investigation, as well as meticulous and skilful prosecution. Until there is change to this effect, acquittals and DNAA verdicts will continue. Surely the victims deserve better than this.

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