

## **Parliament, statutory rape and 'lying children'**

**MalaysiaKini.com**

**Sept 8, 2012**

**By Charles Santiago**

How many of you would believe that a seven-year-old child could whip up a fantasy of having been raped when she was aged four? And that too after watching pornography?

No one, I am sure, except the judge who on Tuesday threw out the case against a 49-year-old kindergarten operator. In March, a Sessions Court sentenced Ewe Peng Lip to 20 years in jail and ten strokes of the cane.

High Court judge Zamani Abdul Rahim overturned the judgment and said the child's testimony had discrepancies. The testimonies of her mother and grandmother were not accepted as they were based on what the victim had told them.

Zamani also ruled that there was no proof of penile penetration and it was "common knowledge" that children find it hard to differentiate fact from fantasy.

"We must not forget who is involved in this rape allegation, even if she is an adult, in which women have a tendency to exaggerate about a sexual act" - these were the words of the learned judge.

And his words are demeaning to women and girls. Zamani clearly has no respect for women.

If we do nothing to register our contempt for this judgment, it will only show that the society we live in has no regards for women. It will only show that the society we live in has no qualms if women and children are treated like sexual objects.

It will only show that the society we live in has no moral conscience or backbone. It will only show that the society we live in will not think twice about victimizing women and children.

Ruling raises questions

This ruling makes me cringe. But more importantly it makes me fear for the safety of other children as the perpetrator is a kindergarten owner and has access to other kids, as he is now free.

The ruling also raises pertinent questions:

1. Why did a male gynecologist (Dr Malkeet Singh) examine the child?
2. Was a psychologist/counselor/psychiatrist or any other mental health expert present during the vaginal examination?

3. Did the judge order the court for a psychologist/counselor/psychiatrist or any other mental health expert to be present when the child was questioned?
4. Were special tools, like drawings by the child or specially formulated questions, used before arriving at the conclusion that the child was fantasizing she was raped?
5. Did a psychologist/counsellor/psychiatrist or any other mental health expert analyse the child's statement?
6. Did the judge take into account that Ewe could possibly be a paedophile? And if he is one, and he is now free, he could prey on other children? And that it would only be a matter of time before he decides to indulge himself again?

Let's look at the statistics now:

1. In 2010, there were 1,777 cases of rape out of which 214 cases involved victims under the age of 12. And in 1,563 cases the victims were between the ages of 13 and 15.
2. In 2011, there were 1,652 cases out of which 202 cases involved victims under the age of 12. And 1,450 cases the victims were between the ages of 13 and 15.
3. As of July this year, 859 statutory rape cases were reported. This involved 109 cases of girls under 12 and 750 cases of girls between the ages of 13 and 15.

We all know that usually the number of unreported cases of rape and sexual abuse are double. And many of such cases go unreported. So please let's not even try to satisfy ourselves that we are a fine society just because the numbers seem to be on the decrease.

Instead let's look at how many of these child victims had justice delivered to them.

What is becoming of this country and its judiciary that we could have such a ruling, after two equally outrageous court judgments which created an uproar among the people? And despite attorney-general Abdul Gani Patail's statement that rape offenders need to be severely punished?

National bowler Noor Afizal Azizan who raped a 13-year-old girl when he was 19 and electrician Chuah Guan Jiu, 21, who raped a 12-year-old escaped imprisonment.

They were both bound over for RM25,000 on good behaviour. Noor Afizal's custodial sentence by a Sessions Court was set aside because he has a "bright future".

These recent rulings are enough to warrant a review of the laws on statutory rape. And it must be done at the next Parliament sitting which begins on September 24 for it is clear that the existing laws are incapable of protecting children and in turn are used to further victimise them.

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