

Press Release : Court awarded compensation in only 6.8% rape cases: BLAST Study

1. The Daily Star (8 March 2021) <https://www.thedailystar.net/city/news/compensation-ordered-only-7pc-rape-cases-2056673>

Compensation ordered in only 7pc rape cases Finds BLAST study

Under the Women and Children Repression (Prevention) Act 2000, the court imposed fine on convicted rapists in 100 percent of the cases, but converted the fine into compensation and awarded it to the victims' families or survivors in only 6.8 percent of these cases (three out of 44 cases), revealed a latest study of BLAST.

The award of compensation sustained in only one case, as the Supreme Court acquitted the convicts in two out of these three cases where compensation was awarded by the tribunal.

The study titled 'No Justice without Reparation: Why Rape Survivors Must Have a Right to Compensation', was published as part of the Rape Law Reform Now campaign, supported by UN Women and funded by Global Affairs Canada.

The study was published in solidarity with the campaign theme #ChooseToChallenge for International Women's Day 2021, through which BLAST chooses to challenge the almost exclusive focus on punishment of the perpetrator when discussing justice for rape while overlooking the victim or survivors' right to reparation.

It analysed 99 Supreme Court judgements relating to 90 rape cases reported in six law reports of Bangladesh — Dhaka Law Report, Bangladesh Legal Decisions, Bangladesh Law Times, Mainstream Law Report, Bangladesh Law Chronicles and Appellate Division Cases, during the period of 1995 to 2019.

Of these 90 cases, 46 were rape cases filed under the Nari O Shishu Nirjaton Domon (Bishesh Bidhan) Ain 1995, while 44 were rape cases filed under Section 9 of the 2000 Act.

It also found the average amount of fine imposed by the tribunals under the 2000 Act is around Tk 28,000, compared to around Tk 4,700 under the 1995 Act —therefore marking an increase, but remaining inadequate for the purposes of compensation nevertheless.

The minimum amount of fine was set at Tk 100,000 for rape leading to murder and gang rape according to section 9(2) and 9(3) of the 2000 Act.

However, the court did not impose fine above this minimum limit in any of the 44 cases under the 2000 Act, indicating that Tk 100,000 is treated as a ceiling rather than a baseline in practice, it mentioned.

The report recommended amending Section 15 of the Nari O Shishu Nirjaton Domon Ain 2000 so that compensation is a matter of right and not a matter of judicial discretion.

It also recommended enacting the Crime Victims Compensation Act drafted by the Law Commission in 2007, so that a Crime Victim Compensation Fund is established in every district.

It further recommended providing training on restorative justice through the Judicial Administration and Training Institute to Nari O Shishu Nirjaton Domon Tribunal judges on principles of victimology.

UN Women Bangladesh country representative Shoko Ishikawa said, "Compensation is the bare minimum that ought to be provided as reparation to SGBV survivors. It is therefore critical to ensure that the legal framework for compensation for survivors of rape and other forms of Sexual and Gender-Based Violence is strengthened in Bangladesh in line with the reform proposals set out in this report."

Sara Hossain, honorary executive director, BLAST said, "We hope this report encourages lawmakers, lawyers, academics and activists alike to refocus some much needed attention to ensuring that every rape survivor has effective access to remedies and reparation."

The author of the report Taqbir Huda, Research Specialist, BLAST said, "As we celebrate our graduation from the Least Developed Countries (LDC) category, it is essential that we reinvest some of the country's wealth in activating the Crime Victims Compensation Fund proposed by the Law Commission back in 2007, so victims of violent offences, such as rape survivors are able to get some compensation irrespective of the outcome of the criminal prosecution."

2. Dhaka Tribune (8 March 2021) <https://www.dhakatribune.com/law-and-rights/2021/03/07/blast-report-compensation-awarded-in-only-6-8-rape-cases>

BLAST report: Compensation awarded in only 6.8% rape cases

Award of compensation sustained in only one case out of 90

The court has awarded compensation to victims in only 6.8% of rape cases in Bangladesh, according to a report by the Bangladesh Legal Aid and Services Trust (BLAST).

The report was published as part of the Rape Law Reform Now campaign, supported by the UN Women Combatting Gender Based Violence Project funded by Global Affairs Canada, and authored by BLAST Research Specialist Taqbir Huda.

“Through this report we choose to challenge (#ChooseToChallenge) the almost exclusive focus on punishment of the perpetrator when discussing justice for rape, while overlooking the victim-survivor’s right to reparation,” said a BLAST press release on Sunday.

“Ensuring justice for rape victims and survivors in Bangladesh has mostly been understood and pursued in punitive terms. While ensuring punishment of the perpetrator is important, redress for the rape survivor is seldom discussed. The objective of this report is to restore the balance in the discourse on justice for rape, so the urgent necessity of granting monetary remedies to the rape survivor becomes clear,” it added.

The report analysed 99 Supreme Court judgments relating to 90 rape cases reported in six of the leading law reports of Bangladesh: Dhaka Law Reports, Bangladesh Legal Decisions, Bangladesh Law Times, Mainstream Law Reports, Bangladesh Law Chronicles and Appellate Division Cases.

Of these 90 cases, reported between 1995 and 2019, 46 were rape cases filed under the Suppression of Violence against Women and Children Act 1995, while 44 were filed under the Suppression of Violence against Women and Children Act 2000.

Statutory provisions on compensation for sexual and gender-based violence (SGBV), including rape, were first introduced in Bangladesh through the 2000 Act, but it did not provide any standalone right to compensation. Instead, it provided for the Women and Children Repression Prevention Tribunal to exercise its discretion on when and whether to convert an order of fine into an award of compensation.

Findings

According to the report, the court imposed fines on convicted rapists in 100% of the cases filed under the 2000 Act. However, the court converted the fine into compensation and awarded it to the survivor in only 6.8% (3 out of 44) of these cases.

Furthermore, the Supreme Court acquitted the convicts in two out of the three cases where compensation was awarded, so the award of compensation was sustained in only one case.

Recommendations

BLAST recommended that the government amend section 15 of the 2000 Act, so that compensation is a matter of right and not judicial discretion.

They also recommended to enact the Crime Victims Compensation Act drafted by the Law Commission in 2007, so that a Crime Victim Compensation Fund is established in every district.

As a result of the fund, victims of violent crimes would be able to apply for compensation independently of criminal proceedings.

BLAST also suggested a sub scheme and guidelines for SGBV victims in the fund.

Shoko Ishikawa, country representative of UN Women Bangladesh, said: “Compensation is the bare minimum that ought to be provided as reparation to SGBV survivors. It is therefore critical to ensure that the legal framework for compensation for survivors of rape and other forms of SGBV is strengthened in Bangladesh in line with the reform proposals set out in this report.”

Sara Hossain, honorary executive director at BLAST, said: “We hope this report encourages lawmakers, lawyers, academics and activists alike to refocus some much needed attention to ensuring that every rape survivor has effective access to remedies and to reparation.”

Taqbir Huda, research specialist at BLAST, said: “As we celebrate our graduation from the Least Developed Countries (LDC) category, it is essential that we reinvest some of the country’s wealth in activating the Crime Victims Compensation Fund proposed by the Law Commission back in 2007, so victims of violent offences, such as rape survivors are able to get some compensation irrespective of the outcome of the criminal prosecution.”

The reform proposals in this report were developed in consultation with the Rape Law Reform Coalition, a coalition of seventeen human rights organisations working on ensuring justice for rape, including an advisory committee comprising experts on justice for SGBV and rape. Relevant stakeholders in various events held as part of Rape Law Reform Now campaign were also consulted.

The stakeholders in these meetings included but were not limited to former District Court and Supreme Court judges, Supreme Court and District Court lawyers, legal academics, women’s rights activists from groups such as Ain o Salish Kendra, Bangladesh Mahila Parishad, Bangladesh National Women Lawyers’ Association, Brac, Naripokkho, researchers, including those from the Law Commission of Bangladesh.

3. The Business Standard (8 March 2021) <https://www.tbsnews.net/bangladesh/tribunal-awarded-compensations-rape-victims-68-cases-blast-study-213178>

Tribunal awarded compensations to rape victims in 6.8% cases: BLAST study

Compensations should be accessible as a legal right, not dependent on the outcome of criminal proceedings

Justice for rape is thought to be secured only through punishment to perpetrators, while victims are left alone to deal with physical and psychological damages inflicted by the crime.

The 2000 Women and Children Repression Prevention Act for the first time introduced provisions of compensation for sexual and gender-based violence, including rape, but it is the tribunal's discretion to attach the obligation of compensating the victims with the jail sentence.

As per a recent analysis done by the Bangladesh Legal Aid and Services Trust (BLAST) of 44 rape cases filed under the 2000 act, the Women and Children Repression Prevention Tribunal asked convicts to compensate victims only in three cases.

But the High Court acquitted convicts in two out of the three cases, thus invalidating the tribunal's compensation orders in those two cases.

It is to be noted that the 2000 act has provisions to impose a fine along with a jail sentence for all the six offences of rape, including gang rape and rape leading to murder. The court can convert the fine into compensation that is paid to the rape victim, not to the government exchequer.

This amount can be realised from the convict's existing property, and if that is not possible, then from his future inheritable property.

But compensations in criminal law depend not only "on the rape survivor being able to prosecute the perpetrator, but also on being able to secure a conviction," the report said.

The prerequisites are limiting access to compensations, as studies suggest more than 90% of rape accused never face legal consequences in Bangladesh and the conviction rate of rape cases tried at three Dhaka tribunals in a span of 15 years was less than 3%.

It is believed that the impunity enjoyed by perpetrators is why violence against women is rampant in Bangladesh. Instead of holding perpetrators accountable, often the blame is shifted to the survivor for what she says, how she dresses or for her "character".

While the figures show that the victims' right to compensation is not protected by the law, the BLAST report published recently also reveals that the amounts awarded in compensation were inadequate.

The study was conducted as part of the "Rape Law Reform Now" campaign supported by UN Women and Global Affairs Canada.

The report says that in the cases filed over rape causing death and gang rape where the minimum of Tk1 lakh compensation is applicable, the court never imposed more than that.

The committee formed under the Convention on the Elimination of All Forms of Discrimination against Women, which Bangladesh is a signatory of, says states should ensure that remedies are adequate, effective, and proportional to the gravity of the harm suffered.

And remedies should include, as appropriate, restitution, compensation, and rehabilitation.

"If women truly have the right to live free of violence, it is the obligation of every state to make sure their rights are fully protected and fulfilled," the BLAST report says.

This is the backdrop to BLAST recommending that the draft Crime Victims Compensation Act prepared by the Law Commission in 2007 be enacted.

A Crime Victim Compensation Fund will be created under the act in every district, and victims of violent crimes will be able to seek compensations, independent of any criminal proceedings.

Also, the 2000 act should be amended to establish compensation as a legal right, not a matter of judicial discretion, as per the report.

"As we celebrate our graduation from the Least Developed Countries (LDC) category, it is essential that we reinvest some of the country's wealth in activating the Crime Victims Compensation Fund so rape survivors get compensations irrespective of the outcome of the criminal prosecution," said Taqbir Huda, research specialist of BLAST.

4. The Financial Express (8 March 2021) <https://today.thefinancialexpress.com.bd/politics-policies/courts-compensate-victims-in-68pc-rape-cases-study-1615138692>

Courts compensate victims in 6.8pc rape cases: Study

Different lower courts awarded compensation to victims in only 6.8 per cent rape cases under the Nari O Shishu Nirjaton Domon Ain-2000, according to a latest study.

The study, conducted by Bangladesh Legal Aid and Services Trust (BLAST), showed that under the 2000 Act, courts imposed fine on convicted rapists in 100 per cent of the cases, but they (the courts) converted fine into compensation and awarded it to the victims/survivors in only 6.8 per cent of these cases (three out of 44 cases).

The Supreme Court acquitted convicts in two out of three of these cases where compensation was awarded by the Nari O Shishu Nirjaton Domon Tribunal, therefore the award of compensation sustained in only one case, found the study.

In solidarity with the campaign theme #Choose To Challenge for International Women's Day 2021, BLAST disseminated the study titled 'No justice without reparation: Why rape survivors must have a right to compensation' recently.

The study also recommended amending Section 15 of the 2000 Act so compensation is a matter of right not a matter of judicial discretion.

It also suggested enacting the crime victims' compensation law drafted by the Law Commission in 2007 so that a Crime Victim Compensation Fund is established in every district, from which victims of violent crime may apply for compensation as of right, independently of any criminal proceedings.

The average amount of fine imposed by the Tribunal under the 2000 Act is around Tk 28,000, compared to around Tk 4,700 under the 1995 Act - therefore marking an increase, but remaining inadequate for the purposes of compensation nevertheless, the study found.

The report was published as part of the Rape Law Reform Now campaign, supported by the UN Women Combating Gender Based Violence Project funded by Global Affairs Canada, and was authored by Taqbir Huda, research specialist, BLAST.

The study also revealed that the minimum amount of fine was set at Tk100,000 for rape leading to murder and gang-rape by Sections 9(2) and 9(3) of the 2000 Act.

However, the court did not impose fine above this minimum limit in any of the 44 cases under the 2000 Act, indicating that Tk 100,000 is treated as a ceiling rather than a baseline in practice, the study found.

The objective of this report is to restore the balance in the discourse on justice for rape, so the urgent necessity of granting monetary remedies to the rape survivor becomes clear.