



Date: 8 December 2018

### Press Release

## **Call for Rape Law Reform to Ensure Gender Equality, Rights and Justice**

Speakers at a national conference today called for reform of rape laws to ensure gender equality and access to justice in line with the constitution, human rights law and Sustainable Development Goals 5 and 16 to ensure a rape survivor's right to justice and fair trial.

Culmination of a year-long series of expert consultations on the law and practice on rape, the conference brought together 150 participants, including former judges, lawyers, legal aid organisations, women's rights groups, and relevant government bodies.

In a conference declaration, speakers highlighted that the definition of rape, and relevant evidence rules still remain based on colonial laws. They called for a wholesale review of criminal laws in the light of the constitution, and for changes in procedures and services, to ensure prompt and adequate remedies for all those affected by sexual violence, irrespective of age, religion, gender identity, sexuality, ethnicity or disability. They also called for increasing responsiveness and change in attitudes of the justice system, in particular police, forensic doctors, lawyers, judges, and rights advocates.

The conference was held today at the CIRDAP International Conference Centre, Dhaka. It was attended by 150 participants, including representatives from relevant government bodies (the One Stop Crisis Centre, Victim Support Centre, forensic experts, Ministry of Health and Family Welfare, Ministry of Women and Children Affairs) and journalists, academics, researchers, lawyers, legal aid organisations, rights activists, and paralegals.

The conference consisted of five sessions. It started with testimonies highlighting barriers to justice based on ethnicity, caste, gender identity and sexuality and a call for ensuring equal application of the law for all and necessary accommodations to ensure marginalised communities can access justice. Working sessions highlighted rape myths and existing discrimination in the law, social and legal barriers to access to justice, the proportionality of punishment, the need for adequate redress and reparation including compensation for victims.

Two publications were launched on '**Why Rape Survivors Stay out of Court**' and '**18 Directives by the High Court Division on Prosecution of Rape Cases**'.

### **Background**

In the first session, the speakers discussed the importance of reform to ensure **inclusive justice** for rape and the role of civil society in ensuring such reform, particularly focusing on the experiences of individuals from marginalised communities.

As a panel discussant, Tamanna Sing Baraik, Program Officer, Dalit Nari Forum said, "Women face discrimination both outside and inside their communities."

Joya Sikder, President, Somporker Noya Setu Despite the cabinet's recognition of the Hijra community in 2013, we find that the police do not receive our complaints regarding forcible sexual violence."



# বাংলাদেশ লিগ্যাল এইড এন্ড সার্ভিসেস ট্রাস্ট (ব্লাস্ট) Bangladesh Legal Aid and Services Trust (BLAST)

Special Guest Justice A. F.M. Abdur Rahman, former Justice of the High Court Division, said “The definition of rape needs urgent review.”.

Justice Nizamul Huq, former Justice of the Appellate Division of the Supreme Court of Bangladesh and Chief Legal Advisor, BLAST, said, “**We need a change in laws and procedures, witness protection and most importantly a change in social perceptions..**”

In session 2, speakers highlighted the **discrimination in existing rape laws** and rape myths and which obstruct justice for rape survivors. Dr. Shahnaz Huda, Professor, Department of Law, University of Dhaka, commented that, “**The definition of rape needs to be updated in the light of the Constitution since the Penal Code is a 160 year old law. In addition to reforms and changes needed to procedural issues, compensation for victims may be introduced so.**”

In session 3, speakers addressed social, procedural and legal barriers to justice faced by rape survivors. Advocate Nina Goswami, Director, ASK, said that, “**Rape is an offence where compromise (*aposh mimangsha*) is barred by law but powerful perpetrators end up forcing a compromise onto powerless victims. Close monitoring of rape cases is needed.**”

Advocate Mitali Jahan, Program Manager, BRAC Human Rights and Legal Aid Services, recommended, “**The presence of women forensic experts and medical officers should be ensured when medico-legal examinations are conducted on rape survivors.**”

Dr. Ayesha Afroj Chowdhury, DPM, Gender NGO & Stakeholder Participation Unit, MOHFW, said that, “**The Court has acknowledged the Health Ministry Protocol to collect medico-legal evidence which says any doctor, irrespective of gender, can examine the victim. It also addresses special measures for children and persons with disabilities.**”

Rita Das Roy, Member, Naripokkho, said, “**We need wholesale reform the Evidence Act 1872. The police needs to prioritise issues of violence against women. Gender sensitisation training is needed to overcome existing social stigma and to ensure respect and redress for rape survivors.**”

In session 4, speakers focused on ensuring proportionality of punishments, deterrence and reparation for rape and highlighted the need for compensation.

Dr. Mahbubur Rahman, Professor, Department of Law, University of Dhaka said that, “**Given the very low conviction rate, we need reform of the whole criminal justice system and to ensure proportionate penalties are available and judges can exercise discretion in imposing penalties.**”

Taqbir Huda, Research Specialist, BLAST, said that, “**Compensation is not talked about in rape cases and punitive methods are focused on. In 5 out of 35 reported cases, compensation has been granted and the discretion of judges are not properly exercised. Even where compensation has been given, only the minimum amount is always imposed. In rape cases, compensation can be given as a right of the victim or the existing criminal procedure law can be reformed as well as introducing tort law mechanisms**”



# বাংলাদেশ লিগ্যাল এইড এন্ড সার্ভিসেস ট্রাস্ট (ব্লাস্ট) Bangladesh Legal Aid and Services Trust (BLAST)

Afsana Islam, Assistant Professor, Department of Women and Gender Studies, University of Dhaka, said that, **“Implementation and publicity is essential to ensure proper application of the law.”**

Barrister Abdul Halim, Advocate, Bangladesh Supreme Court, said that, **“When a girl is raped, her right to life is violated which cannot be measured with any compensation. No government has taken initiative to form a State Compensation Fund even after so many years of the liberation. The State should take measures to form a State Compensation Fund. The Court can also popularize public law compensation apart from other forms of compensation. But most importantly we need leadership in the judiciary.”**

Fowzul Azim, Chief Legal Research Officer, Bangladesh Law Commission, said, **“The High Court should formulate the directions and distributed as guideline in the lower courts. In the absence of sentencing guideline the conviction rate is increasing and the criminal justice system fails to provide just and fair outcome.”**

Humaira Aziz, Director, Women and Girls Empowerment Program, Care Bangladesh, said that, **“A rape victim becomes unable to participate in the educational and social activities like before, and gets temporarily detached to family. No compensation is given considering these impact. There should be a measuring scale for the compensation and there should be change in the mindset of the judges and lawyers too.”**

Sara Hossain, **“Both compensation and punitive measures should be kept in the laws for addressing rape offences. The redress given to the rape victims by the International Crimes Tribunal can be an example in Bangladesh in terms of giving recognition to the rape victims. We can devise reform for compensation and recognition of the rape victims by looking into the past. The law can be amended in light of the Constitution and Human Rights laws.”**

In the closing session, which commenced with a Declaration underlining demands for necessary reforms in procedural and substantive areas of rape law to ensure inclusive justice for rape survivors,

For further information, please contact:

Mahbuba Akhter

Deputy Director (Advocacy and Communication), BLAST

Email- mahbuba@blast.org.bd