



Understanding Key Issues Surrounding Rape of Young People in Dhaka



যুব সম্মেলন ২০১৮
বাংলাদেশ ও এজেন্ডা ২০৩০
তারুণ্যের প্রত্যাশা

১৪ অক্টোবর ২০১৮, ঢাকা, বাংলাদেশ

This Brief has been published on the occasion of the "Youth Conference 2018 - Bangladesh and Agenda 2030: Aspirations of the Youth", organised by the Citizen's Platform for SDGs, Bangladesh.

Context

This brief focuses on the barriers to ensuring access to justice for rape survivors, particularly young women in Dhaka city, and proposes necessary reforms in view of the need to ensure fulfilment of Sustainable Development Goal (SDG) 5 on gender equality and SDG 16 on peaceful, just and inclusive societies. It draws on Bangladesh Legal Aid and Services Trust's (BLAST's) experiences of providing legal aid and services for 25 years to people living in poverty and marginalised communities, including women and adolescent girls who are rape survivors.

Methodology

The research methodology included both primary and secondary data. Key Informant Interviews and Focus Group Discussions were held with BLAST's frontline legal service providers, including paralegals and staff lawyers. A desk review was conducted of relevant laws and policies. Finally, BLAST held consultation meetings with stakeholders including government representatives from the Victim Support Centre (VSC) run by the Dhaka Metropolitan Police, the One Stop Crisis Centre (OCC) at Dhaka Medical College Hospital, the Multi-Sectoral Project on Violence Against Women at the Ministry of Women and Children Affairs (MoWCA) – and academics, researchers, lawyers, activists and rights organisations in Dhaka city working on sexual violence.

Key Findings

As evident from Figure 1, young women and girls form the majority of rape victims in Bangladesh, with 82 per cent being aged under 20 years.

Interlinkage between Rape and Child-, Early- and Forced Marriages

A key reason behind the high rates of child-, early- and forced marriages in low income communities (including Dhaka) is the threat of sexual violence, including rape against women

¹ BLAST acknowledges and thanks *Taqbir Huda*, Research Specialist, BLAST, for drafting this brief, and *Sara Hossain*, Advocate, Supreme Court and Honorary Executive Director, BLAST for editing and *Taslima Yasmin*, Assistant Professor, Department of Law, University of Dhaka for reviewing it.

Figure 1: Reporting Rape Incidents between January 2011 and June 2015



Source: Reprinted from "Study finds under-20 girls most vulnerable to rape in Bangladesh" by Tasin, F., 2015, The Daily Star.

and young, unmarried girls.² Many parents and guardians believe marriage will protect their daughters from rape or other sexual violence by strangers, resulting in child-, early- and forced marriages as a means of protection against such insecurities. When an incident of rape occurs, victims may be forced by their families or by community leaders, in some cases after a 'shalish', to marry their rapists.

A 2011 study has found that a high proportion of men in rural and urban Bangladesh (42 per cent and 48 per cent respectively) reported perpetrating sexual violence for the first time when they were aged between 20 and 29.³

Prevailing Culture of Impunity

A 2013 UN multi-country study on male violence (which surveyed perpetrators of rape) found that in Bangladesh, 95 per cent of urban and 88 per cent of rural respondents reported facing no legal consequences for raping a woman or girl.⁴ A recent news report claimed that only 3,747 out of 16,804 victims treated at the OCC between 2001 and 2013, later took legal action, meaning that 78 per cent of the rape victims did not seek justice.⁵ It appears that the vast majority of rape victims are precluded from accessing justice, which in turn creates a culture of impunity for rapists.

Pre-Trial and Procedural Barriers to Rape Justice

- Community 'shalish' and out of court settlements for paltry sums of money are allegedly widely prevalent in cases of rape. The social stigma and 'shame' associated with rape causes

² Ali, N., Akhter, S., Hossain, N., and Khan, N.T. (2015). Rape in Rural Bangladesh. Delta Medical College Journal, 3(1), 31-32.

³ Naved, R.T., Huque, H., Farah, S. and Shuvra, M.M.R. (2011). Men's Attitude and Practices regarding Gender and Violence against Women in Bangladesh. Dhaka: ICDDR,B Special Publication No. 135. Retrieved from:

⁴ Fulu, E., Warner, X., Miedema, S., Jewkes, R., Roselli, T. and Lang, J. (2013). Why Do Some Men Use Violence Against Women and How Can We Prevent It? Quantitative Findings from the UN Multi-country Study on Men and Violence in Asia and the Pacific. Bangkok: UNDP, UNFPA, UN Women and UNV. Retrieved from: <http://www.partners4prevention.org/sites/default/files/resources/p4p-report.pdf>

⁵ Islam, U. (2013, June 19). One-stop crisis centre limited to medicare only. The Dhaka Tribune. Retrieved from: <https://www.dhakatribune.com/uncategorized/2013/06/19/one-stop-crisis-centre-limited-to-medicare-only>

- the victim's family to opt for 'quick' and discrete resolutions, instead of pursuing court cases which are time consuming and result in negative publicity.
- When victims take legal steps, they may be met with violent intimidation from community leaders.
 - Some victims and their families also report non-compliance with the law or a lack of responsiveness on the part of the police, VSC and the OCC, which in some cases are ascribed to lack of adequate training of relevant personnel, or perceived to be due to 'connections' with powerful parties linked to the accused.
 - Hijra community members endure additional hurdles to accessing justice because of their gender identity, and report facing insults and harassment from law enforcement agencies if and when they report rape. Sometimes they also report being pressurised by their 'gurus' to keep silent.

Vague and Gender-discriminatory Laws

The narrow legal definition of rape in section 375 of the Bangladesh Penal Code, 1860 (a colonial remnant), is discriminatory and severely limits the scope for justice:

- It defines rape as gender-specific and does not address sexual violence against men or transgendered persons. A 2013 study, however, found that there were 2,374 male rape victims who reported being raped by other men.⁶
- Consent in the context of sexual intercourse is not defined in the law. At the same time, Section 155(4) of the Evidence Act 1872 allows a rape complainant's sexual history/sexual behaviour to be raised in court to prove 'she is of a generally immoral character', often resulting in defense lawyers victim-shaming in courtrooms and deploying archaic and stereotypical notions of consent to deny victims justice.
- While the explanation clause states that 'penetration is sufficient to constitute the sexual intercourse necessary to the offence of rape', it does not define penetration which in practice results in only penile penetration of the vagina being recognised as rape but not other forms of rape such as penetration of the vagina with objects and penile penetration of the mouth.
- It excludes the possibility of rape in the context of marriage, except when the wife is below the age of thirteen. This means that a married woman aged over 13 has no right to redress even if subjected to sexual intercourse against her will by her husband. Recent Studies, however, show that spousal violence and forcible sex within marriage are common.⁷

Policy Recommendations

For Ministry of Home and Bangladesh Police

- Disseminate guidelines issued by the High Court Division, Supreme Court of Bangladesh in the case of *Naripokkho and Others vs. Bangladesh*⁸ so that all police personnel are fully aware of their duties to promptly record a First Information Report (FIR) and to ensure prompt referral for medical examination when responding to a woman or girl who is reporting rape.
- Develop a dedicated website to record rape complaints online, while having their personal information treated with due confidentiality.
- Ensure participation of youth volunteers and social workers in police stations to provide support to women and girls who are rape survivors.

⁶ See p. 47 of Fulu, E., Warner, X., Miedema, S., Jewkes, R., Roselli, T. and Lang, J. (2013). Why Do Some Men Use Violence Against Women and How Can We Prevent It? Quantitative Findings from the UN Multi-country Study on Men and Violence in Asia and the Pacific. Bangkok: UNDP, UNFPA, UN Women and UNV. Retrieved from: <http://www.partners4prevention.org/sites/default/files/resources/p4p-report.pdf>

⁷ National Institute of Population Research and Training, Bangladesh Demographic and Health Survey 2007 (2009), p. 209, where it was found about 60 percent of men reported ever perpetrating physical and/or sexual violence against their wives.

⁸ High Court Division judgment dated 18.02.2016 (Justice Farah Mahbub and Justice Kazi Md. Ejarul HaqueAkondo) in Writ Petition No. 5541 of 2015.

- Ensure prompt action for any police official who delays or refuses to accept a report of rape or delays in ensuring referral for a medical examination.
- Ensure training for all relevant officials on gender equality and violence against women and share with them recent judgments on the subject.

For Local Government and MoWCA

- Disseminate the national hotline number for reporting violence against women, girls and children (109) through print, electronic and social media, to ensure wider outreach, particularly to young people in educational institutions.
- Sensitise relevant actors within law enforcement agencies and medical institutions (e.g. Police, VSC, OCC, forensic doctors) so that they respond to rape survivors with due care and diligence, which includes providing interpretation or accessible information for those with disabilities.

For MoWCA and Ministry of Education

- Incorporate content on gender equality, and sexual and reproductive health and rights, in particular rights to consent, and to choice, into school and madrasa curricula and curricula for training of concerned teachers.

For Ministry of Law, Justice and Parliamentary Affairs

- Amend and enact relevant laws (including section 375 of the Penal Code 1860, section 9 of the Nari O Shishu Nirjatan Daman Ain 2000 and section 155 of the Evidence Act, 1872), to ensure conformity with international human rights standards, in particular CEDAW and its General Recommendations 19 and 33.
- Ensure training for prosecutors and judges on gender equality and share with them recent High Court judgments.
- Provide training exercises aimed at creating gender-sensitivity for judges and lawyers, particularly when they are dealing with rape victims.



This Brief has been prepared by the Bangladesh Legal Aid and Services Trust (BLAST) (www.blast.org.bd), a Partner organisation of the *Citizen's Platform for SDGs, Bangladesh*.

The views expressed in this Brief are of the BLAST, and do not necessarily reflect the views of the Platform or any of its other Partner organisations.

The **Citizen's Platform for SDGs, Bangladesh** is a civil society initiative, taken at the national front, to contribute to the implementation of globally adopted 2030 Agenda for Sustainable Development. The Platform was formally launched in June 2016, at the initiative of a group of individuals; the objective has been to track the delivery of the Sustainable Development Goals (SDGs) in Bangladesh and enhance accountability in its implementation process. The concept of the Platform was inspired by the participatory and multi-stakeholder approach promoted as a vital element for success in the attainment of all the SDGs. The Platform currently includes 88 Partner Organisations working on SDG issues across the country.



www.bdplatform4sdgs.net



BDPlatform4SDGs



BDPlatform4SDGs

Secretariat at: **Centre for Policy Dialogue (CPD), Dhaka**

Telephone: (+88 02) 9141734, 9141703, 9126402 Web: www.bdplatform4sdgs.net E-mail: coordinator@bdplatform4sdgs.net