



## ADPAN encourages Bangladesh to reconsider expanding the application of the death-penalty to rape

27 November 2020

Kuala Lumpur, Malaysia

In response to campaigns for perpetrators of recent cases of extreme sexual violence to be 'brought to justice', the Bangladesh government proposed an amendment to section 9(1) of the *Suppression of Violence Against Women and Children Act 2000*, which would introduce the death penalty as a punishment for single-perpetrator rape. The crime of rape was previously punishable by death but only in the context of multi-perpetrator rape and where a victim died as a consequence of single-perpetrator rape.

The Anti-Death Penalty Asia Network (ADPAN) shares the outrage expressed by the community in relation to violence against women. We also recognise the need for justice in response to the heinous nature of sexual crimes and their lasting and devastating impact on victim-survivors.

However, we are greatly concerned with the regional response to this issue. We have seen nations give into the 'temptati[on]' of imposing 'draconian punishments' on those who commit these 'monstrous acts'.<sup>1</sup> We have seen India extend the category of crimes attracting the death penalty to include the rape of children under the age of 12.<sup>23</sup> We have seen Pakistan issue an ordinance for the amendment of the *Women and Children Repression (Prevention) Act* so as to introduce the death penalty for crimes of rape of children and women with aggravating factors,<sup>4</sup> and we have also seen Pakistan put forward proposals of chemical castration, televised hangings and making the crime non-compoundable.<sup>5</sup> These proposed legislative changes, and those proposed by Bangladesh would be in violations of international standards under the *Conventions against Torture and Other Cruel, Inhuman or Degrading*

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<sup>1</sup> <<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26379&LangID=E>>.

<sup>2</sup> <<https://www.bbc.com/news/world-asia-43850476>>.

<sup>3</sup> <<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26379&LangID=E>>.

<sup>4</sup> <<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26379&LangID=E>>.

<sup>5</sup> <<https://www.thenews.com.pk/print/716494-government-considering-death-penalty-for-rape-offenders>>.

*Treatment or Punishment*, and breach the rights afforded by the *International Covenant on Civil and Political Rights*.

The imposition of the death penalty will only contribute to further violations of human rights without addressing—the underlying failures and weaknesses of the criminal justice system for sexual offences. We urge the Bangladesh government to consider an approach which is both survivor-centred and responsive to underlying structural and societal concerns.

There is no evidence to support the claim that the death penalty will be an effective deterrent to rape in Bangladesh and the broader region. The likelihood of conviction and punishment has been proven to be a greater deterrent than the severity of the penalty itself. Available data suggests that there is only a 3% conviction rate for cases of violence against women and children in Bangladesh.<sup>6</sup> In contrary, statistics from countries that have abolished the death penalty show that conviction rates for crimes punishable by death actually rose after the death penalty was abolished<sup>7</sup>. The discrepancy indicates that there are more impactful means of addressing sexual offences beyond the death penalty.

Imposing the death penalty for perpetrators of rape will not address the main impediments to victim-survivors achieving justice. The introduction of the death penalty will likely further deter victim-survivors from disclosing incidents. Victim-survivors who come forward are already subject to a high degree of shame and scrutiny from their communities, throughout and following the investigation and court process. This is further compounded by the nature of the sexual offences involving associates or in some cases, close associates of the victim-survivors, creating additional barriers against reporting of the rape. In other countries, such factors have resulted in a reduced number of successful cases where there is a conviction against the perpetrator.

Introducing the death penalty will only exacerbate this issue, as death penalty cases involve more victim scrutiny through extensive Court processes and attract more media attention. Furthermore, the prospect of being blamed for the offender's death, especially when it involves an individual known to the victim-survivor would likely act as an additional barrier for victim-survivors in disclosing incidents.

ADPAN acknowledge the Government of Bangladesh's commitment to delivering justice to rape victim-survivors but strongly urge the government to address the underlying flaws of existing criminal justice system and not introduce mechanisms that have no impact in deterring future crimes Reforms should revolve around empowering victim-survivors and encouraging the pursuit of criminal prosecution against perpetrators by removing stigma and

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<sup>6</sup> <https://www.dhakatribune.com/bangladesh/dhaka/2019/11/26/only-3-convicted-for-rape-in-bangladesh>

providing specific legal and medical services for victim-survivors throughout the criminal justice process.

We also urge the government of Bangladesh to consider including all victims, male or female, as well as marital partners, in the definition of rape, prohibiting character evidence and training courts and police to interact with rape victim-survivors more appropriately. ADPAN urges the Government of Bangladesh to take this opportunity to lead the Asia region on this matter and implement meaningful policy changes that will make Bangladesh a safer place for victims-survivors of sexual violence.

Death penalty for rape will not deliver justice. Justice can only be achieved when victim-survivors are provided the necessary support and perpetrators are convicted for their crimes.

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## **ADPAN**

ADPAN is the peak regional body for organisations committed to the abolition of the death penalty across Asia-Pacific, with members from approximately 22 countries within the region. As such, ADPAN maintains that the death penalty violates the right to life, that it is the ultimate form of cruel, inhuman and degrading punishment and that the death penalty should be entirely abolished internationally.