



women's action forum نھواتین مخاض عمل

### **WAF Statement on Harsh Punishments**

The hurry with which the Government is determined to legislate "exemplary" punishments of chemical castration and public hangings for rapists demonstrates its eagerness for populist action rather than a serious and well considered one. That the Government action is off-target is starkly evident from the fact that 14 days after the recent heinous motorway rape case that has triggered the Govt's knee jerk reaction the main culprit is still not apprehended. In the meantime, there are daily newspaper reports of criminals continuing with rapes and gang rapes comfortably aware of the impunity they enjoy given the current police system and judicial process.

Women's Action Forum strongly believes that the Government's rush to legislate for extreme punishments is a shortcut for cheap publicity and a move to sidestep the main issue of reforming the police and the pathway to delivery of justice. The need is for instituting conditions of justice and retribution without resorting to state sanctioned violence that further validates brutalization of society.

Government's claim that severe punishments would act as a) deterrence against rapes and gang rapes and b) as retributive justice for the victim and for society at large do not stand up to evidence nationally or globally. It has been found that while judicial execution can guarantee that the condemned person will commit no further crimes, it does not have a demonstrable deterrent effect on other individuals and that capital punishment leaves the causes of crime unaddressed. As is evident from the fact that Pakistan has one of the highest rates of death convictions in the world and at the same time an unabated rate of murders including of women on the pretext of honour and of little girls after they have been raped. Zainab's rape and murder and swift conviction of her rapist has not resulted in a decline in the incidence of rapes even in the same district let alone the Punjab. In fact, all studies show that the deterrent factor is the certainty of conviction, not the harshness of the punishment.

Pakistan is signatory to a number of international human rights treaties and conventions which require it to work towards the abolition of the death penalty. Its GSP+ status that enables access to European markets for its goods is conditional on Pakistan's human rights record that includes elimination of capital punishment. In addition, public hanging, which is reportedly being proposed in the new legislation, violates the fundamental rights section of Pakistan's Constitution, particularly Article 14 "[t]he dignity of man and, subject to law, the privacy of home, shall be inviolable'.

WAF recommends that Government show its commitment to end sexual crimes against women by giving urgent attention to removing obstacles in the way of justice delivery in the face of the low conviction rate for rapists and sexual abusers (reportedly 3% or less), of police inefficiency, incompetence, corruption and alleged complicity in protecting criminals, of poor prosecution, of lack of coordination between concerned

agencies, of shortage of forensic laboratories, inadequate budgets (the DNA testing lab at the time of the Motorway gang rape did not have necessary chemicals to run the test), among others. Above all, the prevalent attitude of police (as exemplified by the insensitive attitude of Lahore's CCPO) officials and personnel of blaming the victim and placing responsibility of personal safety on her and her family needs to be corrected through a strict code of conduct and punishment. A woman reporting rape is violated at every stage of the justice seeking process which can take years.

WAF urges law makers to expend their energies along with the government on implementation of existing laws. Press for reforming and training the police and law enforcers with penalties for their non-performance, strengthen support institutions, ensure privacy and identity of victims/survivors, provide witness protection, institute the promised Sex Offenders Directory and operationalize the Gender Crime Cell in the National Police Bureau to document crimes against women according to standardised indicators, and facilitate monitoring by women's commissions and legislators in their constituencies.

WAF Lahore  
21 September 2020