



KHAN FOUNDATION

In Special Consultative Status with the Economic & Social Council of the United Nations

Report on JUSTICE SYSTEM EDUCATION INITIATIVE ON GENDER EQUALITY ISSUES

**Held on
4-5 and 11-12 April 2008
Democracy Auditorium Khan Foundation
Momenbagh Dhaka 1217**

Abdul Momen Khan Memorial Foundation

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Inaugural Session

Inaugural Sessions held on 4th April and 11 April 2008. Mr Justice Mohammad Fazlul Karim, Appellate Division, Supreme Court of Bangladesh was the Chief Guest, on the first Inaugural Session (4 April 2008) and Justice Md. Ruhul Amin, Chief Justice, Supreme Court of Bangladesh was the chief Guest on the 2nd Inaugural Session (11 April 2008). Mr Justice Samaresh Banerjea Lokayukta (Ombudsman) the State of West Bengal, India was guest speaker in the both inaugural session. Mr Justice Nazrul Islam Chowdhury, High Court Division, Supreme Court of Bangladesh was special guest in the first inaugural session (4 April 2008) and Mr Justice Mohammad Fazlul Karim, Appellate Division, Supreme Court of Bangladesh was special guest in the second inaugural session (11 April 2008). Both the Inaugural sessions were chaired by Dr Abdul Moyeen Khan, Former Minister, Government of Bangladesh.

ADVOCATE ROKHSANA KHONDKER

Executive Director, Khan Foundation, and
Chairperson, Management Council, The Millennium University

Advocate Rokhsana Khondker gave welcome speech. At first she made greetings all the guests and participants on behalf of Khan Foundation. She delivered her welcome speech highlighting the history and causes of Khan Foundation. Khan Foundation (KF) first began its operations during the flood of 1988 in the area of relief and rehabilitation work. It rapidly built reputation as one of the few PVDOS linking different levels of the society on the highest level of the government to the grass root and working in the areas of democracy, human rights and poverty elevation and development. Khan Foundation's major focus has been advancing the cause of development through the process of sustained democracy aimed at the most disadvantaged groups in the country. KF's programmes are based upon the founding concept of "Democracy for Development and Development for Democracy". To establish democracy the first criteria are to treat men and women equally. She said that women are oppressed and assaulted in society. Women need law support to get right. They do not get the law support. So we have women lawyers network as we work at root level. So we are making a connection between the Union Parishad member and the women lawyers. We arranged 6th Women lawyers congress on 22nd and 23rd March 2008.

JUSTICE SAMARESH BANERJE

Lokayukta (ombudsman) the state of West Bengal, India

Advocate Rokhsana Khondker made greeting all the participants and first invited the special guest Justice Samaresh Banerjea to present his speech about the need for Judicial Education. He gave a picture about the Judiciary of this Indian sub-continent. He told 'gender justice' means absence of discrimination of any kind, social, political, economic, legal or otherwise on the ground of gender alone. It is anti thesis to discrimination. To understand the importance of the role of judiciary in promoting gender equality and justice, one, however, has to understand first the principle of equality and what is gender equality and justice. Equality is the most powerful tool for the advancement of rights and search for the equality is indeed a human right issue. He also told that judges should have a clear understanding of crime against and gender discrimination. Some times we don't know what is discrimination. If we can identify it, we can be free of it. Most of the democratic countries in the world having a written constitution now have recognized and guaranteed equality to all its citizen irrespective of sex, caste, creed, religion etc. In reality however, such constitutional guarantee has remained still a formal equality and substantive equality is still eluding the women as a class, as the societal discrimination of all forms and in every aspect of the life economic, social, cultural or otherwise is still prevalent. He also said that the judiciary should update its skills and legal knowledge to respond effectively to the issue of gender justice and equality.

He also believes that only an enlightened judiciary can protect human rights and secure gender justice. Therefore, to make judges informed about gender equalities issues they need to be provided with the particulars for continued legal education and interaction in the area. He also said that we can share our views about discrimination, problem and solution through these two days workshop.

JUSTICE NOZRUL ISLAM CHOWDHURY

High Court Division

Supreme Court of Bangladesh

Justice Nozrul Islam Chowdhury, High Court Division, Supreme Court of Bangladesh, as a special guests in the first inaugural session (4 April 2008) agreed with the judges and commented that there are so many lacking in our judicial system. He told that new rule is coming to bear or expense the DNA test by Government. He commented about the age conflict that once it will be recovered. He also said that female are tools of male member. Last of all he wished the success of judges.

JUSTICE MOHAMMAD FAZLUL KARIM

Appellate Division

Supreme Court of Bangladesh

Justice Mohammad Fazlul Karim, Appellate Division, Supreme Court of Bangladesh, as the Chief Guest, in the first inaugural session (4 April 2008) said that Bangladesh is at the top of Gender equality Issues. We have achieved much in Gender Equality with the context of our social context. Our girls are oppressed for our society and now we are changing. Our Judges are trying there best to do justice. We have to be aware. He also said that today we here to discuss some points. I and share our view. Actually the problem is with society out not with law. He also suggested that we need to fix up and schedule the time of the case that will be helpful for right justice. He expected that law will be equally applied to all very early. He also requested to do the workshop from the core of our heart.

JUSTICE MD. RUHUL AMIN

Chief Justice

Supreme Court of Bangladesh

Justice Md. Ruhul Amin, Chief Justice, Supreme Court of Bangladesh, was the Chief Guest in the inaugural Session held on 11 April 2008. At first he thanked Khan Foundation and all the participants. He said that our people is about 15 crore, women are about half of the people. If women are oppressed we cannot be an educated modern nation. Women have acquired their vote right through movement. In developed countries the status of women was not as good as now is. The discriminate groups always try to continue their movement for their rights. The authority will consider logical claims in reasonable time. We will raise in due time for wellbeing of the nation. Those who are related to rescue the women's right should not be upset, they have to be patient.

Working Session I

On the 1st day (4 and 11 April, 2008) Working Sessions were held on "Gender Equality and Women's Rights" and 2nd Working Session was held on "Understanding Women's Reality" In the 1st working session (4 April 2008), Justice Mohammad Fazlul Karim, Appellate Division, Supreme Court of Bangladesh was the chief guest, Mr Justice Nazrul Islam Chowdhury, High Court Division, Supreme Court of Bangladesh was special guest, Ms Nasrin Begum, Joint Secretary Ministry of Law and Parliamentary Affairs Government of Bangladesh was the guest speaker and Mr Justice Samaresh Banerjea, Lokayukta (Ombudsman) the State of West Bengal, India was the facilitator. In the 1st working session (11 April 2008), Justice

Mohammad Fazlul Karim, Appellate Division, Supreme Court of Bangladesh was the chief guest, Mr Justice Samaresh Banerjea, Lokayukta (Ombudsman) the State of West Bengal, India was the facilitator.

Ms NASRIN BEGUM

Joint Secretary
Ministry of Law and Parliamentary Affairs
Government of Bangladesh

Ms Nasrin Begum, as guest speaker, in the working session I (4 April 2008) discussed on laws relating to repression on Women and Children. She said that it is not a session of law school; we need to exchange our view. We have a strong document CEDAW. Bangladesh Government has signed the CEDAW, because our government have pored that remain in our society and it should not exist.

Nari Shishu Nirjaton Daman Ain-2003 is to protect oppressed the women and children. But in this law there is discrimination, because it is rule that offer rape, murder or mothers relatives will take care of the baby. It should be that the state will take care of it. Murder for dowry is difficult to prove under the provisions of Nari Shishu Nirjaton Daman Ain-2003. Under section 1 of this Ain-2003 the case is field rarely. Deterrent punishment is not imposed.

Sometimes kidnapping and early marriage cannot be prevented for birth registration. So birth registration must be applied strictly. There is grievous confusion about hurt and hurt. Several times thana does not take cognizance on pity cases like outrage of modesty. She gave some suggestions. She asked the judges should visit jail. In maximum time cases are solve out of the court and the criminal gets relief. So the judge should appoint the PP to monitor the cases. That is why the PP should be more conscious of the cases and they need to be educated for monitoring the cases.

Open discussion

Open discussion is chaired by Dr Abdul Moyeen Khan. He asked all to be introduced with all. Forty judges from all over the country has been gathered here to share. The Participants tried to identify the problems which they face while in the court and outside the court and their solutions.

Mr Md. Mizanur Rahman

Judge
Nari-O-Shishu Nirjatan Daman Tribunal-5
Dhaka

He suggested that Notary Public will do all except declaration of age related to marriage. Marriage Registrar should keep the documents of birth registration so that he can get the exact information. Investigation officer does not investigate sincerely and timely so the victim cannot get justice so he suggested that the investigation should be conducted by Judicial officer.

Mr Abul Hosen Khan

District & Session Judge
Narsingdi Judge Court
Narsingdi

He said that that there no jurisdiction of cognizance “Nari Shishu Nirjaton Daman Ain-2003” and the term ‘Magistrate’ is not mentioned. If any aggrieved party comes to Magistrate he

can do nothing. After the amendment of 2003 aggrieved party mis case, and it take about 6 month which causes delay. He also said that in wife killing case, husband has to prove the case, he suggested that rape case should be modified. In rape case the accused person will have to prove it.

MR A S M SALAHUDDIN KHAN

District & Session Judge
Netrokona Judge Court
Netrokona

Several times the cases under “Nari Shishu Nirjaton Daman Tribunal” are compromised outside of the Court. This is not fare, he commented.

MR NARANDRA CHANDRA DAS

Judge
Nari Shishu Nirjaton Daman Tribunal
Mymensing Judge Court
Mymensing

“Nika Nama” should be reformed. For divorce husband and wife both should have equal rights. Hindu law also should be reformed for marriage, divorce, inheritance of wealth. In ethnic rules girls are the only inheritance of wealth but not the boys . It also should be modified.

MS BEGUM KABITA KHANUM

Judge
Nari Shishu Nirjaton Daman Tribunal
Khulna Judge Court
Khulna

Flase case are field by women with the influence of male persons. Medical reports are false for doctors dishonesty.

MR MONJURUL BASIT

Judge
Nari Shishu Nirjaton Daman Tribunal
Dhaka Judge Court
Dhaka

The definition of kidnapping is not clear and incomplete. So it should be modified. Media is disclosing the addresses of the victims they should be aware of tit The legislature do not analyze the provision of law properly, when they pass that law only they depend on the draft man. For these reasons these are many faults are found in law. Following this he suggested that some punishments should be added form sec-9 to sec-7 of “Nari Shishu Nirjaton Daman Ain-2003”.

Mr Fazrul Rahman

Judge
Nari Shishu Nirjaton Daman Tribunal
Moulovibazar Judge Court
Moulovibazar

There is no rules of (Gono Dhorson) and also no rules of abortion.

Begum Jesmin Anwar

Judge

Nari Shishu Nirjaton Daman Tribunal

Tangail Judge Court

Tangail

Independent Medical Investigation is very important

Mr GMS Farid

Judge

Nari Shishu Nirjaton Daman Tribunal

Kishorgong Judge Court

Kishorgong

DNA text is so expensive , it should be beare by the government.

Speech by the Delegates**Justice Nazrul Islam Chowdhury**

High Court Division

Supreme Court of Bangladesh

Special Guest

He agreed with the judges and commented that these are so many problems in our judisial system, we are also human being, but try to do our best. Soon new rule is coming to bear or expense the DNA test by the Government. He commented about the age conflict that once it will be recovered. Giving the reference Ms Jasmin Anower, he said that, female are tools of male member. Last of all he wished the success of judges.

JUSTICE MOHAMMAD FAZLUL KARIM

Appellate Division

Supreme Court of Bangladesh

First he thanked Khan foundation and all the participants of the workshop and started his speech. He said that Bangladesh is at the top of Gender Equality with the context of our social context. Our girls are oppressed for our society and now we changing. Our judges are trying there best to do justice. We have to be aware. He also said that today we here to discuss some points and share our views. Actually the problems are with the society but not with law. He also suggested that we need to fix up and schedule the time of the case that will be helpful right justice. He expected that law will be equally appalled to all every early. He also requested to do the workshop from the core of our heart.

Working Session II

In working session II (4 April 2008), Justice Md. Imman Ali, High Court Division, Supreme Court of Bangladesh was the chief guest, Mr Ikter Ahmed, Registrar, Supreme Court of Bangladesh was the guest speaker and Mr Justice Samaresh Banerjea, Lokayukta (Ombudsman) the State of West Bengal, India and was the facilitator. In working session II (11 April 2008), Justice Zinat Ara, High Court Division, Supreme Court of Bangladesh was the chief guest, Mr Ikter Ahmed, Registrar, Supreme Court of Bangladesh was the guest speaker and Mr Justice Samaresh Banerjea, Lokayukta (Ombudsman) the State of West Bengal, India and was the facilitator.

MR IKTEDER AHMED
Registrar
Supreme Court of Bangladesh

Mr Ikteder Ahmed as a guest speaker delivered his speech on the issue of national legislation on combating human trafficking. He said that it is no doubt Human Trafficking particularly Trafficking of women and children is a leading international crime and worst form of human rights abuse. Trafficking in women and children within the territory and across the border has become an everyday event now a day in Bangladesh like some other countries within the south Asian Region. Due to long open border with India and clandestine nature of trafficking determining of the number of trafficking events in a given period of time very difficult. Trafficking in persons in to bonded labour, forced marriage, forced prostitution, domestic, servitude and other harmful work is a global phenomenon. The victims are either abducted or allured with promises of better life by providing lucrative job or marriage offers and false proposals to visit holy places. But particularly they become victims of trafficking and sexual exploitation and eventually embrace the lives of agony and torture. Most of Bangladesh women and children victims of cross border trafficking are sold in the brothels or forcibly engaged in prostitution. There are two types of trafficking one internal and another is cross border trafficking.

Article 34 of Bangladesh Constitution prohibits forced labour.

Section 358 of penal Code 1860 relating to assault or criminal force on grave provocation of kidnapping abduction, slavery and forced labour.

Section 366 relating to kidnapping, abducting or inducing women to compel her marriage etc.

Section 367 relating to kidnapping or abducting in order to subject person to grievous hurt, slavery etc.

Section 369 relating to kidnapping or abducting child under ten years with intent to steal from its persons.

Section 372 relating to selling minor for purposes of prostitution etc.

Section 373 relating to buying minor for purposes of prostitution etc.

And Section 367 relating to unlawful compulsory labour. All these section of penal Code 1860 relate to the issue of Trafficking, prostitution, slavery, forced labour etc.

Bangladesh is a party to international instrument that can be used to combat human trafficking.

He suggested that trafficking is a transnational criminal enterprise. It needs to be dealt with transnational approach for anti-trafficking. There is a need to integrate the issue of trafficking into women's agenda at national and international levels, ensuring that the approaches are gender responsive. He also suggested that there is a need for gender training for law enforcement and judiciary.

JUSTICE SAMARESH BANERJEA
Lakayukta (ombudsman)
The State of West Bengal, India

Justice Samaresh Banerjea as facilitator gave his valuable speech. First he said what we have discussed in morning session. He said that equality gives share to all other rights without equality, other rights can only be symbolic, devoid of any true meaning. In spite of legislative guarantee of equality for women in the society, women as a class continue to suffer all kinds of discrimination societal, political, economic or otherwise. Judges are playing a great role in promoting gender equality and justice. To day when we judges, speak of equality principles and gender equality and justice, we have to understand that we have to ensure equality for all not merely in form but in substance. To create substantive equality one has to make a contextual approach as contextual understanding of equality emphasizes dignity and respect for all. He said that the first thing we have to realize that discriminations are result of discrimination to women such as trafficking, forced labour, prostitution, sexual harassment in workplace , as domestic violence etc. He said about dowry death that mental cruelty is cruelty too and ground was sufficient to the requirements of death for dowry. Dowry demands need not be related to the wedding persistent demands made thereafter would also amount to dowry demands lastly he said that we know everything but implementation is big thing.

Open Discussion

Mr A K M Sirajul Islam
Judge
Nari Shishu Nirjaton Daman Tribunal
Rajshahi Judge Court
Rajshahi

To check the raped women and for the post mortem of women, female doctor should be appointed.

Mr Md Abdus Salak
Judge
Nari Shishu Nirjaton Daman Tribunal
Rajshahi Judge Court
Rajshahi

Cases are solved out of the court.

Mr Chowdhury Monir Uddin Mahfuz
District & Session Judge
Tangail Judge Court
Tangail

There is no need of good law if it is not implemented.

Mr Md. Abul Hossain Bapari

Judge

Nari Shishu Nirjaton Daman Tribunal

Barisal Judge Court

Barisal

There is a great lack of real justice and there is conflict between justice and real justice. As there is no bell, so male person are using this Nari O shishu Law.

Chief guest

JUSTICE MD. IMMAN ALI

High court Division

Supreme Court of Bangladesh

Justice Md. Imman Ali was the chief guest in the working session II. First he thanked Khan Foundation and welcomed Banerjea for giving a detail of vivid picture. He said that we must be aware of investigation. The witnesses are biased blindly supported their particular case if they are local. The evidence is manipulated, so we can not do justice as judge. In such a way the real evidence is violated. There is delay in investigation process and not properly present the investigation report before the court. The investigation officer should complete his investigation in due time. He suggested to establish Independent Investigation Unit and Independent prosecution cell for getting effective judgment. Procrastination should be reduced. Most of the persons are not willing to go to the court due to procrastination. He also said that compromise is not possible in the cases of Nari O Shishu Nirjaton Daman Tribunal. He also suggested that an aid fund for DNA test can help the poor people to identity their parentage.

Under art 27 of Bangladesh constitution all citizens are equal before law and are entitled to equal protection. The stage shall not discriminate against any citizen on grounds only of religion, race, caste, sex, or place of birth, according to Art 28 of our Constitution.

He said that in reality, however, such constitutional guarantee has remained still a formal equality and substantive equality is still eluding the women as a class as the societal discrimination of all forms and in every aspect of life, economic, social, cultural or otherwise is still prevalent.

JUSTICE ZINAT ARA

High Court Division

Supreme Court of Bangladesh

In working session II (11 April 2008) Justice Zinat Ara, High Court Division, Supreme Court of Bangladesh was the Chief Guest. She said that it will be very difficult to be equal of woman and man in right. The Continued vulnerable state of women in our society forces us not just to ponder but take some practical initiative to make available to our women adequate opportunities to have access to law for redress form repression and injustice commonly faced by them. In our view this has to be contemplated by our society as a challenge to wards establishing the basic human rights for our underprivileged and the repressed women.

Advocate Rokhsana Khondker

Executive Director

Khan Foundation

In the concluding speech Advocate Rokhsana Khondker thanks to justice Mohammad Fazlul Karim, Justice Samarsh Banerjea, Justice Md. Imman Ali and Mr. Ikhteder Ahmed. Thanks to

Dr Mayeen Khan with his and his family support to do the philanthropic work by Khan Foundation around the country.

On the 2nd day (5 April, 2008) the 3rd working session was held on "Sharing the reports and findings on the workshops of PPs/APPs and women lawyers and 3rd working session (12 April, 2008) was held on "Sharing the Experiences of Judicial Decision Making." 4th working sessions (5 and 12 April, 2008) were held on "Gender Justice and Judicial Decision Making". In the 3rd working session (5 April, 2008) Justice Syed Mahmud Hossain, High Court Division, Supreme Court of Bangladesh was the Chief Guest; Advocate Abdur Rezeque Khan, senior Lawyer, Supreme Court of Bangladesh and former Additional Attorney general was special Guest; Justice Samresh Banerjea, Lokayukta (Ombudsman) the State of West Bengal, India and was the facilitator and Advocate Rokhsana Khondker, Executive Director, Khan Foundation and Chairperson, Management Council, The Millennium University, was the moderator. In the 3rd working session (12 April, 2008) Justice Mohammad Anwarul Haque, High Court Division, Supreme Court of Bangladesh was the Chief Guest; Advocate Abdur Rezeque Khan, senior Lawyer, Supreme Court of Bangladesh and former Additional Attorney general was special Guest; Justice Samresh Banerjea, Lokayukta (Ombudsman) the State of West Bengal, India and was the facilitator and Advocate Rokhsana Khondker, Executive Director, Khan Foundation and Chairperson, Management Council, The Millennium University, was the moderator.

ADVOCATE ABDUR REZEQUE KHAN

Senior Lawyer, Supreme Court of Bangladesh and
Former Additional Attorney General

Guest Speaker Mr. Abdur Rezeque Khan, thanked all and offered his special thanks to Justice Samresh Banerjea and the judges as they are from long distance from all over the country. He said that procrastination is a big reason for injustice. To finish investigation there should be a specific period, so that the prosecution become very much quick. Investigation process is very much lengthy. Most of the time the investigation report does not come timely. He strongly mentioned to setup an independent investigation team in which civilian, police and lawyer should be included civilian and lawyer may advice the police person for a fair investigation. In mentioning the recording of the statement under sec 161 of CrPc, he said that most time the recording becomes delayed for this it creates a suspicion before the court. So the statement should be recorded as soon as possible. Several times the parties compromise the cases of Nari-O shishu Nirjaton Daman Tribunal in the court room. In single case many unnecessary accused are involved so the judge can not dispose the case effectively. Many times the parties compromise the cases which are not compromised such as rape, kidnapping, acid throwing. There are no specific provisions or enactments for the protection of witnesses. Most time witnesses feel unsecured to go to the court for examination. Awareness should be created among the PPs, APPs, Lawyers, Judges about those provision also. Awareness also should be created among the mass people so that they do not compromise the cases which are not legally compromised.

Open discussion

After the speech of Mr. Abdur Rezeque Khan, Advocate Rokhsana Khondker offered the participants for the open discussion-

Mr A K M Ishtiaq Hussain

District & Session Judge

Dhaka

We are to establish justice but there is lack of investigation, lack of accountability of police officer. Witness protection law should be established, so that they can come without fear, Job cota in not followed, it should be followed in right way.

Mr Md Abdul Gaffur

District & Session Judge

Sylhet

The mentality of the judges is the main thing that can ensure judges. Women are the mother of our next generation and the country. It has not been written in the Holy Quran that right will not given to women. So state can give women the right.

Mr Md Fazlur Rahman

Nari- O- Shishu Nirjaton Damon Tribunal

Maulavibazar Judge Court

Maulavibazar

We should not use women as political arms. There are many false cases by women.

Mr Moznul Ahsan

District & Session Judge

Chittagaon

This type of program should be arranged once in a year, not so gap.

Mr Md Mahatabuddin

Nari- O- Shishu Nirjaton Damon Tribunal

Pabna Judge Court

Pabna

court is complete institution. It consists of not only judges but also of party, witness, etc. Judges only give judgment according to law or precedent. In the absence of law or precedent judge will decide in considering what will reasonable.

Mr Abul Hossain Khan

District & Session Judge

Narsindi

For job purpose, I had to join many workshops from 1982. Every year we are under strict order but no rule how to control the lawyers as they do not maintain time. Always they do meeting in office time. He requested for making a rule not to arrange any meeting between 9 am to 4:30pm.

Facilitator

JUSTICE SAMARESH BANERJEA

Lakayukta (ombudsman) the state of West Bengal, India

After the open discussion Justice Samaresh Banerjea gave his speech on 'Case study on different acts of law'. He said that Equality is the fundamental aspect of political society, one of the basic fundamental and human rights but for which none can live a life with dignity.

Other rights of a citizen in absence of right to equality are without any meaning. The quest for equality seems to be eternal. Through the ages the under privileged, the socially or economically disadvantaged class, group of individuals have struggled for equality in the society. But equality still even in the 21st century eludes a large number of such disadvantaged and under privileged including the women as a class. Equality as a principles or as an ideal had different meaning to different people and sometime the principles of equality was interpreted by political philosopher in such a manner that it led to inequalities to the disadvantaged. Although the slogan during the French revolution inspired by Rousseau's work was 'Liberty Equality and fraternity'. The modern concept of equality has been enunciated for the first time in universal declaration of human rights of the United Nations followed by convention on the elimination of all forms of discrimination against women and the international covenant on civil and political rights.

He said that must of the democratic countries in the world having a written constitution how have recognized and guaranteed equality to all its citizen irrespective of sex, caste, creed, religion etc. In reality, however, such constitutional guarantee has remained till a formal equality and substantive equality is still eluding the women as a class as the societal discrimination of all forms and in every aspect of life economic, social, cultural or otherwise is still prevalent.

He gave importance on the role of judiciary in promoting gender equality and justice, because the last resort of a victim of gender discrimination is the court. Today when we judges speak of equality principles and gender equality and justice, we have to understand that we have to ensure equality for all not merely in form but substance and to do so we are to make a contextual approach, understanding the difference of the disadvantaged in general and the women in particular with empathy and respecting their rights. We judges, must understand that in women related issues we have to establish substantive equality for the women in court by making differential and special consideration for them.

He gave some case references while discussing his speech. In the case of Vishaka vs State of Rajasthan in 1997 (6) sec 241, it was held that in absence of domestic law occupying the field to formulate effective measures to check the evil of sexual harassment of working women at all workplaces, the contents of international convention and norms are significant for the purpose of interpretation of the guarantee of gender equality. It was further held gender equality includes protection from sexual harassment and right to work with dignity which is an universally basic human right. Following the general recommendation of CEDAW relating to violence and equality employment as contained in clause 22, 23 and 24 of CEDAW, the Supreme Court defined sexual harassment by holding "sexual harassment includes such unwelcome sexually determined behavior whether directly or by implication as,

- a) physical contact and advances.
- b) a demand or request for sexual favor
- c) sexually coloured remarks
- d) showing pornography;
- e) any other unwelcome physical, verbal or nonverbal conduct of sexual nature.

Justice Syed Mahmud Hossain

High Court Division

Supreme Court of Bangladesh

Justice Syed Mahmud Hussain was the chief guest in the working session III (5 April 2008). He Judiciary is the family we are all the members of it. Our social system continues for long days, we can't change it within very short time. He gave importance on time schedule of the Court. He suggested all the judges to attain in the Court in due time. He suggested that Courts should show great responsibility when trying an accused on a rape charge and deal with such

cases with the utmost sensitivity. Finally evidence must be dealt with in the totality of the background of the entire case and not in isolation. He also suggested that in rape and acid throwing cases camera-trial can be introduced. He also said that while holding trial of child sex, abuse or rape, the victim and the witness has to be separated from the accused by a screen so that they can not see the body and face of the accused. He also said that witness should be given protection for succeeding the processing quickly.

JUSTICE MOHAMMAD ANAWARUL HAQUE

High Court Division

Supreme Court of Bangladesh

Justice Mohammad Anawarul Haque, High Court Division, Supreme Court of Bangladesh was the Chief Guest in working Session III (12 April 2008). He said that most of the constitutions of countries have guaranteed equality before law and equal protection of law to all its citizens irrespective of their sex. In reality however, such constitutional guarantee has remained still a formal equality and substantive equality is still eluding the women as a class as the societal discriminations of all forms and in every aspect of life, economic, social, cultural or otherwise is still prevalent. Economically women are dependent on male members of the society and are often manipulated by the male members every as a mechanism for earning money as dowry during the marriage. Given the present social status of women in our country, discrimination against women is evident they are oppressed suppressed, tortured and even treated as subservient to men in every respect of their social life. He also said that in most of the cases the judgments depends upon the discretionary powers and strong legal sense of the judges. Under the circumstances, the judges may also consider the matter on humanitarian ground as well as on legal stringency in order to ensure the basic human rights of women. But one has also to appreciate that this is not always easy on their part.

In 4th working session (5 April, 2008) Justice M A Matin, Appellate Division, Supreme Court of Bangladesh was Chief Guest; Justice Mir Hasmat Ali, High Court Division, Supreme Court of Bangladesh was special guest, Advocate Rokhsana Khondker, Executive Director, Khan Foundation and Chairperson, Management Council, The Millennium University, was the moderator and Mr Md. Ashraful Islam, Director, Training JATI and Justice Samaresh Banerjea, Lokayukta (Ombudsman) the State of West Bengal, India were respected guests. In 4th working session (12 April, 2008) Justice Md. Joynul Abedin, Appellate Division, Supreme Court of Bangladesh was the Chief Guest, Justice Syed Mahmud Hossain, High Court Division, Supreme Court of Bangladesh was the special guest, Justice Samaresh Banerjea, Lokayukta (Ombudsman) the State of West Bengal, India were respected guests. Advocate Rokhsana Khondker, Executive Director, Khan Foundation and Chairperson, Management Council, The Millennium University, was the moderator.

Facilitator

JUSTICE SAMARESH BANERJEA

lakayukta (ombudsman) the state of West Bengal, India

Justice Samaresh Banerjea as facilitator gave his valuable speech. First he said that in the process of fair and proper judicial decision making, however, there are several barriers and obstacles which a Judge has to acknowledge and identify and is required to overcome them. We shall now see that the judicial decision making process, even of such a sensitized Judge, may be seriously impaired and his fairness or impartiality may be seriously affected because of "social baggage" which the Judge may carry in his subconscious mind and because of myths and stereotypes and such social baggage and myths and stereotypes will also prevent the Judge from establishing substantial equality for the women in a Court. It is very often thought that the judicial decision making process is purely an objective one as the Judge has to decide on assessing the evidence and applying the principles of law. In reality, however, a judicial

decision making is not purely objective but very much subjective too. It is, therefore, imperative for every Judge who is impartial and also sensitized to the inequality to women and problems faced by them, to be further sensitized to such barriers of social baggage for the purpose of better, efficient and fair decision making and justice in cases involving women. Only when he is so sensitized, the Judge will be able to overcome such social baggage and can decide fairly and impartially establishing substantive equality in his Court. The preconceived notions, the traditional beliefs and biases, which we have been speaking of in the social baggage of a Judge, may be myths or stereotypes about women which may also become a real hurdle for fair and decision making process of a Judge in women related issues. Myth is a common or popular belief about any person or class of persons or group, which in reality is untrue and cannot be supported any facts or evidence. For example, women are not reliable as witnesses as they "tend to lie". Myths and stereotypes are based on assumptions rather than knowledge. We all have a set of beliefs that we hold close to our hearts. These beliefs influence the way we look at the world and respond to things. For example, many westerners still believe India is either a mystical land of snakes and snake charmers or a third world collection of cows and poor people. Such beliefs are based on assumptions rather than knowledge. These are what we call, myths and stereotypes. Myths and stereotypes divorce the law from contemporary knowledge, since they have more to do with fiction and generalization than with reality. They are irrational, non-scientific narratives, used by human beings to explain what they did not fully understand. They are incompatible with any rational truth seeking legal system. The myths and stereotypes are acquired the same way we learn the other attitudes and behaviors from our families, our colleagues, our cultural heritage in the form of art and literatures, traditional beliefs, media, jokes etc.

We find that myths and stereotypes impair the judicial perceptions, the process of reasoning and the judicial decision making process so much so in a rape case the very credibility of the complainant being the victim is seriously doubted, the outcome of which is very often unfair acquittals. Perhaps the unkindest cut for a victim of rape from the judiciary is when even after finding the accused guilty of rape, an insensitive judge reduces the sentence becoming more concerned about the young age of the accused, his, career or the fact that the accused was the only earning member of the family, completely disregarding the plight of the victim of one of the most heinous offences being rape. In case of domestic violence, we find that Such myths and stereotypes allow the accused very often to go scot free sometime because of anxiety of the Judges to save the family at any cost or disbelieving the complainant because of a belief that women have a tendency to exaggerate the instances of violence because in case of serious domestic violence of a high degree the women can easily leave the matrimonial home.

In violence against women, sexual abuse and in all women related issues, myths and stereotypes therefore become antithesis to justice and it makes a judge, instead of being fair and impartial, unfair and biased and incapable of creating substantive equality for women. Does it mean, however, that judges cannot be fair and impartial in their judgments in women related issues? Then, is there no way to identify and overcome such myths and stereotypes? The answer of course is in the affirmative. Many of such myths and stereotypes, as we have found, have already been identified and the judges can certainly overcome them by undergoing a judicial training on gender equality.

Lastly he said that fairness and the impartiality of a judge in the judicial decision making process, therefore, is strengthened by a diversity of experience and knowledge and the judge has to remain free to entertain and act upon different points of view with an open mind. Such experience and knowledge enrich our abilities as judges to understand the complexities of human affairs and in the case of women, who are different to men because of the discrimination they suffer, they require special treatment. Such experience and knowledge and open mind will enable us the judges to understand the problems of the women and the reality with empathy, i.e. to step into the shoes of the women who have come for justice, to feel like her, not as a judge, and then and then

only we judges shall have the strength and the determination to overcome our social baggage and myths and stereotypes and to do justice as our judicial vision will then become clear and no more be coloured with such myths and stereotypes and social baggage.

OPEN DISCUSSION

Mr Md Shafiuddin

District & Session Judges
Khulna

Judges to be in court in time, whether lawyers are not present or not.

Mr Md. Samsul Haque

Judge
Nari-O- Shishu Nirjaton Daman Tribunal-5
Dhaka

It is not only the court's responsibility but also the responsibility of the lawyers, where the case is coming properly or not.

Mr Giasuddin Ahmed

Judge
Nari-O- Shishu Nirjaton Daman Tribunal
Thakurgaon

We have identify the reasons behind the violence against women. If we are aware we can reduce the violence against women.

Mr Md. Abu Hanif

Judge
Nari-O- Shishu Nirjaton Daman Tribunal
Habigong

Violence against women are equality are not the same thing.

Mr Md. Saidur Rahman

Judge
Nari-O- Shishu Nirjaton Daman Tribunal-5
Jessore

Toutiom, perjury and corruption have become integral part of the legal system of Bangladesh

Mr Khan Md. Abdul Mannan

Judge
Nari-O- Shishu Nirjaton Daman Tribunal
Gazipur

Social discrimination is the most horrible discrimination. Equality basic human right.

Ms Begum Jesmin Anwar

Judge

Nari-O- Shishu Nirjaton Daman Tribunal

Tangail

Women are focused here in everyone's speech but children's are not getting importance. One Juvenile Court in the whole Bangladesh it is not enough to handle every case.

Mr Justice M A Matin

Appellate Division

Supreme Court of Bangladesh

In Working Session IV (5 April 2008), Justice M A Matin, Appellate Division, Supreme Court of Bangladesh, was the chief guest. He pointed out many things about judicial system. If the judges are not financially satisfied, it will not be possible to ensure justice. And by the way we cannot get efficient sincere lawyer or judge. We should treat all the litigants as a human being even they are rich, poor or oppressed. He also said that Islam has given much more respect to women. But there is no sign in real life. In real life we see different picture. He also said that the major categories of violence and abuse of women, which have their base perhaps in the conventional orthodox thought process of men resulting mostly from the socio-economic traditions of this sub-continent. These are : murder, rape abduction, acid throwing, battering, harassment, Mugging (often resulting in murder) mental torture. He also said that people in this country are naturally used to consider the judiciary as the ultimate guardian of their rights and liberties. Thus the effective access to the court on the basis of Gender equality is a sine qua non to sustain this noble belief of our people which had existed over centuries in this part of world.

Justice Md Jaynul Abdin

Appellate Division

Supreme Court of Bangladesh

In working Session IV (12 April 2008) Justice Md Jaynul Abdin, Appellate Division, Supreme Court of Bangladesh was the Chief Guest. At first he thanked Khan Foundation and welcomed all guests and participants. He said that after becoming a victim, the non-cooperation of different organs of the society and state, starts with the women's due to their socio-legal, socio-economic and in some cases their socio religious perspective. In most of the cases in the first place, women victims are prevented or threatened not to file cases either by the offenders themselves or by the social power. He also said that the judiciary is the most important organ of the state in regard to dispensation of justice to vulnerable group of women in need of protection from the wrath of our social stigma. That does not just serve as mechanism for the purpose but also remain the source of moral strength for the affected and the underprivileged in the society as their protector and redeemer. Thus the role of the key player in this area of concern, so to say the role of the learned judge's access to law on the basis of gender equality guaranteed under our constitution. In the context of access to law it is also important to note that the women face worse expedience inside the court rooms. He also said that some degree of gender inequality is evident and to over come this problem, thought process of the learned judges can very easily have an effective and positive result in this regard.

Justice Syed Mohmud Hossain

High Court Division

Supreme Court of Bangladesh

Justice Syed Mohmud Hossain, High Court Division, Supreme Court of Bangladesh, was the chief guest in Working Session IV (12 April 2008). He said that Judiciary is the family; we are all the members of it. Our social system continues for long days we can't change it very with in short time. Besides the women of the world have not been developed yet. He gave importance on time schedule of the court. He suggested all the judges to attain in the Court in due time.

Advocate Rokhsana Khondker

Executive Director, Khan Foundation

Chairperson

The management Council, The Millennium University

In the concluding speech she thanked to all honourable and distinguished guests and learned Judges for the various districts of Bangladesh. In conclusion, she wanted to draw the kind attention of the learned judges and other concerned personnel to have a pro-active approach towards gender equality and take added initiative to create for the women an effective and ample opportunity to have access to law, which is their basic human right. She also thanked to Dr Moyeen Khan with his family support to do the philanthropic work by Khan Foundation around the country.