

MORE CONSULTATION IN RAPE LAWS, 19 OCT 2012

The Joint Action Group for Gender Equality (JAG) views with concern the government's move to introduce a bill which no longer allows judges to impose a bond of good behaviour in statutory rape sentencing. This hurried move, without proper consultation, is not the way forward.

The government's intended action appears a hasty response to the public uproar over the cases of former national bowler and the electrician who were released on such bonds after they had been found guilty of statutory rape of underaged girls.

JAG maintains that it is not the court's power to sentence that was the cause of the uproar but rather the exercise of the court's discretion on how the decision was made which was seen as lacking in "reason, justice and equity". Hence, what is needed is not a blanket removal of this important discretionary power of the courts.

Statutory rape is a complex offence which needs consideration of different aspects and different factors. Instead, the issue is how judges can be better equipped with all relevant facts in each statutory rape case and the impact on the victim, the accused and society. This will enable judges to better utilise their judicial powers and make informed decisions as to why statutory rape is made an offence.

To this end, the court has full power to call for expert evidence and reports in order to understand the impact on the child victim's development and psychology. In order to make the best decision, the retention of this discretionary power would enable the consideration of not just an appropriate rehabilitative sentencing of the offender, but also take into account the impact on the victim and society needs for justice.

The sudden announcement by the Minister in the Prime Minister's Department, Datuk Seri Nazri Aziz, to amend the rape laws is a knee-jerk reaction and requires in-depth consultation. Therefore, JAG strongly calls on the government to reconsider tabling any related Bill until full consultation is undertaken with the relevant authorities, the Bar Council, and civil society organisations to seek out wide-ranging input for comprehensive understanding and recommendations on sexual crime offences.

The latest amendments to the rape laws came about only after a Parliamentary Select Committee which was set up in 2004 had made recommendations after extensive consultation with the public. This holistic approach is more conducive to attaining justice and fairness in legislation and application of laws in our country.

Joint Action Group for Gender Equality (JAG), which comprises:
Perak Women for Women Society (PWW)

All Women's Action Society (AWAM)
Women's Aid Organisation (WAO)
Women's Centre for Change (WCC)
Persatuan Kesedaran Komuniti Selangor (EMPOWER)
Sisters In Islam (SIS)
Sabah Women Action Resource Group (SAWO)

18 October 2012