

Date: 12 October 2023

## Press release

### High Court Judgment on Health Ministry Guidelines on Unnecessary C-Sections for Pregnant Women

Today, at the end of the hearing of a Public Interest Litigation filed on behalf of the Bangladesh Legal Aid and Services Trust (BLAST) regarding the continuation of 'unnecessary caesarean sections', the High Court disposed of a Rule issued earlier, and approved Guidelines on the issue framed by the Ministry of Health and Family Welfare. As a result of this judgment, these Health Ministry Guidelines will now be treated as part of the judgment, which will be applicable to everyone, following Article 111 of the Constitution.

The High Court also directed the Government to take necessary steps to disseminate the Guidelines widely, preferably within the next six months. The Health Ministry Guidelines cover a number of issues including the following:

1. Categorising the measures to be taken - by the Ministry of Health and Family Welfare, the Directorate General Health Services and the Bangladesh Medical and Dental Council - to stop unnecessary Caesarean operations as short, medium or long-term measures. The long-term measures include review of the existing legal framework, identification of any problems and barriers in order to speedily bring about necessary amendments;
2. Undertaking national campaigns to raise awareness of the issue;
3. Including the issue of 'Normal Vagina Delivery' in the curriculum of undergraduate examinations;
4. Providing regular counselling and training to strengthen ethical standards of medical practitioners;
5. Ensuring necessary legal protection for health care providers through formation of Medical Defence Unit;
6. Incorporating internationally recognized indicators of the clinical conditions in which caesarean sections are necessary;

In case of 'Elective Caesarean,' the patient should be fully informed prior to obtaining their consent.

Expressing her thoughts on this landmark judgment in establishing women's rights to sexual and reproductive health, Barrister Rashna Imam, Advocate, Bangladesh Supreme Court and Panel Lawyer, BLAST, said, *"When this case was filed in 2019, the caesarean delivery rate in Bangladesh was 31%, and has now increased to 45%, which is almost three times the level set by WHO. In the past, Brazil and China also had this terrible scenario of caesarean delivery. However, through the formulation and full implementation of appropriate policies and laws, they have been able to curb this disproportionate rate of caesarean delivery. In the case of Bangladesh, it is possible to control the rate of caesarean delivery by strictly monitoring private hospitals, and ensuring accountability, through enactment of appropriate laws and policies and their strict implementation."*

Today's judgment was pronounced by a Division Bench of the High Court comprising Madam Justice Naima Haider and Madam Justice Kazi Zeenat Hoque. Barrister Rashna Imam represented BLAST, and was assisted by Advocate Md. Nazmul Karim and Advocate Ayesha Akter. Deputy Attorney General, Advocate Amit Das Gupta, and Assistant Attorney General, Advocate Md. Zakir Hossain, were present on behalf of the state.

### Background:

There is no justification, according to the World Health Organization (WHO), for a country's caesarean operation rate to exceed 10-15%. The decision to perform a caesarean section should only be made in rare and dire circumstances, to save the mother and/or the child. According to the survey of Bangladesh Institute of Development Studies (BIDS), the number of caesarean operations in 2004 was 3.99%. [In 2021, according to Bangladesh Urban Health Survey \(BUHS\), the rate of caesarean delivery had increased alarmingly to 31%, which is almost double the level set by WHO. Out of this, 83% of children in private hospitals, 35% of children in government hospitals and 39% of children in NGO-led hospitals in Bangladesh were delivered by caesarean operation.](#)



# বাংলাদেশ লিগ্যাল এইড এন্ড সার্ভিসেস ট্রাস্ট (ব্লাস্ট) BANGLADESH LEGAL AID and SERVICES TRUST (BLAST)

BLAST filed this PIL seeking guidelines to be framed to address the issue of unwarranted caesarean surgeries by both public and private healthcare facilities and maternity service providers.

On 30 June 2019, the High Court issued a Rule in Writ Petition No. 7117/2019 upon the Respondents, namely, (1) the Secretary, Ministry of Health and Family Welfare, (2) Director General, Directorate of Health Services, (3) President, Bangladesh Medical and Dental Council, to show cause as to why their failure to regulate private and public hospitals, clinics and medical practitioners to prevent medically unnecessary C-sections should not be declared to be without lawful authority and of no legal effect. A Division Bench of the High Court, comprising Mr. Justice Moyeenul Islam Chowdhury and Mr. Justice Md. Ashraful Kamal issued the Rule.

The Court further passed an interim order directing the Respondents to form a committee of relevant stakeholders within one month and formulate guidelines for prevention of medically unnecessary C-sections and submit the said guidelines in court within six months. Guidelines crafted by a National Task Force set up by the Ministry of Health and Family Welfare was submitted before the Court.

After the final hearing on 9 October 2023, the judgment was pronounced in Court today, on 12 October 2023.

BLAST has been working on protection and promotion of women's sexual and reproductive health rights for many years.

**For more information contact:**

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