

# The Daily Star

FOUNDER EDITOR  
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## Use of character evidence in courts deplorable

*Rape is about lack of consent, not character*

RECENTLY, there has been much outcry—and rightly so—about the impunity enjoyed by rapists in the country, with conviction rates in rape cases as low as 3 percent. Some, including MPs in the parliament, have gone so far as to demand extrajudicial killings of rapists. Rather than engaging in such ludicrous discussion in the parliament, we urge our lawmakers to assess and address loopholes in the existing system, which protect the perpetrators and further harass the survivors. One such provision is the archaic Section 155 (4) of the Evidence Act 1872, which allows defense lawyers to actually introduce character evidence against complainants during trial, the implication being that a woman who is not considered “virtuous” in the eyes of the court is incapable of being raped.

We are at a loss to understand what a woman’s so-called character has to do with rape. We should not have to remind the court, nor our lawmakers, that rape is actually about a woman’s lack of consent, not her romantic or sexual history—and our laws need to be updated to reflect that. By using this colonial-era provision, we are essentially putting the victims on trial—by dissecting minute and irrelevant details of their personal lives in front of a courtroom full of people, including lawyers of other cases, policemen, rapists, other victims and interested onlookers. If anybody’s character is relevant in a rape case, certainly it is that of the perpetrator, not that of the victim/survivor! If complainants have to go through such public persecution, it is hardly a surprise that so few survivors speak up and file cases, and that so few cases actually end in convictions.

We strongly demand that lawmakers do away with this offensive and discriminatory provision immediately, which harasses victims, emboldens perpetrators and institutionalises the “victim blaming” tendencies of our patriarchal society.

## Combatting the silent killers

*Awareness is key to prevention*

THE Bangladesh Demographic Health Survey (BDHS) 2017-18 made public on January 20 paints an extremely grim picture, particularly about the alarming rise in the number of people affected by two of the most prevalent silent killers, hypertension and diabetes.

A few statistics would help convey the magnitude of the problem in our country. Some three crore people aged 18 and above suffer from hypertension while 1.1 crore of the same age group suffer from diabetes. Women are the worst affected. Alarmingly, according to some health experts, the situation on the ground is far worse than what the report reveals. Even more disturbing is that, most of those afflicted with these diseases are not aware of the fact, primarily because these do not have any symptoms until irreparable damage has been done to the body.

Lack of exercise and unhealthy food habits are two of the main reasons why younger people are increasingly vulnerable to high blood sugar, while sedentary and highly stressful working conditions and the absence of recreation are exacerbating hypertension. Under the circumstances, it is time for the administration to draw up an emergency action plan to stem the pervasiveness of these two diseases in the country. There has to be an extensive campaign to make people aware of the long-term consequences of high-blood pressure and diabetes. Meanwhile, parents must play their part in keeping children away from fast foods, schools must ensure time for children to play and exercise, municipalities must provide recreation and park facilities for people to relax and exercise, and workplaces must prioritise the health of their workforce. Additionally, we feel it should be made mandatory for all employers, government or private, to have their employees undergo medical tests, at least blood pressure and blood sugar checks, at regular intervals.

## LETTERS TO THE EDITOR

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### Campaign or chaos?

I highly appreciate the decision made by the Election Commission to set the new date for polls on February 1 as the earlier date coincided with Saraswati Puja. With a little more than a week remaining, it is no surprise that the electioneering for Dhaka north and south city corporations are at full swing now. While I understand that activities such as meetings, putting up posters, promotion of candidates over the mic, pamphlet distribution are among the many prerequisites prior to an election, it is the Election Commission’s responsibility to make sure that such undertakings do not hamper the status quo of the citizens and the city at large.

The amount of posters and banners have blanketed many of the streets in residential areas, if not all. Now is also the time when the candidates are preparing for their SSC examinations. Though the government deferred the SSC and its equivalent examinations following the announcement of the new date for elections, the chaos that results from the ongoing campaigns is taking a toll on the students and hindering concentration during their studies. I hope the concerned authorities take such matters into serious consideration.

Nahian Zaman, Dhaka



MUHAMMAD NURUL HUDA

STRAIGHT LINE  
THERE is no denying that the present government has taken laudable steps by fulfilling a number of long-felt demands of the mainstream police. The cynical observer would say that the status of cops has been upgraded in the eyes of the government, but their real status in society depends on their conduct and performance vis-à-vis the members of the public. In other words, the crux of the matter is whether cops will serve the establishment’s interests without venturing to check legal standings or if they will work as true public servants maintained by public money.

Answers to the above queries will not be easy to come by, as policing in this part of the world, for reasons well known, is yet to be a respectable profession. That, however, has not prevented the guardians from waxing eloquent on the virtues of an impartial professional police organisation. The reality is that while their concern is admirable, remedial actions on the ground have been less than adequate.

Those wishing to take a deeper look into the status question may find that the public do not trust the police although they have to depend on them. Even if the public do trust them, the law does not. This puts the police in a unique predicament. The mistrust between the police and the public is a historical creation. Laws which govern the police were created to raise the trust of the people in the British Empire so that the colonial occupation could continue forever.

When the police were organised, they were given a low status and a low salary but more fetters, so that they could not really serve the people but only the masters who were ruling the people. This background has to be understood clearly while studying the evolution of the police in our country. There is a consensus that the police have been misused and abused, leading to the decline in the rule of law and thereby increasing distrust in police performance. This factor is directly related to the status question.

The laws of crime, evidence and procedure dating back to the mid-19th century and designed to serve the colonial interests of an imperial power still govern the day-to-day functioning of our police force. The question is, can a colonial police meet the needs of a free society in flux? It would not be an exaggeration to say that most efforts at reform have met with increasing resistance from the entrenched privileged classes in politics and the so-called civil service. Our society looks at and treats a policeman with revulsion and contempt, little realising



NAZLI KIBRIA

THE high point of drama during last week’s Democratic presidential debate was the public sparring between Senators Bernie Sanders and Elizabeth Warren. The two progressive candidates engaged in a heated “he said”, “no, I didn’t” exchange about a private conversation they had in 2018. According to Warren, Sanders had said that a woman could not win the presidency, a claim that Sanders vigorously denied.

I find it sad, and both surprising and entirely predictable, that the question of female electability still shadows US presidential politics. For Americans today, a polarised political landscape filled with anger, anxiety and irony shrouds the question of women leaders and their electability. An openly misogynistic man who is a poster child for toxic masculinity holds the highest political office in the country even as the growing #MeToo movement has raised awareness of the problems of sexual harassment and assault. The 2018 midterm elections brought record numbers of women into the House and Senate, many determined to resist and push back the tides of racist and xenophobic nationalism represented by Trump. In a televised spectacle filled with irony, President Trump praised the record number of women in Congress at a State of the Union address following the elections. In a celebratory response, female lawmakers, many newly elected on a platform of resistance to Trump, applauded and danced in the white suits they had worn to honour the suffrage movement.

The question of whether a woman can successfully win her way to the presidency

that there is no such thing as “scientific investigation” and “clean interrogation” under a legal system where the guardians of law are not even recognised as such.

The Criminal Procedure Code and the Evidence Act look upon police officers with distrust, which lowers their morale, reduces their efficiency and affects their character. The considered view is that the public cannot be expected to trust the police when the law of the land does not do so. This distrust of the police is not only widely known but also manifests itself every day in courts throughout the country. Thus, it is not unusual to see police officers resorting to padding of evidence and other dubious methods partly because what they do and what they say are invariably looked upon with

Regarding the mistrust or distrust of police, it has to be noted that the misbehaviour and ill-treatment police officials often mete out to complainants at the police station is one of the most glaring aberrations in police behaviour. There is a tendency to discriminate between the rich and the poor, and it is the latter who become the target of the worst kind of misbehaviour from the police. Policemen often lack an expected attitude of sympathy and consideration towards those who need it the most. There is a virtual absence of a service orientation and policemen often fail to realise that the complainant at the police station is often an aggrieved person, much like a patient who goes to the doctor, and any misbehaviour with them

resultant mistrust can be progressively reduced.

Increasing violence, changing patterns of crime, use of more sophisticated weapons in crime and the general atmosphere of insecurity demands a review of the provisions of law to empower the police to effectively deal with lawless activities. We have to (a) free the police from the clutches of extraneous forces; (b) make the police accountable to people and law; (c) improve police credibility by reposing more trust in their depositions, at least at the assistant superintendent level; (d) raise their status to make them trustworthy in the eyes of the citizen; and (e) regulate police behaviour through internal controls



ILLUSTRATION: WOODY HARRINGTON

suspicion. How can the police function if they are not trusted?

In our country, the law maintains that statements of witnesses recorded by the police need not be signed by them. Confessions made before a police officer are not admissible as evidence. Even when the recovery of a crime weapon becomes admissible, any self-incriminating statement of the accused will render it suspect before the court and a conviction can be sustained only on independent evidence of witnesses. For example, if the police officer is the only witness in a crime like murder, rape or robbery, a conviction cannot be sustained merely on his evidence.

would be construed as a gross violation of human rights. Other aberrations are verbal abuse and ill-treatment while on patrolling duty, harassment of innocent persons during arrest, ill-treatment of traffic violators, etc.

It should be the binding responsibility of supervisory police officials to make a conscious endeavour towards bringing about the much needed attitudinal changes in police forces. When policing and police are elevated to a pedestal of well-deserved priority in the government’s scheme of things and the necessary training and orientation is imparted to the rank and file of police forces, these aberrations in police behaviour and the

and external supervision through an independent agency.

The above steps may appear unusual for transforming an organisation abruptly from being unreliable to being virtuous, but there is no other alternative left. The way characters, ethics and morals are being lowered; the manner in which educated people flout the law and the helpless way in which the state is witnessing the ordeal of the citizens compel us to do something drastic. When trust is reposed in police, there will also be a proper response, we hope, to honour the trust.

Muhammad Nurul Huda is a former IGP.

## Welcome Madam POTUS?

*Women leaders in America and the question of electability*

is one that many liberal Americans are thinking about these days, even if it makes them uncomfortable to do so. Polls show many Americans are skeptical about whether a woman can win the election, even as they express support for the idea of a woman president. The urgency of defeating Trump in the next elections encourages a pragmatic approach to the choice of Democratic nominee—if women are disadvantaged in their electability, it is best to steer away from them for the moment. The highest priority is to capture the presidency and rescue the country from the rollbacks of civil and human rights that will come from another Trump term.

*Women presidential candidates face the unenviable task of conveying strength, authority and capability while not violating the norms of femininity. In what appears as a Catch-22, women who project themselves as authoritative and capable face condemnation as overly ambitious, aggressive, manipulative and unlikeable women.*

Despite the historic wins of women in the 2018 congressional elections, the US lags behind globally on the legislative representation of women. From Germany’s Chancellor Angela Merkel to Ethiopia’s President Sahle-Work Zewde, a growing number of countries have elected women heads. To date, the US has not done so. Varied national political structures, especially with respect to systems that guide the selection of candidates to run for office, undergird these differences. Gender quotas for elective office do not exist in the US, unlike in many parts of the world where they have opened doors for women and given them access to political connections. Parliamentary systems also enable women to work their way up the party hierarchy into positions of leadership without being subject to the gender biases of the voting public.

In South Asia, where women leaders are highly visible, dynastic politics has enabled the political ascension of women. That is, women have come into power through their family ties and identities. Family connections confer legitimacy and authority through what sociologist Max Weber calls “hereditary charisma” or the transmission of charismatic authority through family lines. In unstable political systems, a dynastic choice may also be favoured as a strategy to prevent fighting among political factions.

Let us come back to the US, where neither quota systems nor dynastic politics are especially relevant. What makes it difficult for some Americans to support or imagine a Madam POTUS in 2021? Individual image and personality play a key role in US presidential elections. Women presidential candidates face the unenviable task of conveying strength, authority and capability while not violating the norms of femininity. In what appears as a Catch-22, women who project themselves as authoritative

and capable face condemnation as overly ambitious, aggressive, manipulative and unlikeable women.

However, if the image dilemmas faced by women political leaders in the US are formidable, they are also surmountable, especially for those with the right kind of resources and biographies. I have recently been fascinated by the public persona of Nancy Pelosi, the first woman in US history to hold the position of Speaker of the House of Representatives. Backed by her many years of experience as a legislator, Speaker Pelosi projects herself as a shrewd and tough “don’t mess with me” mother who will get the job done and protect those under her care. She skillfully draws on the cultural trope of motherhood to assert the legitimacy of her power and authority. She has even gone so far as to rebuke President Trump in a way that reduced him to the status of a difficult toddler. In response to a meeting with the President in which he stormed out in anger, Pelosi wryly noted that she was a mother of five and grandmother of nine, and that she knew a temper tantrum when she saw one.

To be sure, there is not one single cultural script for how women leaders can and do balance their authority with the gender expectations of the broader public. Right now, it is up to women leaders themselves to carve out their own unique paths and strategies for doing so. Ultimately, I remain hopeful about the prospect of a Madam POTUS in the very near future because of the growing numbers of women who are willing to take up this very challenge. Refusing to give in to self-fulfilling notions of lesser female electability, women in the US have entered into the political fray in record numbers. By doing so, they chip away at the entrenched culture of hostility and suspicion towards women in power.

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