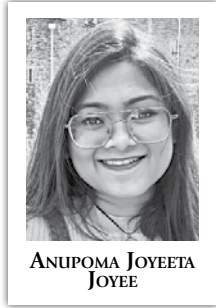


# The Horrors of the Marital License to Rape



**A** 14-year-old child bride in Tangail's Basail upazila has died just at the "right time". I say right time because her death, coming as it did against the backdrop of the call for reforms in rape laws, shows exactly how dreadful our

laws currently are—how dreadfully outdated, discriminatory, and futile. In the coming days, unless we have something even more horrific, I assume she will be the subject of multiple op-eds like mine. That is "lucky" considering how most rape victims barely get assigned a number in the news cycle.

Her 34-year-old husband, to whom she was married off about a month ago, had been having sexual intercourse with her since the first night of their marriage. Since that very night, she had been bleeding from her genitals. She informed her in-laws and they took her to a *kabiraj*. In the meantime, the man continued having intercourse with her completely disregarding her condition. Her excessive bleeding eventually led to her death. There is a lot to unpack here. Bear with me.

First, the laws of Bangladesh do not construe the cause of her death as rape. Section 375 of the Penal Code 1860 absolves this perpetrator of the crime as the victim was "married" to him and was not under 13 years of age. If I think too optimistically, the state may prosecute him under section 299 (culpable homicide—for causing death by an act with the intention of causing such injury that is likely to cause death or with the knowledge that such an act may cause death). If I am being incredibly ambitious, I can perhaps visualise a charge under section 300 (murder—committing the act knowing that it is so imminently dangerous that it must, in all probability, cause death, or such

bodily injury that is likely to cause death, and still committing such act without any excuse for incurring the risk of causing death or such injury). However, realistically speaking, the state is unlikely to do either.

Now imagine for a moment that our child bride is alive. After a month of constant, brutal torture, she somehow miraculously survives it. In that case, we have no criminal charge against the perpetrator. Neither for rape, nor for homicide. Pedant lawyers may argue that there are provisions to address hurt, grievous hurt and so on. But what kind of a wife goes around reporting her husband for causing hurt? Definitely not the kind who studies till 8th grade and is married off to a man 20 years older than her. Despite making multiple laws to address women's rights, the parliament has ignored the urgency of protecting young girls that are doomed to suffer at the hands of their husbands, who are legally permitted to rape 13-year-olds every night of their lives, until of course they die.

Second, the state of disorganisation among our sexual offences provisions is

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PHOTO: AP

helping these perpetrators thrive. While the government earned some brownie points by adding the death penalty to section 9(1) of the Women and Children Repression Prevention Act 2000 (as the maximum punishment for single perpetrator rape), it did not address its blatant discrepancy of age with that of Penal Code 1860. While section 9(1) construes sexual intercourse by a man with a girl under 16 with or without consent (unless she is married to him) as rape, Penal Code 1860 weakens this position by exempting husbands who "rape" wives over or of 13 years of age.

Under neither Acts does our child bride have any legal recourse. Even the 2000 Act (as amended), of which the parliament is immensely proud, does not criminalise marital rape. Our law treats marriage as a license to rape children and makes obtaining it even easier than getting a driving license. Third, the Child Marriage Restraint Act

2017 was another eyewash to demonstrate that the parliament was *in effect* updating the 1929 Act. It did not. It allows for child marriages under special circumstances via section 19. This provision does not prescribe a minimum age for such marriages. Therefore, no 13-year-old being raped by their husbands can get any legal relief. Marriages in Bangladesh are usually agreements between two families, in which case the parties need not seek the court's approval for a section 19 marriage. Under the guise of special circumstances, girls' families marry them off and the men get the permission to rape these children with zero legal repercussions.

The need for the 10-point demand put forth by the Feminists Across Generations alliance in the ongoing movement against rape and rape culture is now exemplified by the death of this unfortunate 14-year-old schoolgirl. Our definition of rape is appallingly inadequate which leaves out

both male and transgender victims of rape. Consent has not been defined. Marital rape has not been made illegal. To legally handle one rape case on points of substantive law, procedures, and evidence, one has to look into at least three or more different Acts. Britain—the country that left us with most of these laws—now has one single codified law called Sexual Offences Act 2003, which addresses everything from the definition of rape to rules of evidence.

Now, the question remains: what exactly is stopping the Bangladesh parliament from approving this much-needed reform? Let there be no confusion that even the current law on violence against women and children, in a lot of circumstances, would offer viable remedy to the victims if the law enforcement agencies and justice-sector actors simply implemented it, if our system as a whole was less hostile to the victims and held men accountable instead of letting the perpetrators off the hook. What we clearly need is a systemic reform, not an easy way out by adding a clause for death penalty. The lawmakers have turned a deaf ear to experts who reasonably pointed out, among others, that incorporating the death penalty would lead to even lower conviction rates than what is already abysmal, would discourage victims being raped by family members to report, and would lead more rapists to kill their victims. Not only will the addition of death penalty fail to make the situation better, it will effectively make it much worse.

Then again, it is one thing to have a law that is not being implemented. That is frustrating enough, undoubtedly. But imagine you are a 14-year-old girl and the man your parents have sent you to live your whole life with rapes you every single night, to the point that you are about to die.

And the law does not even recognise your unthinkable sufferings as an offence.

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## Digital Bangladesh must include rural citizens

MARIA MATIN

"My son did not get the job because they said he lacked the digital skills needed for it," Asma Begum confided to me as we sat outside her house in Gowainghat, Sylhet. Impressed by her use of the term "digital skills" (*digital dokkhota*), I prodded her into expanding on it. But she only responded with silence, so I turned to her son sitting next to us. "They did not hire me because my English was not up to their standard," he explained.

The ease with which Asma Begum threw around the word "digital" is an example of how the phrase "Digital Bangladesh" has reached all corners of the country. However, her propensity to associate "digital" with anything foreign and unknown showcases a lack of understanding of digitisation by the vast majority of people like her.

Bangladesh has made significant strides in achieving Vision 2021—a set of ICT goals to create a Digital Bangladesh by the 50th anniversary of the country's independence in 2021—and those efforts are being recognised worldwide. Bangladesh was listed as one of the top four countries in terms of "improvement and remarkable growth" in digital economy in the last four years, according to Huawei Global Connectivity Index (GCI) 2019.

While the economy is being digitised, it is imperative to find out the digital savviness of the citizens. After all, getting the full benefits of digitisation depends on how adept the citizens are at using it.

Not all citizens, however, possess an equal level of digital savviness; some are in more disadvantaged positions than others due to their socioeconomic and demographic statuses. In Bangladesh, rural and sub-urban regions lag behind the urban regions in terms of access to and usage of digital technology. For instance, internet speed there is still much slower than that in the urban regions, and its impact has been felt most strongly during the ongoing pandemic. Rural citizens face a double-fork problem where lack of access



File photo of rural people using their mobile phones.

PHOTO: COLLECTED

to both devices (e.g. mobile, computer) and networks (e.g. internet) is limited, which in turn restricts the acquisition of highly demanded skills of using digital technology. Recognising this problem, the BRAC Institute of Governance and Development (BIGD) conducted a study between September and November in 2019 to measure the state of digital literacy—understood as a two-dimensional concept combining both digital access and digital skills—in rural Bangladesh. As part of the study, we surveyed 6,500 rural households.

What we found is that although almost every rural household has access to a mobile phone, 60 percent of them do not have access to a smartphone. Since the use of computer and broadband is negligible in villages, as the study found, smartphones are the only way for most people to use the internet and access all the services and information available online. Indeed, the rate of regular

internet usage is just about 40 percent, which corresponds to the ownership of smartphones. This means that the majority of rural households are by default still disconnected from the digital world.

It makes sense that a higher level of access to digital devices and internet should create digitally skilled individuals and communities. Ali Hossain, a computer shop owner in Moulvibazar, bears testimony to that. He was very small when his eldest brother brought home a computer. This allowed Hossain to learn enough about using computers to take over his brother's computer shop; by the time he passed SSC, he learned the necessary skills. Indeed, the study finds a strong correlation between digital access and digital skills. But even among those with access, the level of skills needed to use available technology remains low.

Though almost every household has a basic mobile phone, only about two-thirds

can read or send SMS—a basic function of a phone. And although 40 percent can use social media, e.g. Facebook, active communication skills are poor: about a quarter can comment on the social media and only about 15 percent can use their phone for video calling.

When asked, about a fifth of the households said they use the internet for functional activities such as reading news, online training, bill payments, and searching information. However, less than five percent actually use them for functional purposes like online earning, online shopping, or bill payments via mobile.

More importantly, with many important public services moving online, it is crucial to know whether the citizens can really use them. In this study, almost 60 percent of the households claimed that they can obtain public service information from the internet. However, when asked to find the passport form, fee and hotline number from the homepage of the Department of Immigration and Passports, where the information is clearly marked in Bangla, only about 13 percent managed to retrieve at least one out

of three pieces of information, and it took them 2-3 minutes per information, which should be a matter of seconds for anyone with some digital literacy. It is clear that most rural households are unable to complete the online application process without assistance. As more and more services are moving online, the low level of digital literacy in rural areas means that rural citizens may not only be unable to take the full benefits of digital services but also may even face more difficulty than before.

In the process of measuring rural households' digital literacy, this study also shed light on those who are most likely to be the most digitally able person within a household. Unsurprisingly, it turned out that household members who are younger (15 to 44 years of age) and more educated (SSC and above) are more digitally literate than others. The positive relation between digital ability and education is a critical one, especially now when it is feared that the current pandemic can lead to a massive wave of school drop-outs among children. This will reverse the gains made not only in education but also in the digital ability of the masses. Opening digital centres at the union level by the government has been critical to improving digital access. But in order to reduce the gap in digital ability or skills, one innovative way would be to consider the role of trusted intermediaries. A rural community has a network of human intermediaries. It could be the local grocer, the computer operator, or the NGO *Apa*, who people turn to for help in using their devices. Perhaps the government can invest in formalising their training through the national technical education board.

The dream of a Digital Bangladesh cannot be achieved by leaving behind our rural citizens. From the BIGD survey, it is clear that vast improvements need to be made to close the gap in digital access and, more importantly, digital skills of our rural citizens to make sure that they, too, can leverage the power of the digital world to better their lives.

Maria Matin is a Research Associate at the BRAC Institute of Governance and Development (BIGD).

### ON THIS DAY IN HISTORY



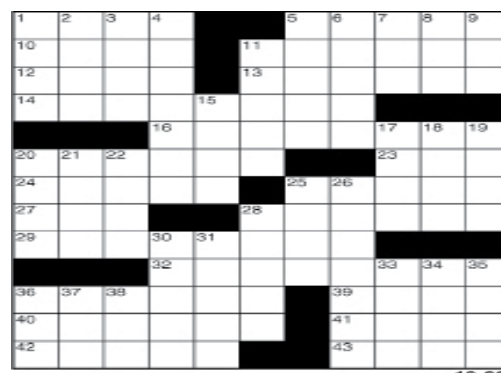
**Marie Curie**  
(1867-1934)

Polish-born French physicist, famous for her work on radioactivity and twice a winner of the Nobel Prize.

*Nothing in life is to be feared, it is only to be understood. Now is the time to understand more, so that we may fear less.*

### CROSSWORD BY THOMAS JOSEPH

- ACROSS**
- 1 Pleased
  - 5 Sentimental person
  - 10 Script unit
  - 11 Prosper
  - 12 Nick and Nora's dog
  - 13 Carter's successor
  - 14 Event for overseas soldiers
  - 16 Rapid plunge
  - 20 Gallery star
  - 23 Fanciful poem
  - 24 Knee, e.g.
  - 25 Secluded valleys
  - 27 Invite
  - 28 Political trip
  - 29 Reading, for one
  - 32 Desperation
  - 36 Church sights
  - 39 Clarinet's kin
  - 40 Social service
  - 41 Cabbage dish
  - 42 Painter Degas
  - 43 Some bills
- DOWN**
- 1 Glitter rock
  - 2 Maggie and Bart's sister
  - 3 Against
  - 4 Bought and sold
  - 5 Beach find
  - 6 Some exams
  - 7 Pearshaped fruit
  - 8 Dam org.
  - 9 Hankering
  - 11 Characteristic
  - 15 Play group
  - 17 Tyler's successor
  - 18 Goofing off
  - 19 Egg setting
  - 20 Open a bit
  - 21 Painter Bonheur
  - 22 Polynesian idol
  - 25 Twofold
  - 26 Last in row
  - 28 Ceiling supporter
  - 30 Tibet's capital
  - 31 Less common
  - 33 Skilled
  - 34 Speckled horse
  - 35 Evergreen shrubs
  - 36 Had launch
  - 37 Was ahead
  - 38 Price place



### YESTERDAY'S ANSWERS



### BETLE BAILEY



### BY MORT WALKER



### BABY BLUES



WRITE FOR US. SEND US YOUR OPINION PIECES TO dsopinion@gmail.com.