

FOCUS

Law and Our Rights

Women and Children Oppression (Special Provision) Act, 1995 And The Need For Balancing The Criminal Justice System

By Zobaida Khan

AROUND the world, one woman is physically abused every eight seconds and one is raped every six minutes. This data provided by the National Centre on Women and Family Law, USA published in the New York Times on 19 October, 1994, reflects that violence against women especially physical abuse constitute a major portion of the crimes that are dealt with by the whole criminal justice system operating in each of the states. This postulates an alarming situation and in most of the legal systems around the world changes are underway to confront the situation. One powerful venue for change is the legal system including the laws that shape it and the officials who carry them out. The World's Women 1995—Trends & Statistics, published by the UN provides a data regarding "National Action in Response to Violence Against Women" and the relevant information regarding the situation in Bangladesh and other South Asian countries are quoted in order to understand the existing plight of legal situation—

override other laws that may exist in the relevant areas. Each of the offences and their respective punishments are now discussed.

(1) Causing death or grievous hurt to any person by means of erosive, poisonous or corrosive substances

Section 326A of the Penal Code lays down that voluntarily causing grievous hurt in respect of both eyes, head or face by means of any corrosive substance, is punishable with death sentence, imprisonment for life and with fine also. This section is new and inserted by Ordinance No LXXIX of 1984. This sec. has been inserted because there was a menace of acid throwing throughout the country, so this legislation has been made to meet the seriousness of the offence and to curb the same. This insertion was proved to be a positive approach towards the solution of the

or attempting to commit rape, the accused shall be punishable with death or transportation for life and shall also be liable to fine (section 8). In the Women and Children Oppression Act of 1995 death penalty is provided in case of causing death to any children or women while committing rape whether by a single person or through gang rape (sec. 6). Even the offence of raping a child or woman is punishable with death or imprisonment for life. In the Act of 1995 any attempt to cause death or hurt by committing rape is punishable with death or imprisonment for life. In the case of State vs Masud Khan & Others, Nari-O-Shishu Nirjatan Case No. 15 of 1996, the learned sessions judge, Nari-O-Shishu Nirjatan Special Court, Barisal found the accused to be guilty under section 6 (3) of the Women and Children Oppression Act of 1995 and referred the case to be

mission of the offence and for obtaining possession of the victim. Despite legislation providing severe penalty has been introduced in the early eighties the trafficking in women continues. The International Organisation for Migration reports in many cases, that once out of their countries, women are sold to brothel owners. Their employment in sex-tourism, forced prostitution and pornography reduce women to mere sex commodities. Their documents are confiscated and to recover them they are obliged to repay the cost of their transportation and subsistence. They are often imprisoned and if they attempt to leave they are faced with physical assaults or threats regarding such assault. They are usually isolated and unable to speak in local languages. Further, their status as clandestine immigrants discourages them from coming forward to the authorities. Strict measures should be taken at all levels for the enforcement of existing legal provisions. The resources for prevention of prostitution and assistance in the professional, personal and social integration of such women should be directed towards providing economic opportunities including training, employment, self-employment and health facilities for women and children. As this problem acquires an international character, only national legislation will not be able to tackle the situation. This complex, trans-border problem needs coordinated and increased efforts by police and border security forces internationally. The Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others to which Bangladesh is a signatory should be implemented primarily and urgently on a regional basis and then on a global basis.

(5) Dowry

The Dowry Prohibition Act of 1980 lays down that direct or indirect demand of dowry or transaction of dowry or abetment in such transaction (give or take), exposes the liable person to punishment of imprisonment which may extend up to 1 year or with fine which may extend to Tk 5000/- or both (section 3 & 4). In this respect it can be argued that the borderline of maximum fine that can be imposed is inadequate in

view of the fact that transaction may be of much greater amount. Section 6 of the Cruelty to Women Ordinance 1983 lays down that penalty for causing death or grievous hurt to any woman for dowry. Such offences are punishable with death or with transportation for life or with rigorous imprisonment for a term which may extend to 14 years and shall also be liable to fine. The Women and Children Oppression Act of 1995 lays down that (a) for causing death for dowry the offender shall be punishable with death penalty (b) for attempting to cause death for dowry, he/she shall be punishable with imprisonment for life and (c) for causing grievous hurt for dowry he/she shall be punishable with imprisonment for 14 years which cannot be less than 5 years and in addition shall be liable to fine.

In this subcontinent India was the first country to come up

with a legislation prohibiting dowry and making the giving or taking or demand of dowry an offence. The Dowry Prohibition Act of 1961 (Act No. 28 of 1961) of India, was profusely borrowed by the later Bangladesh legislation on this subject. The definition of dowry in section 2 of both the Indian Act and the Bangladesh Act is about the same. Sec. 2 (f) of the Women and Children Oppression Act of 1995 upholds the definition of dowry as provided in the Dowry Prohibition Act of 1980. No difficulty arises if the accused after the marriage demands dowry which had already been agreed upon before or at the time of marriage but which had not been given or had only been partly given. The demand of dowry for the non-paid portion subsequent to the marriage was held by the Calcutta High Court, to fall within the definition of dowry in section 2 (Laipat Rai Sehgal vs State 1983, Criminal Law Journal 883). Difficulty

arises when dowry is demanded afresh and for the first time after the marriage is solemnised. In such cases, no dowry is agreed to be given at the time of or before the marriage as consideration for the marriage.

In the case of Mihir Lal Saha Poddar vs Ziaur Ranu Saha 37 DLR 227 the High Court Division held the fresh demand of dowry which was not agreed upon to be given in consideration of the marriage does not fall within the definition of dowry under section 2 of the Act. The facts alleged were held to constitute an offence of attempt for extortion. A different view was taken by another Division Bench of High Court in the case of Rezaul Karim vs Mosammat Taslima Begum 40 DLR 360 where a fresh demand of dowry was made after the marriage.

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(The second part appears next Sunday)

Country	No of NGOs working on violence against women	Rape Reform Law (s) passed	Domestic Violence Reforms passed	Specialized Rape Crisis Services/Centres available	Specialized Centres/Shelters available for victims	Govt. body responsible for anti-violence programme
Bangladesh	21-50	No	Yes (1)	1	1	No
India	100-250	Yes	Yes (1)	No	Yes	Yes
Pakistan	6-10	No	No	No	4	No
Sri Lanka	6-10	No	No	No	Yes	Yes

(1) No general domestic violence law but law prohibiting dowry harassment and cruelty to women passed.

Source: Compiled by the Statistical Division of the United Nations Secretariat based on information provided as of September 1993.

Especially during the second half of the UN Decade for Women (1976-1985), there emerged a trend in Bangladesh to enact special laws to deal with the special problem of violence against women. In this regard we can refer to the Dowry Prohibition Act of 1980 and the Cruelty to Women (Deterrent Punishment) Ordinance of 1983. The Women and Children Oppression (Special Provision) Act No. 17 of 1995 was another new addition to this trend. The Women and Children Oppression (Special Provision) Act No. 17 of 1995 was another new addition to this trend. The Women and Children Oppression (Special Provision) Act No. 17 of 1995 was another new addition to this trend. The Women and Children Oppression (Special Provision) Act No. 17 of 1995 was another new addition to this trend. The Women and Children Oppression (Special Provision) Act No. 17 of 1995 was another new addition to this trend.

rapidly-growing problem of acid-throwing.

Section 4 of the Women and Children Oppression Act of 1995 lays down that for causing death by means of erosive, poisonous or corrosive substances, death penalty shall be imposed. Section 5 of same Act prescribes penalty for causing grievous hurt by means of erosive, poisonous or corrosive substances.

For causing a) privation of the eyesight or the power of seeing, b) disfigurement of the head, or face, c) privation of the hearing of ear, d) destruction of any member or joint, e) destruction of any member, different types of penalties have been provided. The penalties may include rigorous imprisonment for 14 years (which cannot be less than 7 years) plus fine or imprisonment for life plus fine according to the nature of the offence. In case of permanent disfigurement of the head or face, total or permanent privation of the eyesight or power of seeing of either eye for the hurt person shall be punishable with death penalty.

(2) Rape

Section 376 of the Penal Code provides that whoever commits rape shall be punishable with imprisonment for life or with imprisonment of either description for a term which may extend to 10 years and shall also be liable to fine. But if the woman raped is his own wife and is not under 12 years of age, then he shall be punishable with imprisonment of either description for a term which may extend up to 2 years or with fine. The Cruelty to Women Ordinance of 1983 lays down that for committing murder or causing death after committing rape

tried by the Juvenile Court as both the accused were proved to be minor. All the proceedings in the above mentioned case is now pending as the High Court Division issued a stay order in this regard.

(3) Trafficking in Women and Children

Section 6 of the Cruelty to Women Ordinance of 1983 lays down that import, export, sale, hire, disposal or obtaining possession of any woman of any age with intent that such woman shall be employed or used for the purpose of prostitution or for illicit intercourse with any person or for any unlawful and immoral purpose or knowing it to be likely that such woman will be employed or used for any such purpose shall be punishable with transportation for life or with rigorous imprisonment for a term which may extend to 14 years plus fine. The Women and Children Oppression Act of 1995 in its section 8 provides different penalties for different offences relating to trafficking in women. Firstly, for sale, hire, import, export etc. of any woman with intent to use for any unlawful and immoral purpose the responsible person shall be punishable with imprisonment for life plus fine. Secondly, for obtaining possession of any woman with the intent to export, import, sale, hire that woman for using her for the purpose of prostitution or illicit intercourse or for any unlawful or immoral purposes—penalty shall be rigorous imprisonment for 14 years and it shall include fine. So this new section introduces nothing new except providing different punishments for the actual com-

mitted by the juvenile court as both the accused were proved to be minor. All the proceedings in the above mentioned case is now pending as the High Court Division issued a stay order in this regard.

(4) Kidnapping or Abduction

In the Penal Code, kidnapping is of two kinds, namely kidnapping from Bangladesh and from lawful guardian & for any such offence imprisonment of either description for a term which may extend to 7 years and fine shall be imposed. The person against whom the offence of kidnapping from lawful guardian is committed must be under the age of 16 if a male and under the age of 18 if a female. Section 4 of the Cruelty to Women Ordinance lays down that kidnapping or abduction of woman of any age with intent to (1) use or employ such woman for prostitution or for any unlawful or immoral purpose or (2) to compel her to marry against her will or (3) to force or seduce her to illicit intercourse or knowing it to be likely that such act will be committed, is punishable with transportation for life or with rigorous imprisonment for a term which may

endeavoured to find origins and meanings of the word 'Bhagwan' which means God. What Das came up with should make the Hindus of India furious exactly the way writings of Taslima Nasreen did to the Muslim clerics all over Bangladesh. If compared, the freedom of speech is impulsive in this country.

Later Taslima was sued by the government under Section 295A of the Bangladesh Penal Code for having maliciously and deliberately outraged the religious sentiments of the people. Apart from the law of any country, HR has a 'humanitarian' point of view when sometimes religious monstrosity alone can't be condemned. Take the recent occupation of Taliban forces in Afghanistan and their forced administering of certain social laws. The militants quoted the Muslim scriptures to the country's women, saying: 'This place is in their home.' A full stop with no compromise in sight.

What happened in Afghanistan are acts of gross violations of rights. But what is being criticised by the outer world as rights violation may not always be the same to the Afghan people who now 'want' to live in peace and security. Available information say that Taliban forces in Afghanistan are being praised by their fellow-countrymen, as 'full stomachs and quiet skies can go a long way toward earning a regime popular support'. There certainly are human-rights abuses. Tony Pitzer, head of the UN mission in Kabul was quoted to have said, adding: 'But I must say that peace and security that come with them people aren't happy about

what has been done to women, but according to papers, Kabul needs peace more than anything else. Living was an uphill task before: the people can now buy food -- which was scarce earlier -- and markets are overflowing: a loaf of bread cost 1,000 Afghani (seven US cents) in the first week of October which came down to 500 in the second week. The Western HR groups can hardly write or do anything in this regard.

Again last year, Sudanese Islamic leader Hasan al Turabi recounted that while he languished in prison for seven years, no HR group wrote about his plight pointing that the role of international HR organisations has to evaluate themselves in positive terms.

One of the features these days is the movement to conserve species of animals and plants and to preserve the environment from pollution.

However, while the violation of individual rights are emphasised by national and international organisations, the wholesale violation of HR of the large section of humanity don't receive the same attention. No doubt, various Third World 'green' groups are trying to perform a similar role in respect of depredation of the rights of humanity, but it is once-in-a-blue-moon marvel that one comes across the Western governments voicing support for such groups as they do in respect of international organisations whose origins are 'the West'.

Examples galore: the governments of US, Canada and Australia which thunder about violations of human rights, subtly disregard the violation of humanity's rights on global warming. Ironically enough,

according to newspaper reports, it was in Toronto in 1988 under the co-chairmanship of the then Canadian Prime Minister that it was proposed industrialised countries should reduce their carbon dioxide emissions by 20 per cent.

There's, among plenty, another aspect of HR. When white settlers in US and Australia were seizing land and industrialising the countries, there were awful violations of human rights including genocide of native populace. Some three decades ago, Martin Luther King Jr had to conduct a civil rights march in US and struggle to obtain the rights to franchise for the African Americans. If these are analysed, the rich world should be ashamed.

There's a positive correlation between a population's average living standards, industrial prosperity, the quality of democracy, standard of the judiciary and independence of the press. Those who want to exercise the same standards of human rights all over the world may have good intentions, but don't really value the linkage between the state of development of another society's level of prosperity and standard of human rights. Nor do they appear to be concerned about the planetary predicaments which have condemned large sections of populations to poverty and abysmal human rights standards. In spite of coming out with an occasional high-sounding report criticising human rights records of the developed countries, their reports mostly tend to serve as convenient foreign-policy instruments for industrialised nations. Their bonafides will be established only if they can (or want to) connect the human rights to humanity's rights.

Rights, Humanity is Thy Name

by Ekram Kabir

Human rights (HR) as an expression may have a modern ring to it, but as a science it is as ancient as Plato and Aristotle when 'humanity' literally started gaining grounds. And scholars like them taught the then rulers that people weren't the 'subjects' who are exclusively made to bow but also were 'human beings' who needed to be looked after -- both physically and emotionally. Moreover possibility is there, according to many, as science deals with humanity that no more genuine interdisciplinary subject exists than the study of human rights, specially now in the West. These days, a large number of human rights organisations has been established all over the world to watch and protect rights violations.

This is a welcome development. The national human rights groups specially are doing very commendable tasks, drawing attention violations by different agencies of the government. In Bangladesh's backdrop, these organisations can be more effective when functioning under democratic set-up (which is yet to be realised here in this country). For example according to an international human rights watchdog organisation in 1995, Islamic groups engaged in violent protests, were demanding death of several journalists ransacking two newspaper offices on the grounds of printing write-ups that, they said, went against their religious sentiment. Fine, if religious sentiments are to be taken into account, then one should read the article 'Jaghnanya Bhasa Bangla' in the October 5 issue of the 'Desh' of Calcutta. Among many, the writer Chityananda Das Gupta

deavoured to find origins and meanings of the word 'Bhagwan' which means God. What Das came up with should make the Hindus of India furious exactly the way writings of Taslima Nasreen did to the Muslim clerics all over Bangladesh. If compared, the freedom of speech is impulsive in this country.

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The Daily Star Entertainment Guide

Sunday 6th October
(All programmes are in local time. There may be changes in the programmes)

BTV

3:00 Opening Announcement
Al-Coran Programme Summary
3:10 Recitation from the Bible
3:15 Cartoon: Woody Woodpecker
3:45 Rerelease of Weekly Drama 4:00 News in Bangla
4:45 Anu Parmanu 5:00 News in Bangla
5:25 Sports Programme
6:00pm News in Bangla
6:30 Jiboner Janjanyo
7:00 News in English
7:05 Open University
7:25 Tagore Songs
8:00 News in Bangla
8:25 Jarmathum
8:30 Shipa-Banjari-Arhu
9:00 Film Series: Akbar The Great
10:30 News in English
10:30 Shashitatho
10:30 Shantito Shankalpa
11:30 News in Bangla
11:35 Monday's programme 11:40 Close down

BBC

6:00am BBC World News
6:30 India Business Report
7:00 BBC World News
7:25 This Week
8:00 BBC World News
8:30 India Business Report
9:00 BBC World Headlines

World Focus: Horizon 10:00
BBC World News 10:20
The Last Days Of The Bible
11:00 BBC World News
11:25 India Business Report
12:00noon BBC World News
12:20 This Week
1:00 Correspondent
2:00 BBC World News
2:30 Time Out
Film 96 3:00 BBC World News
3:30 Time Out
Floyd's American Pie
4:00 BBC World Headlines
4:05 World Focus
Everyman
5:00 BBC World News
5:20 Britain in View
6:00pm BBC World Headlines
6:05 World Focus
Earth Report
7:00 BBC World Headlines
7:05 Breakfast With Frost
8:00 BBC World News
8:30 Time Out
Travel Show
9:00 BBC World Headlines
9:05 World Focus: Horizon
10:00 BBC World News
10:30 Time Out
Fat Man in France
11:00 BBC World News
11:20 The Last Days Of The Bible
12:00am BBC World News
12:20 Window On Europe
1:00 BBC World Headlines
1:05 Timewatch
2:00 BBC World News
2:30 Time Out
One Foot In The Past
3:00 BBC World Report in World Business Report
24 Hours
5:00 BBC World News



12:30 The Fall Guy
1:30 Vegas
2:30 Best Sellers: 'Seventh Avenue'
2:34 Swiss Family Robinson
5:00 Mysterious Pieces
6:30 The Road Show
6:30 Act: India Show
7:00 WWF-Action Zone
8:00 3rd Rock From The Sun
8:30 Beverly Hills
9:00 9:30 Picket Fences
10:30 Burke's Law
11:30 21 Jump Street
12:30 Chicago Hope
1:30 India Business Week
2:30 Amul India Show
3:00 The Oprah Winfrey Show
4:00 Hooperman
4:30 Home and Away
5:00 The Sullivans
5:30 Gabriel

CHANNEL V

6:00am Frame by Frame
7:00 Rewind
8:00 Frame by Frame
10:30 Soul Curry
11:00 BPL
12:00 Sansui Mangla Hai
12:30 First Day
1:00 Big Bang
1:30 Speak Easy
2:30 Videocon Flashback
3:00 Asian Top
4:00 VJ Trey
5:00 The Vibe
Weekend VJ Luke
7:00 Palmolive
Extra Time Pass
8:00 The Indian Top
10:00 Launch Pad
VJ Saphiya
11:00 Viewers Choice Awards
11:00 Rewind
VJ Saphiya
12:00 Big Bang
VJ Alexandra
1:00 The Ride
VJ Trey
2:00 By Demand
VJ Trey
3:00 Big Bang
VJ Alexandra
4:30 Launchpad
VJ Saphiya
5:30 VJ Alexandra

STAR PLUS

6:30am Volttron
7:00 King Arthur
7:30 Classic Cartoons
8:00 Tom's Rooms
8:30 7-Bag
9:00 Eek!
The Cat
9:30 India Business Week
10:30 The Road Show
11:00 Amul India Show
11:30 The Extraordinary



Picket Fences on Star Plus tonight at 9:30

STAR SPORTS

6:00am World Cup Classic
1986 Argentina v West Germany
Final
8:30 BNA Fantastics
8:30 World Wrestling Federation
12:00 Live Heineken
12:00 Singapore Singles Finals
1:00 Laika
Khosaburai
2:30 SEA Touring Cars
Ride
3:00 Omega Tour
Film Pro
4:00 Live Chinese National
Football League
4:00 Singapore Open
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Singapore Singles Finals 7:30 Live World Motorcycle Championship 1996 Rio de Janeiro Grand Prix 1:00 Indy Racing League Las Vegas 2:30 International Motorsports News 3:30 Watersports World 4:30 Galleat World Sport Special 5:00 World M/Cycle Champs-Different Features

STAR MOVIES

7:30am Thriller: When the Tough Breaks
15 (Hindi Subtitles)
8:30 Adventure: The Skateboard Kid
12 (Hindi Subtitles)
11:30 Sunday Matinee: Cathy's Child
15 (Hindi Subtitles)
1:30 Sunday Classic Western: Run Man Run (Hindi Subtitles)
3:30 Sunday Show Time: Pee-Wee's Playhouse (PG) (Hindi Subtitles)
4:30 Sunday Show Time: The Directors
Sydney Pollack
5:30 Sunday Family Double Feature: Modesty Blaise
12 (Hindi Subtitles)
7:30 Sunday Family Double Feature: This is My Life
15 (Hindi Subtitles)
9:15 Film 96
9:30 Gold: The Power of One (Hindi Subtitles)
11:30 True Story: The O J Simpson Story
15 (Arabic Subtitles)
1:30 After Dark: Even Cowgirls Get The Blues
18 (Arabic Subtitles)
3:30 Thriller: Unlawful Entry
18 (Arabic Subtitles)
5:30 Horror: Doppelganger
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Special 1:30 Haste Haste 2:30 Ajeeb Dastaan 3:30 Sui Sargam 4:30 Pye In Pyar 5:30 Lata Mangeshkar Special 6:30 Haste Haste 7:30 Ajeeb Dastaan 8:30 Sui Sargam 9:30 Pye In Pyar 10:30 Lata Mangeshkar Special 11:30 Sui Sargam 12:30 Pye In Pyar

Countdown 9:00 Prafull V3-9:30 Shatrio 10:00 Alcor Ba Ru 10:30 Stand-by 10:40 Meri Marzi 11:00 Ajabi 12:00 Kinetic Haseen Pal 12:10 Karz

8:00am Tilawat Aur Tarjuma/Hamd/Naat 8:20 Cartoon 8:30 Khabraun 8:45 Fun Time 9:05 TV Encyclopedia 9:25 Khat Famaar 9:40 Sports Clinic 10:05 PTV Gold 10:30 English Film: Darkwing Duck 10:55 Mast Mast Sanyo 11:00 Khabraun 11:10 Sports Hour 12:05pm Disoop 9:05am Hahani 12:55 Quran-e-Hakeem 1:02 Bismillah 1:15 Aaj Di Kahani 1:40 Aaj Di Shaam 2:00 Karni Eep 3:30 (Drama Serial) 2:55 Ghost Writer 5:55 Karabaa Film 5:30 News 7:20 Binodan

9:55 Zameen Per Zindagi (Drama Serial) 6:25 Aiou Courses 7:00 English News 7:30 English Film: Star Trek Deep Space Nine 8:20 Hawwa Ki Naam 9:00 Break for Headlines 9:20 Sur Tasver (Pakistani Film 1947-95) 10:00 Khabarnaama & Commercial News 11:00 Pezwaan 11:35 Home Victim (New Serial) 12:35 Music Masters-Raag Rang 1:00 Khas Khas Khabraun

9:00 Janmadin 9:05 Geetmalay 9:30 Movie Club Film: Vidya Sagar 12:30 Surer Asar 1:00 Dhitang Dhitang Bole 1:30 Movie Club Film: 3:30 Geetmalay 4:30 Bengali Feature Film 5:30 News 7:20 Binodan

7:30 Bangla Sambad 8:00 Marzad 8:25 Ek Tuku Basa 9:30 Drama 10:00 Dance Prog 10:30 News/Bengali Sambad 11:00 Closed

8:30am Jai Bir Hanuman 9:00 Yaadon Ki Baar 9:30 Gaane Jaane Maane 10:00 Hindi Hits Songs 10:30 Buddha 11:00 10 Civil Lines 11:30 Sunday Ki Sunday 12:00 Hamse Barker Kun 12:30 Pehli Mukalak 1:00 Good Show 1:30 Pehchan 2:00 Hum Se Barker Good 2:30 Meri Massage Meri Geet 3:00 Naye Tarane 3:30 Gaane Jaane Maane 4:00 Dekh Tamasha Dekh 4:30 O' Maria Gaya Ji 5:30 Ghaav 6:00 Dekh Tamasha Dekh 6:30 Aahat 7:00

Bindoos Bol 8:00 Cine Classics - Hindi Feature Film: 1:00 The Young And The Restless 2:30 Ghaav 12:30 Aahat 1:00 Faslee 1:30 Surf - Wheel Of Fortune 2:00 Premier 2:30 Closed

Garfield®

DIST. BY ASIA FEATURES

YOU GOING TO A COSTUME PARTY?

I THOUGHT PEOPLE FROM GUANO-GUANO WORE PALM FRONDS

NOT SINCE THE INFESTATION OF LEAF WEASELS

WOAH! HEY! WOAH!

KIND OF SAD. ISN'T IT?

MUNCH
CHOMP
MUNCH

HOW ABOUT CALLING A TRUCE AND BEING FRIENDS?

SURE.

AH, WELL - IT WOULDN'T HAVE WORK