

"ALL CITIZENS ARE EQUAL BEFORE LAW AND ARE ENTITLED TO EQUAL PROTECTION OF LAW" - ARTICLE 27 OF THE CONSTITUTION OF THE PEOPLE'S REPUBLIC OF BANGLADESH



# Can legislation actually curb rape?

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Can the recognition of 'Country's Daughter' protect females from further humiliation and restore their graceful status in the society? Talking about the recent heinous and shameful rape story of a female physiotherapy intern who was beaten along with her male friend and gang raped inside a running bus by six criminals in Delhi on December 16, 2012. She was moved to Singapore for further treatment but unfortunately died on 29th December. Massive protests had already been raised after the gang rape and there had been an emotional outburst and agitation throughout India. The violent protest rose to such a height that the Honourable Prime Minister along with other ministers had to come forward to control the deteriorated situation with lots of positive and compensatory initiatives. The victim has been declared 'India's Daughter' and given solemn respect. This unfortunate incident has set a perfect example that how a tragedy can sometimes seize a nation's attention and stir the conscience of the whole community. From ancient period, rape has been regarded as a way of gratifying inhuman instinct of males upon females. During wartime, rape is regarded as a trophy of war. Even in peace time and in many independent countries where women's right and female security is given utmost priority, we have to witness the brutal consequences of rape frequently. But physical abuse of women can no longer be an acceptable aspect of a civilized nation.

## Brief situational analysis in Bangladesh

Our sweet country Bangladesh is not also free from this evil curse. We cannot find a single day when rape has not been committed. The new year 2013 has welcomed us with four reported incidents of brutal rape including female child inside our country. According to a report of 'ODHIKAR' (A Human Rights Organization), about 760 women and children were raped between January and November in 2012 while the number was 711 in 2011, 559 in 2010, 456 in 2009 and 454 in 2008. Of the 760 victims in the year 2012, 188 were gang raped while 69 were killed after rape. It is quite alarming that the more the consciousness is rising, the more the ratio of rape is increasing. There is deep anxiety about the security of females in the country nowadays. We cannot condole ourselves that even in far

developed and most civilised countries like France, Germany, Russia, Sweden and Japan, rape takes place or the percentage of rape is quite high in other countries comparing to ours. But if we consider implementation of laws, inflicting punishment, treatment and rehabilitation of the victim, compensation to the victim and social security of victim's family, our country is lagging far behind. It is sometimes quite surprising and embarrassing that rape victim receives lashes instead of justice in our country.

## Challenges in controlling rape in Bangladesh

It is quite impossible to uproot rape from Bangladesh overnight. Factors behind such frequent occurrences of rape in Bangladesh are:

- Indifferent attitude of the society is seen towards this heinous criminal act. None except some individuals and women rights activists protests against such crime and discrimination against women.
- A series of reaction and protest is covered by the electronic and press media but which fizzles out in a few days bearing no aftermath consequences.
- Most of the criminal cases against rape languish in the Courts for months.
- In most cases, police are reported to be negligent in receiving complaints and conducting investigation. Legal complaints aren't followed up by suitable inquiries or arrests.
- There remains continuous pressure on victims of rape and her family members in order to discourage legal complaints.
- Lack of strict implementation of the existing legal provisions.

## Prevailing legal remedies against rape in the country

In Bangladesh, the maximum punishment for committing rape, under 'The Penal Code, 1860' is imprisonment for life. The usual punishment for rape under 'The Prevention of Repression against Women and Children (Amendment) Act, 2003' is life imprisonment but if the victim later dies or the rape is committed by more than one man (i.e. gang rape), then the maximum



punishment is death penalty. Besides, under this Act, the case must be completed within 180 days and the investigation should be completed within 60 days of the order by a magistrate or filing of the case. The said Act also provides that State shall bear all the necessary expenses of a child born out of rape or a rapist will have to pay for the up-keeping and up-bringing of a child born as consequence of rape.

## Conventional recommendations for reforms

**Legal reforms:** Though highest punishment has been provided by our criminal laws for those committing rape, it should be made more harsh and deterrent. Death penalty does not agonise an offender since it allows very little time to the miscreant to repent for his misdeeds. A continuous period of rigorous imprisonment for more than twenty years may be imposed. In India, it is now proposed and waiting for consideration that the sex organ of the rapist shall be made inactive permanently by chemical injection. Imprisonment of thirty years has also been proposed there.

**Establishment of separate judicial inquiry commission:** Reported rape cases should derive more acute attention besides regular criminal trial process. A separate judicial inquiry commission headed by a retired

judge of the High Court Division should be established to look into every rape cases. The commission will submit its report within one month and such report will be tabled in the Parliament along with action taken by the government.

## Speedy and separate trial:

Court must ensure speedy and separate trial in rape cases. Most rape cases filed in ordinary criminal Courts languish in the Courts for months. Although, according to the provisions of 'Prevention of Suppression against Women and Children (Amendment) Act, 2003', such cases must be tried within 180 days, the rape cases being more sensitive, should be tried more expeditiously and if possible, in less than 180 days.

## Reforms in the Police department:

Upgrading the police personnel and increasing the number of technologically advanced police forces should be a priority issue. Rape cases must be investigated by special units within the police force. The statement of the victim should be taken in private and each police station should have a 'trauma room' for this purpose.

## Non-conventional recommendations

No lawful wedlock with the rapist: It is sometimes an established practice in our country that the rape victim is compelled to marry the rapist since it is taught to her that no man will marry her. Such illogical and inconsistent practice is prevalent in mostly rural areas during dispute settlement or conciliation by village head-man. It must be stopped immediately because it will accelerate rape instead of reducing it. A common philosophy will be established that: "If you fail to marry a woman, rape her first and then she will automatically be compelled to marry you."

**Public emergency helpline:** An emergency 24-hour public telephone helpline for women in distress operated by Home Ministry may be launched and it will be connected with all the police stations across the country in which rape victim or anyone on her behalf can easily and directly report such incident either before or after the occurrence.

**Compensation:** In majority rape cases in our country, neither the victim nor the victim's family receives any compensation from the rapist or from the government. It is recommended that the government should provide compensation for the purpose of survival and social rehabilitation of both the victim and the victim's family. It needs to mention here that the Delhi government has awarded a compensation of Rs. 15 lakh to the family of the gang rape victim recently.

**Changing attitude of people towards women:** Attitude of the people and the society towards the women should be changed. We must possess a positive outlook for women that they are human beings having equal status like men. Their emotions should be considered, their performances should be evaluated and they also deserve dignity and status.

**Spreading religious norms and ethical values:** Religious norms and ethical values should be imparted to the children from their childhood by their parents or near relations either inside or outside the family.

Including 'Gender Studies' in the text book: In the text book of secondary level, a separate chapter on 'Gender Studies' containing rules and regulations against rape, eve-teasing and sexual harassment may be recommended for inclusion.

**Massive protests:** One another important step to be taken against such heinous act is to speak up. People from all spheres of life must come forward and raise strong voice against the criminals what actually has been done recently in Delhi. Both electronic and press media have to play a key role in this respect in order to raise awareness among the common people against rape and sexual aggressions.

It can clearly be said that legislation alone cannot reduce the occurrences of rape. No nation can derive psychological and intellectual satisfaction without showing profound respect and ensuring highest security to its womenfolk. Perhaps, it is high time we undertook adequate steps towards protecting female sanctity. The leaders of the country are to set up a standard to face the existing challenges rising from rape and other inhuman, degrading treatment to females. Finally, if the leaders fail to do something in this regard, can't we, the common people and civil society, do anything for our daughters, sisters and mothers? Should we remain silent?

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## GOVERNANCE UPDATE



# Misgovernance and role of print media

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MISGOVERNANCE is emanated from the monopoly of political, economic and social power by reducing the country and the majority of its populace to abject poverty and also to pave the thoroughfare for violation of 'three generations of human rights'. Misgovernance ensures the absence of rule of law, withers economic development. The resulting tumors of misgovernance are- corruption, injustice and instability which cause turbulence in the path of ensuring the economic and social rights of common people. Ultimately, the vista of an individual's potentials to change the path of life and enlightenment of human dignity swerve into impossibility like 'a snowball's chance in hell'. Thence, United Nations General Assembly through its resolution 55/96 (December 4, 2001) synchronises good governance to bolster democracy, development and human rights. Furthermore, the 2000 Millennium Declaration conceives 'human rights, democracy and good governance' in its paragraph 13 as one of its pivotal objectives.

Antonym of misgovernance i.e. governance is defined as a 'process of interaction between people and government institutions'. Since there is no consensus in academic arena over a universal definition of governance, the word has been used in various contexts depending upon the nature of area, institution and region.

UNDP in 1997 Human Development Report refers that governance comprises mechanisms, processes and institutions through which citizens and groups articulating their interests, exercising legal rights and meeting their obligations. Deficit of such would beget misgovernance. In South Asia, as per Monika Barthwal Datta, governance is underlying socio-political dynamics which influence the functioning of: 'role of civil society and its relation with government'; 'administrative system and culture'; and 'accountability and transparency of public institution'.

The bane of misgovernance and insecurity are the bitter toppings in the daily life of the common people of South Asia. From the emancipation of British Colonialism, after the scourge of Second World War, the states of South Asia have been unsuccessful, in most cases, in properly dealing with the variegated insecurities that entwine its common people. Since the outset of cold war era, the policy makers, analysts, military and political elites of this region have been dabbling their intellectuals in the 'exclusive' arena of balance of power politics, inter-state and intra-state politics and last but not way the least, military-political

threats to states under the umbrella of 'National Interest'. It is hardly observed that the think tanks have ever saturated issues that jeopardising the dignity and vista of the common people of this region of daily basis. P.R Chari, in "Security and Governance in South Asia: Their Linkages" (p.14) aptly depicts the reality- '[T]his



situation largely derives from a lack of participatory government accompanied by a rapid erosion of political government ... a "We-They" syndrome has developed between the governing elites and governed masses.'

If we confine our focus in between the last decade of the 20th century and the outset decade of this new millennium, we

would see that during this time span one voice is very stout and dauntless in envisaging how misgovernance is making bulwarks in the avenue of the daily life of the populace. Not as 'tilt to the windmill' but as 'quiver full of arrows'- the print media of South Asia region has been relentlessly citing and highlighting conduits among misgovernance, human rights violations and the crevices of insecurity for the common people of this region.

In India, during the recent 'Delhi Gangrape' brutality, which stirred and numbed the conscience of the entire society from uphill to down dale, the print media has been playing a valiant role in providing inputs for public awareness against gender violence. The chorus of justice is bellowing louder for women's safety and it is again the print media which is uniting the large magnitude of populace to chug out gender safety from the thicket of violence.

In Bangladesh, at the time of 1990's mass uprising, the stalemate of 1996 and during the throe of 1/11, the print media linked the aspects between misgovernance and intrusion of inalienable rights of human being and urged for prompt action to scuttle these. In ascertaining the influence of print media in socio-political back-

drop of Bangladesh, Monica Barthwal Datta in her "Understanding Security Practices in South Asia" states (p.69), 'newspapers use their power as information disseminators to influence the policy making environment; to move their readers in certain directions if they can, and to put pressure on decision makers in government.' For further illustration, she cites a series of editorials of 'The Daily Star' published between 2005 and 2007 which conveyed relentless inkings that misgovernance being the stepping stones to insecurity in tandem with violation of human rights in the society of Bangladesh.

Thence, being indifferent to the contribution of print media would be a step of creating a 'missing link' into the chain of 'vigilant guards of human rights'. Even till date, the print media has been delving and dapping itself in creating public awareness and in acting as a forum which stands upon a strong footing for pivotal debates and round table discussions mulling for vista of society. Good governance, transparency and accountability move hand in hand to gilt edge democracy; to provide a leg up to the protection of human rights and it is the print media that can play a modest but thumping crucial role in society like South Asia by foreshadowing its role as potent and indefeasible arsenal in the hands of common people of this region.

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