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MANIK MIAH

A Legendary Journalist

MUHAMMAD JAHANGIR

HOW many are familiar with renowned journalist and columnist Tofazzal Hossain aka Manik Miah, whose name has been commemorated as one of the biggest roads of Dhaka city? I wonder if the young generation of our country is familiar with his works, legacy and achievements or just knows the name as a street.

We all know that our Liberation War was fought under the leadership of Bangabandhu Sheikh Mujibur Rahman. But the desire for independence goes way back. One of the persons whose writing inspired the masses at that time was the one and only Manik Miah. His weapon was his pen and the chariot was *The Daily Ittefaq*. It's heartbreaking that we don't take his name as often as we should when we talk about the country's independence.

Tofazzal Hossain (1911- June 1, 1969), Editor of *The Daily Ittefaq*, is a legend in the realm of journalism in Bangladesh. Though he was also known as Manik Miah, his pen name Musafir was his most popular identity. Musafir was the name he used when he wrote his column 'Rajnoitik Mancha'. No other column to this day has achieved that much popularity.

Manik Miah's *Ittefaq* wasn't an ordinary newspaper. One can't compare today's *Ittefaq*, or any other newspaper for that matter, to the *Ittefaq* under the editorship of Manik Miah. It was completely a different era. The golden times of *Ittefaq* were from 1954 to 1971. When Pakistan had just gotten its independence and when East Pakistan was faced with all kinds of discrimination from the central government, *Ittefaq* became one of the mediums of protest.

While working in the Muslim League Manik Miah got firsthand experience in politics and the opportunity to work with some political big shots. He later grew close to Shaheed Suhrawardy. In 1946 when Suhrawardy founded a daily named *Ittehad* in Calcutta, whose Editor was Abul Mansur Ahmed, Manik Miah joined the newspaper as Office Secretary. That was his first step in the world of journalism.

When Awami Muslim League was born in 1949, Manik Miah joined *Ittefaq* which served as the group's mouthpiece to pressurise the Muslim League government. Maulana Abdul Hamid Khan Bhashani was the newspaper's first editor and publisher. Manik Miah took over the post on August 14, 1951.

With his newfound role at the helm of the daily, the news-



Tofazzal Hossain (1911- June 1, 1969)

paper soon became an ardent critic of the Muslim League government. His powerful column soon turned *Ittefaq* into a must-read with morning tea. One of the reasons behind his column's popularity was his straightforward, fearless comments about the injustices carried out by the government. His column played a pivotal role during the 1954 elections. Muslim League's defeat can be largely attributed to his writings which resonated with the common people. His style, subject and the way he presented issues were intact till the day he died, making his writing a genre in itself.

The Pakistani government found his writings to be against them, which led him to face the court several times. Despite all that, he never bowed down to authority. He never took the newspaper as a business but more as a medium of expression which led him to be the Manik Miah we all know today. For his writings in support of the Six Point Declaration of Awami League, Manik Miah was arrested on June 16. *Ittefaq*, *Dhaka Times* and *Purbani* (Cine Weekly) were banned by the authorities. After a ten month imprisonment he was released on March 27, 1967. Although the then government eventually told him to tone it down, and *Ittefaq* was allowed to resume, Manik Miah never compromised his beliefs.

He was not a mainstream political person and he was more than just a political mind. He led a life of a statesman where his knowledge formed the foundation of his work -- something he was not willing to compromise at any cost. Manik Miah's contribution and the role of *Ittefaq* in achieving independence are undeniable. Manik Miah is a legend in the history of Bangladesh's media. He is a torchbearer who has paved the way for the true path of journalism.

The writer is a media and development activist.

A "rape shield" law for Bangladesh

Challenging impunity, combatting rape

ISHITA DUTTA

WHILE rape is a commonly reported form of violence against women in Bangladesh, only over one half of women who experience rape actually seek any kind of remedy from the police. The review by one organisation, Ain O Salish Kendra (ASK), from newspaper reports reveals that, of the 707 cases of rape reported in 2014, only 401, or just over half resulted in cases being filed against the accused. In 2013, out of 998 reported incidents of rape, only 553 complaints were filed. Large numbers of women are deterred from going to courts due to a number of social, legal and institutional factors.

Bangladesh Legal Aid and Services Trust (BLAST), a national legal aid and services organisation, has identified several of the main barriers to access to justice, through research and discussions with lawyers and doctors. A key barrier identified is Section 155(4) of the Evidence Act 1872, relating to character evidence in rape cases.

This provision states that "when a man is prosecuted for rape or an attempt to ravish, it may be shown that the prosecutrix was of generally immoral character." The introduction of character evidence, which attempts to show that a person was 'immoral' is humiliating and degrading for the survivor. It also actively deters survivors from reporting rape. It results in a legal and moral anomaly where a woman who is alleging a rights violation is compelled to prove her 'good character' in order to secure justice. This burden placed upon a rape complainant discriminates against her in two ways: i) by subjecting women to a double standard based on their gender and ii) such a burden is not placed upon a complainant in any criminal offence other than rape.

Section 155(4) is a relic from the British colonial period. Ironically, it has long been repealed in the UK, but remains in force in Bangladesh. In the UK the 1975 Heilbron report recommended introducing a law to limit the circumstances in which character evidence could be adduced. In 1998 the Home Office recommended more changes to the law to protect the interest of the rape survivor. Finally the 1999 Youth Justice and Criminal Evidence Act imposed a blanket prohibition on use of evidence regarding the complainant's sexual history with the accused or any other person. It allowed a narrow exception, allowing use of past sexual history evidence only with the Court's permission. In determining whether or not to give such permission, the Court needs to consider allowing such evidence, which "might

have the result of rendering unsafe a conclusion of the jury or... the court on any relevant issue in the case."

In Canada, the law initially allowed character evidence regarding a rape complainant on two grounds: consent and credibility. Debates on rape law reform began in 1975 following overwhelming evidence that the introduction of character evidence had a prejudicial impact on the complainant's case. In 1992, the law allowing character evidence was repealed. At the same time 'rape shield' laws came into force. These actively prohibit the use of character evidence in rape trials. They place strict guidelines for when and how evidence of prior sexual conduct can be used in rape trials. First, the burden is on the defence to show that such evidence relates to specific instances of the complainant's sexual activity. Second, such evidence is only allowed based on a judicial 'balancing test'. This test considers whether the probative value of the proposed evidence is higher than its prejudicial effect, including on the complainant's dignity and privacy. Third, such evidence is excluded when it refers to one of the 'twin myths', either that the complainant likely consented or that she is less worthy of belief. In a rape trial in Canada the defence cannot bring evidence to show that a rape complainant had sexual relations with other persons in the past and therefore, has consented to sex or is likely lying about the rape.

These Canadian reforms gave rise to an interesting constitutional law debate. The 'rape shield law' was challenged as violating the right of the accused to a fair trial. However, the Supreme Court of Canada upheld the law, stating that it was constitutional as the burden of proof still rested on the State to prove any offence beyond reasonable doubt. Thus, a person accused of rape was being held to the same legal standard as an accused in any other case.

The reforms in Canada and UK catalysed legal reform in South Africa. The South African Law Commission recommended repeal of the law in 1985. The reasons included that such evidence is not permitted in other cases, that it could negatively impact reporting of rape cases and that it is traumatising for complainants. The new 1989 South African law of 1989 prohibits evidence of previous sexual conduct of the complainant. This prohibition is not absolute. Two narrow exceptions allow such evidence in cross-examination, when the prosecution has introduced it, or when the Court grants permission following an application. As in Canada, this completely excludes character evidence where it refers to the 'twin myths'. As in UK and

Canada, the law emphasises the judge's discretion in permitting character evidence. It also states that in making this determination the following factors are significant: whether the evidence is fundamental to the accused's defence and whether it would encourage the reporting of sexual assault incidents. It also goes a step forward in protecting women's rights as it considers not only the privacy and dignity interest of the rape survivor in a specific case but considers the impact of each case on reporting of sexual violence in general.

Closer to home, the Law Commission in India first recommended reform of S155(4) in 1980. Almost a quarter of a century later, in 2003, the law was partially reformed to state that where it was clear that there was forcible intercourse, i.e. the consent of the complainant was not in question, character evidence could not be brought. In all other cases, character evidence would be admissible. In 2013, the Government of India undertook comprehensive reform of criminal laws relating to violence against women and children. The Criminal Law (Amendment) Ordinance, 2013 has now unequivocally deemed past sexual history evidence to be irrelevant to the question of consent and has also made it impermissible for such questions to be asked in cross-examinations.

Pakistan still allows for the use of character evidence although it no longer has in place the British colonial era law, which was replaced by the *Qanoon e Shahadat* Ordinance, 1984. The Law Commission of Pakistan has recommended reform but this has not been done so far.

Singapore, another Commonwealth country with an identical provision on character evidence, repealed the provision in 2012. It has not put in place any 'rape shield' law.

Furthering the process of reform to end impunity around rape is a definite need today. The comparative practices on the use of character evidence in rape prosecutions hold critical lessons for Bangladesh. The most significant trends in the progressive laws outlined above include an emphasis on judicial discretion, a case-by-case determination of the admissibility of character evidence, a balancing of the rights to dignity and privacy of the complainant, and the right to fair trial of the accused.

Repealing Section 155(4) and enacting 'rape shield' laws will encourage reporting of rape crimes and increase convictions through dealing with rape myths and stereotypes. It will also ensure the right of access to justice for rape survivors.

The writer is Research Coordinator at BLAST.

BEETLE BAILEY by Mort Walker



BABY BLUES by Rick Kirkman & Jerry Scott



QUOTABLE Quote

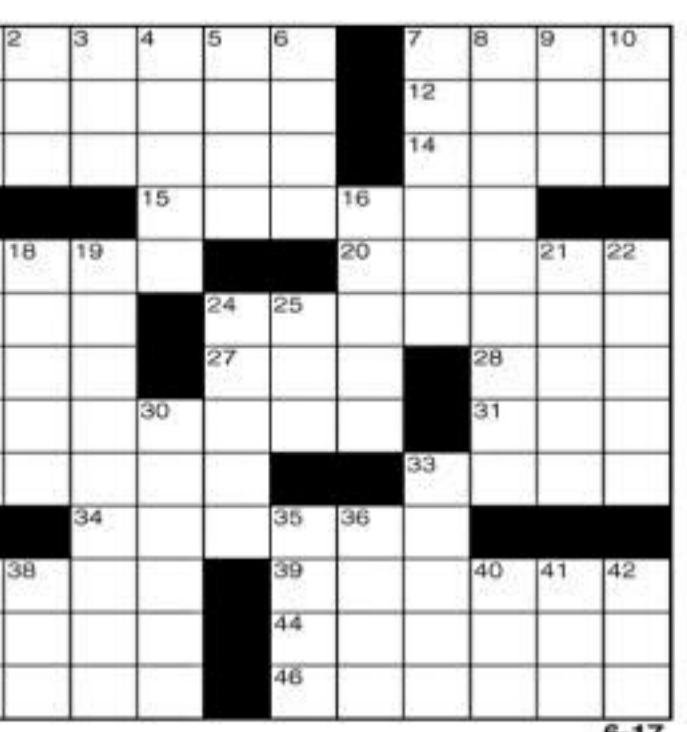
We want deeper sincerity of motive, a greater courage in speech and earnestness in action.



SAROJINI NAIDU 1879-1949

CROSSWORD BY THOMAS JOSEPH

- | | |
|---------------------------|-------------------------|
| ACROSS | DOWN |
| 1 Sunday entrees | 1 Kanye's music |
| 7 Tag sale words | 2 Lennon's wife |
| 11 Zoo resident | 3 Suffer |
| 12 Dessert cart choice | 4 Smug smile |
| 13 Tactful | 5 London gallery |
| 14 TV's Trebek | 6 Winter glider |
| 15 Lessen | 7 Spiny tree |
| 17 Door feature | 8 Stephen King book |
| 20 Shakespeare's Athenian | 9 Mamie's mate |
| 23 Tough wood | 10 Application form box |
| 24 Boris' cartoon partner | 16 Complete |
| 26 Golf goal | 17 Oversight |
| 27 Bullring call | 18 Japanese port |
| 28 Young fellow | 19 Stephen King book |
| 29 Attire for the slopes | 21 Tara family name |
| 31 Vein yield | 22 Famed consumerist |
| 32 Studio stand | 24 Seasonal songs |
| 33 Flag feature | 25 Imitating |
| 34 Fez feature | 30 Mink's kin |
| 37 Sacred bird of Egypt | 33 Feeds the pigs |
| 39 Hanger site | 35 Surgery Souvenir |
| 43 Finished | 36 Otherwise |
| 44 Have hopes | 37 Lupino of films |
| 45 Skating jump | 38 Carton |
| 46 Sat for spell | 40 Canine command |
| | 41 Before, to bards |
| | 42 Newsman Koppel |



Yesterday's answer





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Tender No. NSU/15-05

North South University (NSU) is inviting sealed offers from the bonafide / reputed supplier for supplying various Network Equipment for the Information Technology Department.

Interested bidders may collect a schedule of tender from the Southeast Bank Ltd. Bashundhara Branch, Dhaka from 10:00a.m. to 4:00p.m. Sunday through Thursday on all working days till **July 01, 2015** by paying the non refundable amount of Taka 1,000.00 (One Thousand) only in cash for schedule.

The bidders must submit **earnest money @ 2.5%** of the quoted price in the form of Pay-Order issued from any scheduled bank drawn in favor of North South University along with their offer. The sealed offer must be submitted on **July 02, 2015** by 2.00 p.m. at the office of the undersigned. The offers will be opened at 2:15 p.m. on the same day. Representatives of the participating bidders may remain present at the time of opening the bids. NSU authority reserves the right to accept or reject any or all the tenders without showing any reason.

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