

# Only yes means yes



#ResearchMesearch  
NADINE SHAANTA MURSHID

**I** said no in the same way women say no when they mean yes." It was a joke. By a man. I was supposed to laugh. But I didn't. I couldn't.

find it reasonable to try the man of rape because they argued she consented to it when she asked him to wear a condom. Closer to home in Bangladesh, an 80-year-old woman, a 5-year-old girl, and two university students were raped within days of each other. (I am not using the word alleged because when we don't believe victims of rape, we side with the rapists. We live in a world where rapists, especially those of means, are able to buy their way out of the justice system. We live in a world where law enforcement personnel themselves are sources of oppression including rape of women they have power over). A father-daughter duo committed suicide because the father could not protect his daughter from harassment by local goons as law-enforcement personnel would not take him seriously. A teenager committed suicide after being raped and forced to marry a neighbour as a cover-up of the rape. And these are the ones that we know of. All of this in May 2017.

These anecdotes make clear two things: **One, we are unclear about what constitutes consent.** The normative discourse on violence

against women should make clear that sex without consent constitutes rape. But, somehow, that has not happened, which is why here is a brief primer on the various ideas associated with consent.

**No means yes**  
No. Never. If you think that is true you need more help than I can offer at this point. This is a harmful rape myth that is perpetuated by a culture of impunity that allows rapists to go scot-free—sometimes with a slap on the wrist. Often framed as "women playing hard to get", it is an excuse to rape women, an excuse to take agency away from them. [Men are and can be raped too, and they are, mostly by other men, and this would apply to those situations as well.]

**Silence means consent**  
No it does not. We need to stop pretending that women are shy and therefore unable to be forthcoming about their (sexual) desires. We need to stop thinking that consent does not matter if the two people concerned are in a relationship, or married. We need to stop thinking that because there was consent on one particular day, we have been granted lifetime privileges and access to someone else's body.

Moreover, we have to stop believing that some people are beyond consent because we have privilege over them. For example, those of us who think sex workers can't be raped because of the nature of their work need to re-examine where such ideas come from, where we have learned to dehumanise others.

**No means no**  
With good intentions, I'm sure, we often speak of the notion of "no means no" as a way to advocate for women's right to not be raped. This notion however assumes that women are always well-positioned—or free—to say no when they often are not. It assumes that women can and are able to shout out an emphatic "no" to indicate their disinterest. This notion assumes that women are able to fight off unwanted sexual attention.

This notion puts the onus on victims to resist violence. It makes them responsible for their own safety, while rape culture and the culture of violence against women make violence against women inevitable in all settings, from the home, to the workplace, to the streets; while we have done nothing to keep women safe.

It perpetuates the rape myth that women are responsible for their own rapes.

**Yes means yes**  
It's because women are often not able to say no, even when they want to, some advocate for affirmative consent, moving away from "no means no" to "yes means yes" because consent must be given, not taken.

Affirmative consent constitutes a higher standard than negative consent, requiring both parties to verbally or non-verbally indicate their consent to having sex. But, we have to be careful about equating that with desire, says Kelly Oliver from Vanderbilt University, particularly because we live in a world where women often consent to sex without actually wanting it. This is because patriarchal social norms dictate that women please men, that men have power over them, that women are subordinate to men, that women must submit to authority, and these norms tell women to acquiesce even if they have no desire to do so. These norms are part of our upbringing, they are so ingrained that we sometimes don't even see it.

The discourse on affirmative consent, we must note, still assumes men as the active subjects of sex, and women reactive; it assumes that women should be asked, not the other way around. It holds traditional heteronormative relationships as the norm. And, again, this notion assumes that women are able to consent, ignoring how both sexual partners as well as sexual social norms can be coercive.

As we try to make sense of consent, we have to recognise that consent is a nuanced issue. We have to unlearn what the media and mainstream entertainment have taught us about rape—that it has to be violent and involve physical coercion for it to be rape. We cannot underestimate the power of coercive control, or manipulation.

Most importantly, we have to understand why yes may not always mean yes, while still insisting that, to quote Kelly Oliver, *only yes means yes*.

**Two, we cannot rely on the justice system to tell us what constitutes rape.** This, of course, we already know. In Bangladesh, Section 375, Penal Code 1860 reads: Sexual intercourse by a man with his own wife, the wife not being under thirteen years of age, is not rape.

Subsequent laws such as the Prevention of Oppression Against Women and Children Act 2000, though commendable in terms of identifying and criminalising various forms of oppression against women, have not explicitly addressed the issue of marital rape. Instead marital rape can be categorised as a form of sexual oppression (Section 10 of the 2000 Act). However, it is unclear, at least to me, as to whether that categorisation is actionable in court. Knowing that law enforcement officers often dismiss women's reports of rape and violence because they deem rape a "personal problem," I am sceptical.

But, just because the law is not explicit does not mean that we can't be. Sex without consent is rape. No matter what.

The author is Assistant Professor, School of Social Work, University at Buffalo, State University of New York.



ILLUSTRATION: AMIYA HALDER

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# Rule of law and political use of Islam



MANZOOR AHMED

**T**HE stars are not auspicious for Jakarta Governor Basuki "Ahok" Tjahaja Purnama. Having lost the gubernatorial re-election last month, Ahok, as he is popularly known, went to the Cipinang detention centre in East Jakarta on May 8, after a court sentenced him to two years in prison for blasphemy.

The popular governor, a Christian from the Chinese minority, had been leading in the opinion polls, but was defeated by Anies Baswedan, a Muslim politician, in last month's election after a "blasphemy" controversy arose.

Indonesia is the largest Muslim country in the world with Sunni Islam claiming allegiance of 87 percent of its 260 million people. Its Constitution proclaims that "the state is based on the belief in the one supreme God." The government recognises six religions officially – Islam, Protestantism, Catholicism, Hinduism, Buddhism and Confucianism, but "leaves alone" followers of other faiths, according to a Constitutional Court opinion

(Jakarta Post, April 23, 2010). Indonesia's blasphemy law, Article 156a of the Indonesian criminal code, was enacted in 1965 when military strongman Suharto deposed the government led by Indonesia's founding father Sukarno. The code punishes deviations from the central tenets of the six officially recognised religions with up to five years in prison.

The law was used to prosecute only around 10 individuals between 1965 and 1998, when President Suharto was in power and the right to freedom of expression was severely curtailed.

There has been an upsurge, ironically, in the number of blasphemy prosecutions coinciding with democratic transition during the post-1998 reform period. The Shi'a minority and the small Ahmadiya sect have been often a target of harassment and prosecution as were Christians and obscure local Islamic sects.

The crux of the recent controversy in Jakarta is the alleged citing of a Koranic verse by Ahok in a speech to fishermen in an island near Jakarta in course of his campaign. The verse, Surah al-Maidah 51, reads, "O you who have believed, do not take the Jews and the Christians as allies. They are [in fact] allies of one another. And

whoever is an ally to them among you—then indeed, he is [one] of them. Indeed, Allah guides not the wrongdoing people."

Azis Anwar Fachrudin, a scholar of Religious and Cross-cultural Studies at Gadjah Mada University, Yogyakarta, said, "The verse will only make sense if understood in its context, that is, in a situation of war, such as when the Jews were said to have betrayed the Muslims by violating the social contract made between the two to defend Medina together when the city-state was under attack" (Jakarta Post, October 18, 2016). The verse obviously cannot be taken literally and out of context and used for an election campaign in a democracy.

In the speech to his fishing village voters, Ahok had said, "In your inner hearts, ladies and gentlemen, you may feel you cannot vote for me, because [you have been] lied to by the use of Surah al-Maidah, Verse 51. [...] So, if you cannot vote for me because you are afraid of being condemned to hell, you do not need to feel uneasy, because you are being fooled. It is alright."

University of Indonesia linguist Rahayu Surtiarti, who watched the video of Ahok's speech, said, "By stating the word 'use', Ahok meant the verse had been used by some people

to lie." (Jakarta Post, March 21, 2017)

Ahok's protestations that he intended no insult to Islam or the Koran have been in vain. The hard-line Islamic Defenders Front (FPI in Indonesian) mobilised over 100,000 people to march against Ahok in Jakarta in November. Their strategy seemed not to stop until the allegation of insulting Islam and the Koran stuck and Ahok was defeated and punished. The plan has worked so far.

President Joko Widodo of Indonesia, a former governor of Jakarta himself, who had Ahok as his deputy, is in a bind. He is urging calm and respect for the legal process, while maintaining a safe distance from his former colleague and political ally, lest he offends the apparently powerful hardliners.

The Indonesian novelist Eka Kurniawan wrote, "Jakarta election stands for something much more ominous. More gubernatorial and local elections are planned throughout the country next year and a presidential election for 2019. Indonesian politicians...have played with fire by sharing the political stage with religious groups. Because of them, radical Islam groups are the new kingmakers of Indonesian politics" (New York Times, May 2, 2017). Bangladesh has a provision in its

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penal code that prohibits "hurting religious sentiments", and other laws and policies that curtail freedom of speech.

Our prime minister rejected calls for new laws from Islamist groups, notably Hefajat-e Islam, demanding

death penalty for people involved in blasphemy. In April 2013, she described Bangladesh as a "secular democracy, where every religion had a right to be practiced freely and fairly." She said, "If anyone was found guilty of hurting the sentiments of the followers of any religion or its venerable figures, there was a law to deal with it" (BBC News).

Is the government falling into a trap of fine political calculation, balancing pros and cons, in terms of numbers of votes gained or lost? This is certainly the fear of the 408 noted citizens who deplored "government compromise with radicals" in a joint statement. "...an ominous competition to have the communal and fundamentalist forces by side and using religion to go to or stay in power would push the country into darkness," they warned (The Daily Star, May 9, 2017).

Political leaders and political parties professing a vision of a modern and progressive society need to take a stand based on principles and idealism and lead the people, appealing to and awakening their best instincts, instead of giving in to fear and prejudice.

The writer is Professor Emeritus at BRAC University.

## QUOTABLE Quote



SYLVIA PLATH  
American poet, novelist, and short story writer.

You have to be able to make a real creative life for yourself, before you can expect anyone else to provide one ready-made for you.

## BEETLE BAILEY BY MORT WALKER

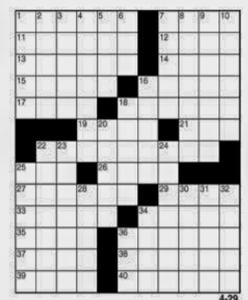


## BABY BLUES BY KIRKMAN & SCOTT



## CROSSWORD BY THOMAS JOSEPH

- ACROSS**
- 1 Emerald units
  - 7 Brewing need
  - 11 Showy shrub
  - 12 Aspirin target
  - 13 Made a short hit
  - 14 London lockup
  - 15 Inert gas
  - 16 Like horses
  - 17 Sediment
  - 18 He loved Roxane
  - 19 Balm ingredient
  - 21 Poorly lit
  - 22 Space beside Boardwalk
  - 25 Diamond club
  - 26 Tavern order
  - 27 Comes up
- DOWN**
- 29 Court star Arthur
  - 33 Fancy parties
  - 34 Turn red, maybe
  - 35 Give off
  - 36 Gizmo protector
  - 37 Judy's daughter
  - 38 Without delay
  - 39 Glimpsed
  - 40 Ford follower
  - 7 Comics Viking
  - 8 Anthem heard in the NHL
  - 9 Bird of myth
  - 10 Rarely
  - 16 Cry of disbelief
  - 18 Hearts
  - 20 Garage jobs
  - 22 Wyoming city
  - 23 Employ
  - 24 Treasonous fellow
  - 25 Edible rings
  - 28 The Evil One
  - 30 Depleted
  - 31 Therefore
  - 32 Door sign
  - 34 Pro --
  - 36 Lobbying org.



## YESTERDAY'S ANSWER

ASHES BUTTE  
CHIVE ETHEL  
CADET GEENA  
END THORUT  
PIE LOT IRE  
TANNER AGES  
FURNISH  
THIN SNATCH  
RUG GIS SHE  
EMU ANT TAW  
MARC ARULE  
ONEAL LIFER  
RESTS LOFTS

## SALE OF OFFICE ASSETS

Some used asset items (furniture 200 nos, computer items 180 nos) of a foreign office will be sold in separate lots on urgent basis on 18 May 2017 (Thursday).  
Office address: Katalyst, House 20, Road 6, Baridhara, Dhaka 1212 (Opposite to Malaysia Embassy). Contact: 01730 795 639.  
Detail information of items, quotation form collection, seeing items and quotation submission: 17 May (during office hours) and 18 May (till 03:00 PM).  
Quotation opening and winner declaration: 18 May, at 03:30 PM. Payment in cash/payorder and goods hand over: 18 May till 06:00 PM.  
By order of Authority