

# A sigh of relief?

*Testimony of victims of rape and sexual assault to be recorded by female magistrates only*



TASLIMA YASMIN

VERY recently, a circular was issued by the Supreme Court saying that from now on, the testimony of women and children victims of rape and sexual assault, under Section 22 of the Women and Children Repression Prevention Act 2000, will be recorded only by female magistrates. This decision was taken based on the recommendation of the Supreme Court's Special Committee for Judicial Reforms.

The reason for such a decision by the Supreme Court was stated to be the "hesitation" that women and children victims of sexual violence face when they often have to narrate the incident in front of male magistrates. This decision has been welcomed by all quarters, especially keeping in mind the context in which it had been issued (the case of the brave young girl Nusrat Jahan Rafi who went to the police to lodge a complaint regarding sexual harassment and was mistreated and harassed by the police in-charge of the station). We all know how her battle ended.

Should we breathe a sigh of relief by this very wise and timely decision by the Supreme Court? Well, few points are to be noted.

Firstly, the experiences of the practitioners and advocacy campaigners in the field suggest that most of the persons and officials who are assigned at the various stages of dispensing justice are more often influenced by certain myths and notions arising from age-old patriarchal structures, especially when they're dealing with victims of sexual offences. Although we do not have data at hand to prove that most of the uncomfortable experiences that women rape victims have faced while giving their testimony under the 2000 Act were due to the presence of male officers, that's the impression we generally get when working with rape victims. The myths surrounding rape victims are many: that a poor and elderly woman can't get raped; that a rape victim must have bruises and injury marks on her body; that she must have had a love affair with the alleged offender which "exempted" him from committing any offence by violating her body; and that she must be making up a false case (the most common one).

Now, just to put the right words in place, a convincing justification for such a timely step from our Supreme Court would be the mindset of the persons dealing with the justice system, rather than the



SOURCE: PINTEREST

awkwardness or hesitation of the victim. Hesitation is natural when you have to disprove so many untrue assumptions while knocking on the doors of justice.

Speaking of patriarchal notions, another important concern is whether we can readily assume that women will always be beyond the influence of these notions. As evidence suggests, the perpetrators of violence against women are at many times women themselves. That Nusrat's killing allegedly involved a woman is just a reminder of this fact. Hence, if the Supreme Court really intends to provide a better environment for rape victims, it can't be assumed that assigning a woman magistrate would be the only effective solution. The solution to the problem is bringing a change to the attitudes and mindset of the persons engaged at all stages of the formal justice system. And in terms of judges and judicial officers, the Supreme Court needs to also put its foot down to ensure an enabling environment, which would be more sensitive to the sufferings of a victim of sexual offence and even more

so for a child victim of rape.

The Special Committee which had recommended this step can perhaps take the lead and prioritise the actions to be taken in terms of ensuring easier access to justice for victims of sexual offences. A first step may be to identify the various hurdles a rape victim has to go through in order to get justice. Perhaps, activists and researchers who work in the field of law reforms with regard to rape can assist the committee in search of these answers. At the same time, effective sensitisation training for judges and judicial officers should be comprehensively designed, conducted and monitored to bring a positive change in the judicial approach towards rape victims.

Another crucial area to be looked at would be the stage of cross examination of a victim of rape and other sexual offences. The presence of character evidence in our Evidence Act as a part of colonial legacy and the consequent harassment that a woman victim of rape has to face during trial have been talked about many times in the past. Now that we do see a sign of hope, we surely can seek stringent guidelines from the apex court as to what questions can and cannot be asked to a child or woman when it is a case of sexual offence.

Research shows that the myths and cultural stereotypes surrounding rape victims mentioned above have also led to a heavier burden of evidence being imposed on a rape victim to prove her testimony. A rape victim's testimony is hardly believed without it meeting strict evidentiary standards. However, we can recall decisions taken by the Supreme Court itself which held that the accused can be convicted based on the sole testimony of the rape victim.

Perhaps, the Special Committee for Judicial Reforms can think of ways so that examples of such cases, where the sole testimony of the rape victim had been relied on for conviction, would not be a rarity and the best practices of the Supreme Court would be adhered to, by all the subordinate courts including the Women and Children Repression Prevention Tribunals around the country.

We still have a long way to go in order to ensure proper access to justice to victims of sexual offences and there are mountains of hurdles that such victims have to climb, simply to ensure sanction against the offenders. The Supreme Court can certainly lead the movement to lessen the burden on victims of sexual violence in receiving justice.

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## Higher wages should not be conditional

RMG sector must prioritise the workers' interest

DESPITE the massive overhaul that the ready-made garments (RMG) industry in Bangladesh has undergone since the Rana Plaza collapse six years ago, there remain important concerns about the adequacy of efforts with regard to the workers. One of them, as reported by this newspaper based on findings by the Transparency International Bangladesh (TIB), is that workers are getting 26 percent less in basic pay than what they should have under the new salary structure, which came into effect in December last year. It happened because, while fixing their pay, the minimum wage board that recommended the salary structure did not consider the five percent annual automatic increment owed to the workers in the previous five years. This is really unfortunate, to say the least. It bespeaks the underlying pro-owner bias of those who usually sit on the wage board.

The TIB also found that the factory owners have raised their production target by 30-36 percent considering the new wage hike. Workers are under pressure to fulfil the time-bound target. But even though the salary that is now being offered is an improvement on the previous wage structure, it doesn't justify the abuse, additional work, on-the-job stress and uncompensated overtime that the workers are being reportedly subjected to. These issues need to be addressed keeping the workers' rights and interests in mind. It's worth recalling that the Rana Plaza tragedy had brought about a costly overhaul of building and fire safety standards for which the owners had to pay. But nearly four lakh workers also lost their jobs as a result, with only 6,676 of them having received compensation. In these changing times, the onus is on the factory owners and the government to come up with innovative business plans that will pay for the increased cost of production and the welfare of the workers. The workers cannot suffer for their failure to do so.

## Loan recovery takes a backseat

Rescheduling NPLs not the answer

A recent survey conducted by the Bangladesh Institute of Bank Management (BIBM) titled "Credit Operations of Banks" has shed light on how banks are going about recovering the massive loans that have been defaulted upon. Although bank managements have been vocal of late that they are going all out to recover nonperforming loans (NPLs), the survey tells us that 93 percent of NPLs are being rescheduled, which is another way for banks to lower the buildup of their classified loans. This allows banks to show greater profits on their balance sheets but does little to address the problems associated with NPLs.

Reportedly, at the end of last year, the total amount of NPLs stood at Tk 93,911 crore and banks were not having much luck with legal proceedings. There are problems with Money Loan Courts which, as experience shows, take more than five years to dispose of a case. With such lengthy proceedings, the case backlog keeps getting longer. Not much attention has been paid to getting these courts to work properly with sufficient number of judges and the requisite support the courts need to function properly.

If there is to be any improvement in the financial governance of the banking sector, steps have to be taken to strengthen the role of courts because without that happening, NPLs will continue to rise as loan rescheduling by banks gives a green signal to future defaulters that it is fine to take depositors' money without worrying about repayment.

## LETTERS TO THE EDITOR

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### Rescue street children

The sight of children begging and sleeping on the streets is truly heartbreaking. We cannot even begin to imagine their plight. They live in constant insecurity in terms of nourishment, shelter and physical wellbeing. These street children are severely at risk of being targeted by criminal gangs of all kinds. The fact that millions of children are exposed to such high risks contradicts the government's commitments and pledges to ensure the security of all children in society. Civil society groups, NGOs and relevant government ministries must come forward and rescue these children from the dangers in which they live.

Tamanna Khan, by email

### Worsening air pollution

Dhaka's air quality is deteriorating day by day. Dhaka was recently ranked as the second most polluted city as per the Air Quality Index. This is no surprise to city dwellers who have to brave the air pollution on a daily basis. The lethal combination of dust, vehicular emissions and industrial pollution is perhaps one of the biggest environmental threats to people's wellbeing at present. Unplanned urbanisation and the lack of implementation of environmental laws have led to this horrible situation. Moreover, there seems to be a severe lack of awareness among people who barely take any precautions, such as wearing face masks, to protect themselves from air pollution. The government must take this issue seriously and take immediate steps to prevent the air quality from deteriorating further.

Shafik Islam, Moghbazar, Dhaka

**The revolutions in Algeria and Sudan are still not over. Under pressure from protesters, Algerian and Sudanese military may put up a façade of civilian government. And, as in Egypt, the generals may find convenient excuses to usurp state power.**

in Khartoum, clashes with the police left 49 protesters and policemen dead. On April 11, 2019, Defence Minister Awad Mohamed Ahmed Ibn Auf announced that Omar al-Bashir has been removed from power and detained by the army. Ibn Auf also announced a three-month state of emergency, nationwide ceasefire and suspension of constitution. He said the country would be placed under a two-year period of military rule to be followed by elections.

The difference with Algeria is that Sudanese protests are being led by the Sudanese Professional Association (SPA), an umbrella organisation constituting several professional groups. The SPA has rejected Ibn Auf's offer and called for immediate and unconditional transfer of power to a civilian government that would rule for four years. They have vowed to remain in

were followed by massive bombings of Libya by the Western powers that led to the killing of Gaddafi in October 2011, ending his 42-year rule. Since Gaddafi's death, Libya has not been able to pull itself together and move towards a stable society.

There are two centres of powers: first, the government in Tripoli led by Fayez al-Sarraj recognised by the UN Security Council, and the second in Benghazi led by warlord Khalifa Haftar who controls Libya's major oil fields. On April 11, Haftar launched a military offensive to conquer Tripoli which has already cost more than 200 lives. The irony is some major powers are actively involved in this war. Egypt and UAE have given Haftar military support to oust al-Sarraj and establish control over Tripoli. France, which is hungry for Libyan oil, has also been helping Haftar. The danger

overnight. A democracy needs democratic leaders, and it takes a long time, and a lot of discipline and endurance for leaders to mature so that they can reflect people's democratic aspirations. But age-old entrenched systems seldom let this happen.

The revolutions in Algeria and Sudan are still not over. Under pressure from protesters, Algerian and Sudanese military may put up a façade of civilian government. And, as in Egypt, the generals may find convenient excuses to usurp state power.

The first phase of the Arab Spring toppled several governments but failed to establish democracy. With the military preponderant in all Arab states, will the second phase of the Arab Spring also meet the same fate?

Mahmud Hasan is a former ambassador and secretary of the Bangladesh government.

## Dawn of the second phase of Arab Spring



Algerians took to the streets to protest against ailing President Abdelaziz Bouteflika's bid for a fifth term in office.

PHOTO: AFP