

# The alarming trend of trial by police



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*"The police should always recognise the need for strict adherence to police-executive functions, and to refrain from even seeming to usurp the powers of the judiciary of authoritatively judging guilt and punishing the guilty."*

—Sir Robert Peel

A young female is reported missing. The police find a dead body. The relatives identify the body. The police make an arrest and question the suspect. His full identity is revealed. The police hold a well-publicised press conference and announce that the offender (the term suspect is no longer used) has confessed to the murder. They disclose his motive, and incriminating items they found are displayed for all to see. Everything is stated as a fact, not as untested raw information. The court allows further time for questioning. In the next few days, the media frantically updates the public, citing police sources. The detained person is then paraded before the media, flanked by police officers. The bulk of the police investigation finishes there, as the suspect is sent to prison until he appears before a trial judge. Meanwhile, although still innocent in the eyes of the law, a de facto trial, firmly establishing the guilt of the accused in public mind, has already taken place.

The above is an illustration of the way many serious criminal investigations are handled by the various branches of the police services in Bangladesh. The higher judiciary has repeatedly expressed concerns about this growing trend. In a published decision in August 2019, the High Court bench of Justice M Enayetur Rahim and Justice Md Mostafizur Rahman warned that an investigating officer cannot step into the shoes of the trial judge. In the same month, while

delivering their decision on a bail petition, the same bench observed that parading suspects in front of the media even before their first court appearance was unconstitutional and unacceptable.

Recently, the same judges, while reportedly considering a writ petition, expressed deep concerns about the way the police were communicating their investigation findings to the public, and articulated the necessity for binding regulations to stem this disturbing trend. Moreover, a number of prominent legal experts have voiced disquiet about the detrimental impact of such practices on the country's criminal justice system. In this respect, this article simply repeats a platitude. In the words of Andre Gide, "Everything has been said already, but no one has listened. So, it must be said again."

Criminal investigation is a major function of the police services in all common law countries, including Bangladesh. Such investigations are carried out for the sole purpose of enabling the court system to utilise, evaluate and scrutinise the resultant evidence from the investigation, in order to deliver justice. But the due process of law is liable to be undermined in two significant respects when the police embark on sharing their investigation results prematurely with the public. Firstly, the police, in communicating their impression of a suspect's guilt, largely rely on the confession secured through their interrogation and their own opinion. But under the Code of Criminal Procedure of Bangladesh, neither a confession made to the police nor the opinion of the police about a suspect's guilt is admissible in court. Therefore, it is perfectly possible for a court, after considering the admissible evidence and following the due process, to make a decision about a suspect that is in sharp conflict with the impression the police give to the public beforehand. This brings the judiciary into disrepute.

Secondly, police's duty to collect evidence continues until a suspect appears before a trial court. However, when the police prematurely communicate their opinion of the suspect's guilt to the people, any



ILLUSTRATION: STAR

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subsequent evidence pointing against that would be difficult for them to submit to the court, as that would discredit them in the public eyes. Yet, non disclosure of any subsequent evidence to the court would create grounds for the miscarriage of justice.

Parading an arrested person before the media is of equal concern. Sometimes, such spectacles take place even without any admission or confession of an offence. The police appear to be content to allow the media to publish their views of the individual's involvement in a crime, masquerading as tested facts. Such practices not only breach that individual's constitutional rights—as observed by the High Court bench—but also have potentially serious implications for the police services in Bangladesh. It is not inconceivable that such an individual, especially if they are subsequently found not guilty by the court, could bring a civil defamation action for damages against the police services. Indeed, a floodgate of such proceedings could ensue if police practices remain unregulated in this regard.

Police in many common law countries with exemplary criminal justice systems, such as England, Australia and Singapore, also communicate directly with the

general public. An investigating officer in those countries may appear before the media to ask people to help with information if they have witnessed a particular crime. The investigation results are never disclosed directly to the public in order to maintain the integrity of the evidence. However, once the court has found a person guilty, the police then may disclose information about how the evidence was secured against the suspect, if the nature of the case generates public interest. This way, the due process of law is upheld while enhancing the image of the judiciary and the police alike. The police services in Bangladesh should aspire to emulate this process.

Bangladesh's new chief justice was sworn in on December 31, 2021. On the eve of his appointment, the prime minister urged the judiciary to ensure complete justice for all. The chief justice has since declared his determination to work towards such goals. It is suggested that the chief justice may consider that the Supreme Court urgently needs to assist and bind the police services in regulating its investigative process, in order to serve the interests of justice in the country. Such efforts by the chief justice would be a tangible stride towards his declared goals.

# Empower—and not victimise—rape survivors in the media



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USING symbolic images to represent sexual crimes is very common in news media. Vague stock images that visually represent sexual crimes or gender-based violence are widely used. Still, even these faceless images manage to reflect the hold our society's patriarchy has on the media's portrayal of sexual crimes.

Most commonly, the victim is found at the centre of the image, either covering her face with her hands or with a "strong" hand gagging her from behind, or even shadows of menacing hands reaching for her from a corner. The background of these images is usually filled with dark colours, and the victim is shown to be completely helpless when such a crime is taking place. She is always portrayed as being inactive, sad, scared and perplexed. In some cases, the constructed image of the victim is presented as being naked, having wounded skin with scratch marks

on her. Sometimes, the creators of these images go the extra mile and paint the victim's nails red, perhaps to highlight her "femininity." The victim portrayed is always apparently young and slim—as if sexual violence only happens to young girls of a certain body type. These images are generally victim-focused, but the perpetrators are always in the shadows or "anonymous."

So, why are these representational images of sexual violence created to portray the survivor as having an "ideal" body type? Why are inaction and passivity imposed on her? Why is she shown covering her face instead of fighting back—as most survivors do? And why is the perpetrator *always* missing from these images?

In a patriarchal society, all eyes are focused on the victims of gender-based violence. Whenever such a crime occurs, our society obsesses over the details of the victim: Where is she from? Why was she out at so-and-so hour? What was she doing there? What was she wearing? Was she really innocent? The list of such questions is endless. While they do not hesitate to blame the victim for the crime, they show little interest in knowing the particulars of the accused. The media, while covering incidents of sexual crimes, also reflect this patriarchal ideology

**In a patriarchal society, all eyes are focused on the victims of gender-based violence. The media, while covering incidents of sexual crimes, also reflect this patriarchal ideology of its audience.**

of its audience. News houses often sensationalise such events so that people click on their content more. The symbolic images discussed above help serve that purpose, too: attracting viewers to click on a news piece and bring in more profits for the media house. But by portraying survivors as being helpless and weak, the media is essentially commodifying their sufferings.

Legendary feminist scholar Laura Mulvey provided an explanation for why the media is so focused on creating the female structure on-screen. In her article "Visual Pleasure and Narrative Cinema," she explains how the patriarchal unconscious controls the creation and consumption of visual content. She argues that women are represented in the media to give visual pleasure to the audience. According to the documentary, "Miss Representation," only 16 percent of content creators in the media are female. Hence, the 84 percent male creators present women according to how they see, or want to see, women on the screen.

The way in which the media portrays rape and rape victims is vastly harmful for women. They are recreating the same patriarchal horror in these images, and indirectly putting the blame and shame on the women while also holding them

hostage to the audience's visual pleasure. At the same time, the media often fails to capture the stories of victims fighting back against sexual crimes. Given their tremendous power over the masses, their inability to confront or move past patriarchal discourses mean they are also furthering the structures of oppression that create the conditions of women's systemic subjugation.

The media needs to re-evaluate these symbolic images and find better alternatives. The focus should be on the perpetrator, not the victim. The shame, therefore, needs to be transferred from victim to the perpetrator—that is, to the one committing the crime. The resilience of the survivors and their fight for justice need to be highlighted, instead of portraying them as being passive, inactive, or helpless. The media must be more responsible when reporting and investigating the crimes of sexual abuse, rape, and gender-based violence. Symbolic images of women fighting against gender-based violence should be used so that we can get closer towards the end of survivors being victimised twice—first, when they suffer a sexual crime and second, when the media portrays their abusers as being anonymous while putting them at the forefront of the crime.

**QUOTABLE Quote**

**MARY BRAVE BIRD**

(1954 - 2013)  
American writer

**The thing to keep in mind is that laws are framed by those who happen to be in power and for the purpose of keeping them in power.**

**CROSSWORD BY THOMAS JOSEPH**

**ACROSS**

1 Gate part  
6 Close with a bang  
10 Honolulu hello  
11 Heaps  
13 Howled at the moon  
14 Showed again  
15 Moody music  
16 Top card  
18 Music's Yoko  
19 Part of a public address system  
22 Lobed organ  
23 Exam  
24 Bogus  
27 Classifies  
28 Charged particles  
29 Maximum amount  
30 Expert at

cajoling  
35 TV's Danson  
36 Twisty fish  
37 Before, in poems  
38 Like lambs  
40 Chicago airport  
42 Cleaner scent  
43 Sought ore  
44 Cincinnati team  
45 Taters

**DOWN**

1 Record company  
2 San Antonio  
3 The Carpenters' "Close —"  
4 Revolutionary Guevera  
5 Could

contribute  
6 Bender  
7 Tell whoopers  
8 TV weatherman  
9 Most nasty  
12 Derivative sounds  
17 EMT's forte  
20 Tightly packed  
21 Coral island  
24 Starter's need  
25 Despite that  
26 Phrase on a thin coin  
27 Downhill courses  
29 Had lunch  
31 Front crowd  
32 Reeves of "Speed"  
33 Made mistakes  
34 Oboe parts  
39 Silent assent  
41 Stylish

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**THURSDAY'S ANSWERS**

N	A	D	A	B	R	A	G	S
R	I	S	E	N	L	O	G	O
U	P	S	E	T	A	W	A	R
S	P	I	R	I	T	S	T	I
S	O	S	W	I	T	C	H	E
E	N	T	R	A	P	H	A	R
E	R	O	D	E				
A	R	I	A	V	O	T	E	O
M	U	M	M	I	E	S	T	A
A	M	P	W	R	A	I	T	H
S	P	L	A	D	E	G	R	E
S	O	L	A	R	E	M	E	R
T	A	M	E	S	A	M	S	

**BEETLE BAILEY BY MORT WALKER**

WHY DON'T YOU COME BACK A LITTLE LATER TO TAKE OUR ORDER?  
HE'S STILL PROOING OVER THE MENU

**BABY BLUES BY KIRKMAN & SCOTT**

HI, HAMMIE, WHERE HAVE YOU BEEN?  
READING I FINALLY FOUND A GOOD BOOK  
WHAT'S IT ABOUT?  
ALL KINDS OF STUFF, SUPERHEROES, VIDEO GAMES, CARS, YOU NAME IT.  
THAT'S A TOY CATALOG!  
NEAH, I CAN'T PUT IT DOWN.