

JUSTICE
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IS JUSTICE
DENIED.
BUT
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LAW OPINION

Is rushed justice 'just'?

Proposals to complete investigations hastily, without addressing the underlying law-and-order issues, are not quite connected with the reality. First, let us assess whether forensic reports or proper investigations can be obtained even within a month. Only after that can we discuss how a comprehensive investigation can be concluded in 15 days.

MD. ZAHID HOSSAIN

There is a well-known saying in law, "justice hurried is justice buried". It means the more rushed the justice process is, the more it will compromise the transparency and acceptability of the judicial proceedings. In essence, the case itself will be doomed. On 9 March 2025, Professor Dr. Asif Nazrul, the Honorable Adviser, Ministry of Law, Justice and Parliamentary Affairs, noted that to swiftly complete the trials of rape cases, investigation will be completed in 15 days and trial will complete in 90 days. While this appears to be a step in the right direction, it raises important concerns regarding the thoroughness of the legal process.

According to Bangladesh's Code of Criminal Procedure 1898, the investigation and trial of any crime must follow a prescribed process. On the other hand, the Women and Children Repression Prevention Act 2000 specify provisions for the expedited trial of crimes such as rape. However, even with a solid legal framework, one must ask: can a comprehensive and thorough investigation, which is critical to proving the crime, be completed within a brief timeframe and what will be the consequences if the investigations are not thorough?

Crimes like rape often require DNA and

forensic reports right from the outset. However, due to the limitations of forensic laboratories and their heavy caseloads in Bangladesh, it typically takes at least a month to receive a DNA test report. If it is attempted to be rushed, there is a good chance that we may get the wrong results vitiating the entire process.

Furthermore, the time required for crime scene inspections, gathering statements from victims and witnesses, obtaining medical reports, are all significant. If these procedures are rushed, the quality of the investigation will be inevitably compromised. As a result, the case will lack credibility in court, and the merit of the case could be ruined from the start.

Speedy resolutions without thorough procedural alignment only increase the likelihood of flawed investigation reports and decisions. This can potentially also lead to wrongful release of real perpetrators as insufficient evidence or a weak chargesheet could allow actual criminals to be acquitted. Moreover, innocent individuals may be convicted. This will not only cause immense frustration for the victims but also create opportunities for criminals to continue their criminal activities.

Moreover, while public opinion may influence lower courts, the Supreme Court

is less moved by mass sentiments due to the temporal gap between the two judicial processes. As a result, hurried judgments given by lower courts often do not hold up in higher courts. Therefore, it is often seen that a decision, reached upon significant public protests, is later changed by the higher court. Indeed, the saying "justice hurried is justice buried" remains valid. On the other hand, "justice delayed is justice denied" is also true. Swift justice is essential, but it must not undermine procedural justice.

Proposals to complete investigations within 15 days and trials within 90 days, without addressing the underlying law-and-order issues, are not quite connected with the reality. First, let us assess whether forensic reports or proper investigations can be obtained even within a month. Only after that can we discuss how a comprehensive investigation can be concluded in 15 days. Rushing sensitive issues, such as rape cases, will ultimately lead to injustice disguised as justice.

The result of inadequate and flawed investigations is quite predictable — acquittal of the accused. Justice must be rooted in the law and fairness, not in haste.

The writer is Advocate, Supreme Court of Bangladesh.

LAW LETTER

Payment of dower and economic realities

Recently, on 6 March the Cumilla Family Court of Chandina gave out a decision regarding the payment of dower (mahr), stating that the dower amount should be adjusted according to inflation and currency devaluation. This means that the husband must pay the dower based on the current value of money, not the amount set at the time of marriage.

This decision, if sustained, will change the way we currently interpret the law relating to dower. The judgment ensures that the dower keeps its real value over time. It may be argued that the decision was given by the court under the power given to it by section 151 of the Code of Civil Procedure 1908 (CPC). The section reads, "nothing in this Code shall be deemed to limit or otherwise affect the inherent power of the Court to make such orders as may be necessary for the ends of justice or to prevent abuse of the process of the Court." However, the ruling has sparked a debate, with many lawyers and legal experts supporting it as a fair and modern approach, while others are disagreeing.

Traditionally, dower is fixed at the time of marriage. But inflation and currency devaluation reduce its real worth. This means a woman may receive much less than what was originally intended, not in terms of amount but in terms of worth when the dower is not fully paid at the time of the marriage. This ruling takes a more dynamic approach by suggesting that if the dower is not paid at the time of marriage, it should be recalculated based on the current currency rate to ensure fairness.

This case has reignited discussions on how financial obligations in marriage should be addressed in light of economic realities. The need for a just and practical approach to dower valuation has been reflected here. It is submitted that, considering the complexities of inflation, the dower amount should be adjusted to reflect the current economic conditions rather than being bound by outdated financial standards. In the alternative, to ensure fairness, dower may be provided in the form of tangible assets, such as gold or land, which retain their value over time and are not as susceptible to currency fluctuations.

However, there are some concerns. Some legal experts worry that changing the dower amount based on inflation might cause legal confusion and affect traditional contract laws. Others argue that this change is necessary to ensure justice and fairness.

The author believes that this judgment is an effort to balance tradition with modern financial realities. It may set an example for future cases on financial rights in marriage. Whether it will be fully accepted or not is uncertain as of now, but it has started an important discussion on how laws should adapt to realities, if at all.

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LAW VISION

A comprehensive legal approach to the crime of rape

Improving forensic and medical evidence collection is vital to securing successful convictions. Bangladesh should invest in state-of-the-art forensic labs and ensure that medical professionals receive specialised training in handling evidence related to sexual violence.

MD. MAHABUB UL ALAM KHAN

A recent report from the Manabaddhikar Shongskriti Foundation (MSF) has highlighted that in February 2025, there were 295 recorded incidents of violence against women and children in Bangladesh. The high number of cases, especially involving children, indicates a deepening crisis of sexual violence in Bangladesh.

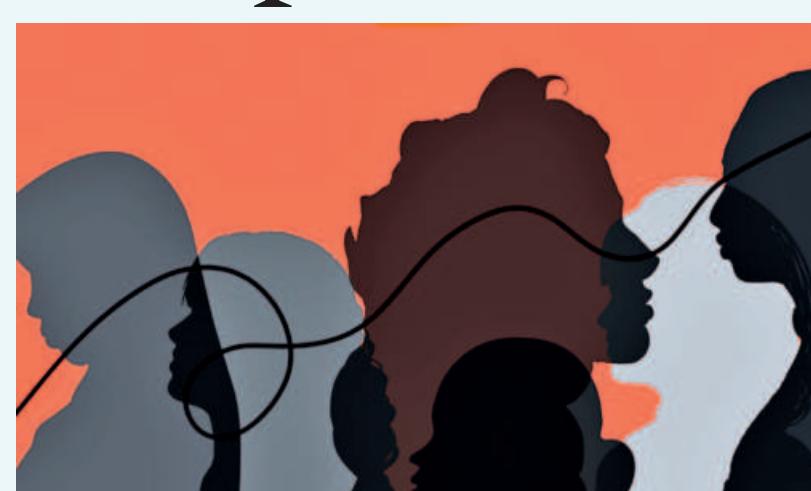
Despite the staggering number of reported incidents, the justice system's response has been critically insufficient. Convictions for such crimes remain exceptionally low, casting doubt on the efficacy of the legal framework in addressing violence against women and children. According to data from the Dhaka Metropolitan Police, only 24 perpetrators have been convicted in the past five years for such crimes, a number that is alarmingly small given the scope of the problem. This highlights systemic failures in the legal system, ranging from delayed and flawed investigations and inadequate evidence collection to societal factors such as victim-blaming and a lack of proper support for survivors.

In Bangladesh, the legal framework surrounding rape is primarily governed by the Women and Children Repression Prevention Act 2000 (WCRPA), which was significantly amended in 2020 to impose more stringent punishments, including life imprisonment or the death penalty for perpetrators of rape. Section 9 of the Act lays down the punishment

for rape, with a particular focus on cases involving gang rape, custodial rape, or death of the victim. This Act is complemented by the Penal Code 1860, which provides the definition of rape under section 375, classifying it as sexual intercourse without consent, against a woman's will or by putting her in fear of death or hurt.

The Evidence Act 1872, infamously allowed questioning a victim's past sexual history, often to discredit their testimony. However, a significant reform in 2022 removed section 155(4), which used to permit such questioning, protecting the dignity of survivors and ensuring a fairer trial. Despite these comprehensive legal provisions, the implementation of rape laws faces persistent challenges in Bangladesh, which include, delays in investigations and trials, poor evidence collection, and finally leading to low conviction rates.

One of the most pressing issues is the delay in the judicial process. While the WCRPA mandates that rape trials should be completed within 180 days, in practice, many cases take years to reach a conclusion due to subsisting backlog, lack of resources, and procedural delays. This extended waiting period not only discourages survivors from pursuing legal action but also leaves them vulnerable to ongoing social stigma and victimisation. Witness intimidation also plays a significant role in undermining the trial process, as witnesses may be coerced into retracting their statements or



withdrawing from testifying.

Moreover, dedicated police units trained in handling sexual violence cases would ensure that victims are treated with dignity and sensitivity from the moment a case is reported. Drawing inspiration from the UK's Independent Sexual Violence Advisors (ISVAs), Bangladesh could appoint professionals to support rape survivors in navigating the complexities, helping with the access to both psychosocial counseling and legal guidance. This would reduce the psychological burden on victims and ensure they do not feel isolated during the trial process.

Further, improving forensic and medical evidence collection is vital to securing successful convictions. Bangladesh should invest in state-

of sexual violence. Public education should also emphasise consent, gender stereotypes, nature and punishment of sexual offences etc.

Additionally, establishing rape crisis centers across the country should offer comprehensive support to rape survivors, from medical care to legal assistance and psychological counseling. These centers would provide survivors with a safe space to report the crime, access legal help, and receive support without fear of discrimination or reprisal. Legal aid should be available to all survivors, particularly for those who cannot afford it, to ensure equitable access to justice.

Finally, addressing witness intimidation is crucial for ensuring that rape victims can safely testify. The government should establish a national witness protection program to safeguard the safety of victims and witnesses throughout the trial process. This would encourage more survivors to come forward and participate in legal proceedings without fear of retribution from the perpetrators.

By adopting these recommendations and drawing from successful international models, Bangladesh can strengthen its legal response to rape and improve victim support services, ensuring that survivors receive the justice they deserve and that perpetrators are held accountable.

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