



JUSTICE TOWARDS RAPE VICTIMS IN BANGLADESH: PROBLEMS AND SOLUTIONS

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Abstract

Rape is one of the most heinous crimes and the womanhood is the most humiliated victim of it physically, mentally and socially. The situation in Bangladesh as well as in the whole world is so jeopardizing that no females irrespective of minors or adults can be spared from the lust of criminals. It is a great challenge to ensure justice for the rape victims in our country due to shortcomings in the existing laws as well as the traditional attitude of our judicial mechanism and also our social attitudes. The contemporary criminal justice system of Bangladesh is not favorable to the victims rather to the criminals. As a result, victims do not come forward to the court to face the harassment happens in the name of investigation and trial proceedings. This study is an attempt to show how the rape victims are deprived of the justice because of the absence of proper implementations of the existing rape related laws and how the laws can be used properly to ensure justice towards the rape victims in Bangladesh. Some selected text books, journals, magazines, and medical examinations reports have been reviewed on this issue.

Key words: Rape, Rape Victims, Womanhood, Justice, Vigilance.

Introduction

No doubt that rape is one of the most heinous crimes. But basing on the situation, it becomes more or less intensive as a crime. If we consider the situation of Bangladesh, we see that there are various types of situations to commit rapes. For example, it may be done against a person's consent. A person who is unable to give valid permission, such as one who is unconscious, incapacitated, has an intellectual disability, or is younger than the legal consent age, may be subjected to physical force, abuse of power, or other forms of coercion. But it is noticeable that, at an alarming rate, the weak side of our criminal justice and it is unfortunate that instead of the existence of specified rules or regulations for this procedure, the commission of rape is callous to work actively and fruitfully to show some exemplary punishments so that the crime like rape can be eradicated from our society. So here it shall be tried to show the shortcomings of the existing legal systems

in applying the justice towards the victims in Bangladesh mentioning some practical situations.

Methodology

This research was conducted in a comprehensive manner. To gather accurate information on the subject in Bangladesh's main cities, the authors of this research project have engaged in focus group discussions and discussions with rapists and victims. This research used the purposive sampling approach because it makes it simple to conduct a qualitative analysis of the data gathered. The study's researchers are accustomed to using a qualitative strategy rather than a quantitative one when conducting research.

Result and Discussion

Incidents of Rape in Bangladesh

In the context of male dominated society, Juliet Dusinger, mentions:

'The loss of chastity implied the loss of virtues that in men existed independently of chastity. "A woman's chastity included all other virtues. Even if he sleeps with a woman who is not his wife, a guy can still be brave, kind, and honest. On the other hand, a woman registered her own worthlessness in that one deed and in every other sphere."

The situation in Bangladesh is same. It is going to be worse day by day. There is no security for the females here. Female children from two years to a lady of sixty years are within the risky range of rape in Bangladesh. In Bangladesh, it is the most prevalent and brutal type of abuse against women. Rape is the second most frequently reported type of violence against women in Bangladesh, behind dowry-related harassment, according to police data on cases registered for violence against women (VAW). According to data from the Bangladesh Mohila Parishad, 1,050 women and girls were raped in total in 2016, including 166 victims of gang rape and 44 people who died as a result of being raped. In 2015, 199 gang assaults occurred. There were 165 attempts to rape women in 2016, according to a study by Bangladesh Mahila Parishad (BMP) based on data from 14 daily newspapers. In 2015, there were 142 of them. Not only that but also there are many difficult problems for the rape victims like risk of suffering additional violence after the rape, along with losing one's life.

Definition of Rape

One of the signs of many social diseases, which have their roots in social disorders, is rape. If social norms and ethical standards are consistently violated, this illness may become visible. (Rakha Krishna, 2011). In accordance with Section 375 of the Penal Code of 1860, a man is considered to have committed "Rape" if, with the exception of the following conditions, he engages in sexual activity with a woman in any of the five ways listed below:

To begin with, against her will.

Second, without her permission.

Thirdly, with her permission, after gaining it by making her fear being killed or injured.

Fourth, with her permission, even though she is aware that he is not her husband and that she is only giving it because she mistakenly thinks he is another man to whom she is legally wed or believes she is.

Fifth, when she is under the age of fourteen, with or without her permission. Reason: Penetration is adequate to qualify as the sexual contact required for the crime of rape. The following are listed in the Mexican Federal Criminal Code's description of sexual abuse:

1. Making another individual feel threatened or afraid enough to force them to engage in sexual activity.
2. Performing a sexual act when the subject is unable to express their desire to refrain from participating or decline. This issue is succinctly stated by Susan Brown Miller in the first chapter of her excellent book, "Against Our Will: Men, Women, and Rape": "The rapists had to face harsh punishments in the ancient Indian and Greek societies for their crimes." (Brown miller, 1975:376).

According to the U.S. Equal Employment Opportunity Commission (EEOC): *Unwanted sexual advances, requests for sexual favors, and other verbal or physical acts of a sexual character are all considered sexual harassment.* The Prevention of Oppression against Women and Children Act, 2000 addresses the offenses of sexual assault and Sexual harassment through what is termed the offense of "sexual oppression". To forcefully engage in sexual activity with a woman without her permission is to commit rape. (Ylle and Torres, 2016:2). A married lady who had been raped was deemed to have committed adultery.

Although she had the option of being saved by her spouse if she so desired, she and her rapist were both executed by being thrown into the river. (Smith 2004: 14-15). And I know a lot of guys who have dedicated their entire lives to advancing women's rights.

Feminism is an idea, not a biological phenomenon. (Mohammad, 2012: 187).

There are a huge number of unrelated rapes happening all over the nation. (Azad 1992:247). The news of mass rape occurring in the name of trials has shocked the entire globe. Incidence took place in 2002. (Mai, 2016: 10-11).

The Mandatory victim Restitution Act, 1996, Washington DC, According to the law, a victim is anyone who has been directly or indirectly harmed as a result of an offense for which restitution may be ordered. This includes, in the case of an offense involving as one of its elements a scheme, conspiracy, or pattern of criminal activity, any person who has been directly harmed by the defendant's criminal conduct during the course of the scheme, conspiracy, or pattern. On the front lines of the Cold War, rape was a weapon. (Hirschauer, 2014:76).

According to Neumann and Stephanie: There are said to be three different types of rape: Anger, Power, and Sadistic. Anger rape expresses hatred towards the victim for past wrongs and rejections. Power rapes wants to express power over the victim. Sadistic rape exercises some sort of fear in the women and compels them to sex with him. Besides. there are some other common rapes like:

- i. Romantic rape is when the victim and the perpetrator are acquainted. One illustration is the rape of coworkers, students, and acquaintances. Gang rape is when several individuals take part in the rape of the same victim.
- ii. Marital Rape is between a married couple or who are behaving like a couple but not married.
- iii. Minor Rape occurs when a child is raped by an adult.
- iv. Prison Rape is that which happens in prison,
- v. Rape within the Military, war Rape, Acquaintance rape, Gray rape or grey rape where consent is unclear, Serial rape, Campus sexual assault, Rape by deception, etc.

Reasons for Rapes with Its Effects

There are many causes behind committing rapes. So there is no particular reason. Yet according to the World Health Organization report, Military conquest, socioeconomics, rage, power, sadism, pleasure-seeking, psychopathy, morality, legislation, attitudes toward the victims, and evolutionary pressures are all in a line, these are the most common reasons why people rape. There are various types of impacts are noticed because of the rapes in the female body and in their minds. First of all, gynecological problem is seen after rape. Vaginal or anal bleeding or infection, hypoactive sexual desire disorder, vicinities or vaginal inflammation dyspareunia (painful sexual contact), vaginismus (a condition that affects a woman's ability to engage in any form of vaginal penetration), chronic pelvic pain, urinary tract infections, pregnancy, and HIV/AIDS are among the common effects that rape survivors experience or other sexually transmitted diseases. The rape prosecution has revealed that the victim's suffering was repeatedly made worse by her testimony in front of the public. (Hoque 1996:133).

Social Attitudes towards Rape Victims

Beside this, there are some other psychological problems like, self-blame which is a common problem among the victims. They blame themselves for the wrong done to them, Suicide is the most fatal consequence in the rape victims in Bangladesh. In most of the cases, the rape victims feel embarrassed to talk about what had happened to them. At last they commit suicide. Secondary victimization is also common in society which means the victims are blamed for so long by their own people of the society. Religious punishment is another important impact on the rape victims. Rape is forbidden under Islamic law. Some female rape victims are accused and punished for having sex outside of marriage. We are similar to creatures who carry heavy loads around on their necks. We shall perish like animals." (Okaly and Mitchell, 1976: 389)

Judicial Procedure for Rape Case

In Bangladesh the existing judicial procedure is not satisfactory. It cannot support a rape victim widely. The law surrounding sexual assault seems black and white in Bangladesh. In reality, the picture for rape victims is a dull and depressing grey. The national penal law, created in 1860, is where the term "rape" first appeared. Because if a married woman is raped by her husband, she cannot pursue legal help.

This legislation unfairly treats married and single women, Even if she doesn't want to, a married lady must have sex with her husband. The Women and Children Repression Prevention Act, 2000 is not sufficient to support women in such cases, If a girl is raped, she is to face social pressure not to take legal assistance and the pressure is most intense when the preparation is large influential According to a study, It is discovered that fewer than 2% of Bangladeshi women disclose rape or other sexual assault. Thus, it is challenging to establish rape in court. The victims are aware that justice will escape them in spite of their best efforts. In Bangladesh's social system, it is not always a lack of information that prevents people from seeking legal assistance, but rather a lack of available remedies. To prove the crime that has been committed, the victim must file a case either in police station or in court after the incidence. After filing the case, the victim has to be examined by the doctor. Beside, she should provide eye witness, documents and other evidence to prove that she has been raped. This takes a long process which adds much sufferings through unconjectural harassment and humiliation to the victim and her family. The additional words "molestation," "sexual assault," and "outraging the modesty" are occasionally used without definition. (Hayward, 2000:83).

Punishments

The punishment for rape is severe here. The Prevention of Oppression against Women and Children Special Act of 2003 (Nari O shishu Nirjatan Daman Bishesh Ain 2003) and the Criminal Code of 1860 both outline the punishment for rape. According to the Section 375 of the Bangladesh Penal Code 1860 (Act XLV of 1860)- According to Section 376 of the Penal Code, 1860; whoever commits rape shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine. And if the woman is under the age of twelve, he will be punished with either type of imprisonment for a period that may last up to two years, a fine, or both. The Prohibition of Oppression against Women and Children Act of 2000, Section 9, states. Anyone who rapes a woman or a kid will receive a severe life sentence in prison and a fine. The man shall be punished with death or with transportation for life in addition to a fine not to surpass one lac taka if the woman or the child who was raped later died as a result of the rape or any act committed by him after the rape. If more than one man rapes a woman or child and the victim dies or suffers harm as a result of the rape, each member of the gang will be punished with death or life in prison without the possibility of parole, as well as a fine

that cannot surpass one lakh taka. Any effort to kill a woman or harm a child after a rape is punishable by imprisonment for either description, which may last up to ten years but must not be less than five years of rigorous imprisonment, as well as a fine. If a woman is raped while in the custody of the police, everyone whose custody the rape occurred in and who was directly responsible for making sure she was safe will be punished for failing to do so, unless it can be demonstrated otherwise, with imprisonment of either description that may last up to ten years but must not be less than five years of rigorous imprisonment, as well as with a fine.

Conclusion

So, considering the case of the rape victims in Bangladesh, we can come to a conclusion that we are utterly hopeless with the justice they get. It is also a matter of great disappointment that comparing the number of the incidents, the victims are unwilling to come forward to the legal proceedings with a view to avoiding the harassments in the process of filing case and proving the rape in the court. The courtroom is a terrifying and humiliating place for a rape victim. Yet, there is a hope that Ain O Shalish Kendra, Bangladesh Legal Aid and Service Trust (BLAST), and Bangladesh National Women Attorneys Association (BNWLA) are three places where rape victims in Bangladesh can go for legal assistance. The rape victims should be aware of the sources available for them to get legal supports by the concerned authorities. Besides, we can take the following measures to stop the rape violence:

- i. We should conduct some safety sessions for the women and girls.
- ii. All kinds of legal procedure should be ready so that anyone can easily reach the help available by the law enforcement agency.
- iii. Parents should be aware of the good touch and bad touch to their female kids.
- iv. The culture of silence and impunity should be stopped. Women should learn to raise their voices against the sexual violence.
- v. They can take the help of mobile apps if needed.

Many woman rights activists say that women are under their rights and are therefore victimized. So in order to promote a healthy humanist culture ensuring justice and friendly environment for the rape victims in the state and society, it is imperative to take a holistic view

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