

“Effectiveness of Capital Punishment Against Rape: A Legal Appraisal”

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Abstract

It seems that the situation of women in independent Bangladesh is now more alarming as they are increasingly becoming the victims of sexual assaults by their fellow citizens. Statistics on rape and other sexual assaults are commonly available in industrialized countries, and are becoming better documented throughout the world. Inconsistent definitions of rape, different rates of reporting, recording, prosecution and conviction for rape create controversial statistical disparities, and lead to accusations that many rape statistics are unreliable or misleading. In some jurisdictions, male-female rape is the only form of rape counted in the statistics. Countries may not define forced sex on a spouse as rape. Rape is an under-reported crime. Prevalence of reasons for not reporting rape differs across countries. They may include fear of retaliation, uncertainty about whether a crime was committed or if the offender intended harm, not wanting others to know about the rape, not wanting the offender to get in trouble, fear of prosecution (e.g. due to laws against premarital sex), and doubt in local law enforcement. It is difficult to find out any documents that only highlight legal remedies in rape issues in Bangladesh. For having a clear idea it could be helpful to go through different studies of foreign and domestic articles, research papers, and newspaper writings. This study intends to critically examine the actual factors making rape an increasing phenomenon against women and to discuss possible solutions of the social scourge in Bangladesh. The main objectives of the study are to know how far capital punishment is effective against rape and to identify the loopholes on existing laws relating to punishment of rape. This study further finds out legal remedies and analyses the application of relevant laws in Bangladesh in this arena. In particular, ineffective judiciary, patriarchal society, and rampant drug abuse have significantly contributed to this rape epidemic. However, by addressing each of these contributing factors, the nation has to come forward to ensure a safe and secure atmosphere for women in every sphere of life.

Keywords : *Rape , Effectiveness , Victim , Loopholes and Capital Punishment.*

1. Introduction:

The fear of sexual assault or rapist is a part of every woman's life. In a plethora of ways this constricts and restricts females' mobility and manner of living. [1] Just a few of the rules that girls are socialized with include: 'don't walk alone at night,' 'don't talk to strangers,' 'don't hitchhike,' 'Don't dress in a provocative way'. [2] Indeed, the reality is that rape is a threat for every female in Bangladesh and this advice is solid and well-meaning, although in many ways it is based upon stereotypes about sexual assault which are not true and which act insidiously to impute blame on the victim. There are a multitude of definitions of rape both legally and within the folk mores of a culture. In this article, rape is defined as the penetration of the mouth, vagina or anus by any part of the attacker's body or by an object used by the attacker, without the consent of the victim. [3] Forced sexual intercourse; sexual assault; sexual intercourse between an adult and a minor. Rape may be heterosexual (involving members of opposite sexes) or homosexual (involving members of the same sex). [4] Rape involves insertion of an erect penis or an inanimate object into the female vagina or the male anus. Legal definitions of rape may also include forced oral sex and other sexual acts. After rape has taken place women not only have bad life ahead but also they have to hear harsh words about her character and dressing sense of women by the society. [5] Not only, women but the victim's family have to hear words from the society but the education of the family is also questioned by the society. [6] Prime Minister Sheikh Hasina said "The rapists are [like] beasts as they exhibit their inhumane nature affecting our girls. We have amended the law and included capital punishment for rape". [7] Rape is the fourth most common crime against women in India. The per capita rates of rape in India is the lowest rate for a very simple reason that there are many

rape cases in India which goes unrecorded. [8] In Madhya Pradesh has the highest raw number of rape reports among the Indian States. [9] The Government of India to reform the Indian Penal Code for crimes of rape and sexual assault because of the willingness to report the rape cases has increased leading to widespread media attention and triggered public protest. Kathua rape case refers to abduction, rape and murder of an 8 year old girl named Asifa Bano . She stayed with her parents in the village Rasanga near Kathua in the state of Jammu and Kashmir. Asifa belonged to nomad Bakarwal community. She had disappeared just one week before her body was found by the villagers and that too her body was discovered few kilometers away from the village. This case had got national importance. [10] Rape is rape and an extreme criminal offense whether it is marital rape or intimate rape or stranger rape or force only rape. Many women in Bangladesh suffer from rape gang rape, murder, torture and acid throwing. The position of women in Bangladesh is vulnerable. In Bangladesh, police arrested a man named Ashraf Mondal, who is accused of running a racket to traffic women to India for prostitution. The latest suspects to be arrested — Jamal, 25, and Azim, 24 — were among those who had filmed the brutal assault and gang rape, and egged on the culprits, police said. In the context of Bangladesh as elsewhere, it is also a response to sexual repression, lack of education about sex and appropriate sexual behaviors, and patriarchal values that give men or those with power the right to dominate and control women and their bodies or whichever. Party is deemed to be powerless. [11] And there are different kinds of rape ones that happen within closed doors, between husbands and wives. [12] Sexual assault has widespread deleterious effects on women's lives. Rape survivors experience posttraumatic stress, depression, anxiety, and other forms of psychology distress for months, and sometimes years, post assault. Women with histories of sexual victimization also have more general health problems, gynecological symptoms, and sexually transmitted diseases. [13]

2. Methodology of the Study:

This study is primarily based on secondary data. The data and information have collected from government reports, website, newspapers, online blogs, Journals, and Research paper, etc. There conducted a questionnaire survey to get the primary data to know about the amended law and its implementation on rape issues. This paper analyzes those data that present in reports. We also discussed the various factors that have a substantial impact on rape offence in Bangladesh. The aim is to help the legislators that want to protect girls and women of Bangladesh and provide them a better understanding of Bangladesh's social ,cultural and economical condition to find better ways for the implementation of the capital punishment. The understanding of types of threats and loopholes of regulatory framework is enormously crucial for ensuring appropriate strategy for protecting women of Bangladesh.

3. Present Scenario on Rape in Bangladesh:

Rape is the most shocking form of oppression among all forms of violence against women. Crimes like rape or attempt to rape has been exceeding other wrongdoings in the country when it comes to the oppression against women. [14] Many women in Bangladesh suffer from rape, gang rape, murder, torture and acid throwing . The position of women in Bangladesh is vulnerable. Even though Bangladesh has an elected government, the difficulties facing women haven't ended. Violence against women is a common feature in Bangladesh, and women face various problems under the system of repression. [15]

Incidents of violence against women, particularly rape, have been increasing at an alarming rate in the country. Rights group activists have attributed this sport primarily to the lack of enforcement. [16]

According to data provided by the Bangladesh Mahila Parishad (BMP), in 2009, the number of incidents of rape was 393, but last year it rose to 508. In the first six months of the current year, this number rose to 401. Of them, 117 and 107 were gang-rape cases, respectively. [17]

Some recent rape incidents given below:

In moving bus rape case on January 2013 [18]

A 18 - year - old girl was brutally gang - raped by driver and helper in a moving bus on Dhaka - Aricha Highway in Manra area of the district on Thursday afternoon. She is a

garments worker. Sources said that the driver and helper told others to get down from the bus saying that the bus was out of service. All passengers got down and the helper told the victim to wait when she claimed her fare money back. Later the two culprits told the girl alone to get on the bus saying the bus was then in service. After a while, the bus started moving for Paturia and the driver and helper raped the girl in the back seat of the running bus by turn. "The girl was thrown from the bus after rape," said a police source.

Girl 'raped' in police station [19]

Five police constables have allegedly raped an adolescent girl in their custody at Gaibandha's Govindaganj Police Station.

According to a case on a court order, the girl has been identified by police as a 17-year-old who hailed from Bhangra in Faridpur district. She is currently at safe custody in Gaibandha district jail.

According to Govindaganj Police Station's OC Sheikh Delwar Hossain, locals tipped police about a girl in tears near Dhaka - Rangpur highway on Sep 28 evening. A police

team, led by Sub-Inspector Akmal Hossain, had picked up the girl from the place the same night and brought her to the police station. A general diary was filed in this connection the next day, "Police produced the girl before the Chief Magistrate Court at Govindaganj on Sep 30. The court ordered police to send her to Gaibandha district jail's safe custody." Said OC Delwar. [20]

"After taken to jail, the girl complained to the Jail Superintendent Shahidul Islam that she was raped while in police custody. However, she could not name the police officers involved."

Jail Superintendent Islam said the girl's health deteriorated after she informed him about the incident. Islam produced the girl before the Chief Magistrate Court once again and had her confession recorded. [21]

In Bangladesh recent years in rape statistics are given in below-

In Bangladesh, too, rights activists are vehemently demanding steps to end violence against women. They point out that though tough laws on the security of women exist more and more women are becoming victims of sexual violence every day since such strict laws are not properly enforced. Incidents of violence against women, particularly rape, have been increasing at an alarming rate in the country. Rights group activists have attributed this trend primarily to the lack of enforcement. [22]

Number of rape of recent past rape numbers are enlisted below:

Year	Number of Rape	Killed After Being Raped	Gang Rape
2008	308	114	132
2009 (First six months)	401	117	107
2009 (Last six months)	393	130	149
2010	359	96	107
2011	635	96	165

2012	508	133	157
2013 (upto June 30)	401	47	117

Source: The Bangladesh Mahila Parishad -BMP

However, these figures of violence against women are different from the data provided by the Police Headquarters (PHQ). From the PHQ, it was found that in 2013, till July, the total number of incidents of violence against women was 8,277, of which rape cases numbered 2,250.

The 2016's **Shohagi Jahan Tonu rape and murder case** shook the whole nation deeply and the brutality of the 2018's **Shubarnachar's Housewife rape case** fueled up the public anguish and utter dissatisfaction of the civil society. [23] A statistics of Ain-O-Shalish Kendro (ASK) reveals a total 3,587 number of women as rape victims in the last 5 years. Among them, the number of committing murder after rape is 278. Serious matter of concern is that, 86% of those rape victims are adolescent and children. The study reveals that girl child being 6-12 years old are the random victims of rape. [24]

In the year 2019, only 23 occurrences of rape and attempt to rape of the 1st 18 days of January, got media coverage, among which 15 were child and adolescent, many cases are not even being reported or brought to book. 39 girl children have been raped in between April 2 to April 16, 2019 – a survey of the human rights organization, Manusher Jonno Foundation says. Even a 15 year's old autistic girl was raped in 17th April, in Narayanganj.

4. Impacts of Rape in Bangladesh :

The effects and aftermath of rape can include both physical trauma and psychological trauma. For rape victims the more common consequences of sexual violence are those related to reproductive health, mental health, and social well-being. After rape there are different types of impacts of Rape upon female In Bangladesh . Such as : -

- The first and foremost impact of rape on female that victim becomes subject to social harassment ,negligence and injustice . Even in their own families they loss their dignity.[25]
- Psychological response to rape as mostly self-blame which leads victim to commit suicide unfortunately. Some common reactions for psychological impact are: [26]

Rape victim become shocked and they can't believe this happened to them. In a case Woman commits suicide following rape, 3 arrested in September 2020. [27]

- When the victim preoccupied with thoughts and feelings about the rape, they may have unwanted memories or flashback and may experience some of the sensations and feeling they had during the rape, such as fear and powerlessness.
- A rape can bring on a number of chronic physical conditions to the victim,such as : [28]
 - ❖ Vaginal or anal bleeding or infection.
 - ❖ Hypoactive sexual desire disorder.
 - ❖ Virginitities or vaginal inflammation.
 - ❖ Dyspareunia - painful sexual intercourse.
 - ❖ Chronic pelvic pain.
 - ❖ Urinary tract infection
 - ❖ Pregnancy.
- From the social context of Bangladesh female who are victim of rape they feel shame because our conserve society does see it in moral way and victims family also does not give any moral support on this regard. At that time for losing virginity victims becomes depressed and commits suicide. Example: Sylhet, Oct 15

(UNB) - A case was filed against four rapists after a suicide note was found in the victim's vanity bag at Laltek village in Bishwanath upazila. [29]

- Due to lack of female polices victim and her family always feel embarrassed to file an FIR. Male police officers asks embarrassing questions to the victim and harass them while filing FIR. The police charges bribes from the victim's family also for filling FIR.
- Rape victim should remain under the medication of female doctors and also should be medicated urgently. But unfortunately for lack of female doctors the victim did not get any proper care from hospital.
- The contentions of our society are like that it based on religious treads that female are also liable for rape. Victim's family thought that her marriage would not be held and also the families will loss the status in civil society. Victim's family also avoids the judicial remedy because they thought that it will harass them. [30]
- Victims of rape whose specially school girls and college going girls are not allowed to take education after rape and not only family but also our society did not encourage them to go to school and college especially in rural and urban areas. [31]
- Most of the companies, garments, institution The victims are not allowed to work. Because they feel shy and also blame the victim's because of incidents to us but accident to them.
- So many statistics showed that while a house wife is raped the husband is generally unwillingly accept her, as a result she may be divorced or separated from her husband.
- In some places, girls and women who are raped are often forced by their families to marry their rapist. [32]
- In our traditional social system does not recognize the child born after rape. Even no one wishes to take responsibility of that child and marry the rape victim.

When rape happened to a female the village elders trying to solve the problem by the opinion of the religion, which is known as fatwa. In this situation rape victims deprived from her legal remedy. It effects adversely on the victim. Religion teaser ordered 100 lashes in January 2011 for Hena Akhter, an adolescent girl, for an alleged affair though by most accounts she had reported being sexually abused instead. She collapsed during the lasting and ultimately died. [33]

5. Municipal Legislations Relating to Rape :

The Law of Rape is designed to protect a woman's freedom of choice in her sexual connections.

Bangladesh has many laws for the protection of women. For example, the Suppression of Immoral Traffic Act 1933, the Family Court Ordinance, the Cruelty to Women (Deterrent Punishment) Ordinance, the Trafficking in Women and Children Act 1993. the Dowry Prohibition Act,. "Nari o Sishu Nirjaton Daman Ain 2000" (Amendment 2003), etc, 54 National legislation relating to rape are given in below:

Nari o Sishu Nirjaton Daman Ain 2000. In section 2 (e) of "Nari o Sishu Nirjaton Daman Ain 2000, Rape 'means subject to section 9, according to the definition 375, Penal Code, 1860 (Act, XLV of 1860).

Nari O Sishu Nirjaton Daman Ain 2000 [34]

In section 2(e) of "Nari o Sishu Nirjaton Daman Ain 2000" Rape 'means subject to section 9, according to the definition 375, Penal Code, 1860 (Act, XLV of 1860).

In section 9 of "Nari o Sishu Nirjaton Daman Ain 2000" it is said punishment for rape or death in consequence of rape:

i. Whoever commits rape with a woman or a child, shall be punished. with rigorous imprisonment for life and with fine. Explanation: Whoever has sexual intercourse without lawful marriage with a woman not being under fourteen

years of age, against her will or with her consent obtained, by putting her in fear or by fraud, or with a woman not being above fourteen years of age with or without her consent, he shall be said to commit rape.

ii. If in consequence of rape or any act by him after rape, the woman or the child so raped, died later, the man shall be punished with death or with transportation for life and also with fine not exceeding one lac taka.

iii. if more than one man rape a woman or child and the woman or child dies or is injured in consequences of that rape, each of the man shall be punished with death or rigorous imprisonment for life and also with fine not exceeding one in taka.

iv. Whoever attempts on a woman or a child –

a) To cause death or hurt after rape, he shall be punished with rigorous imprisonment for life and also with fine,

b) To commit rape, he shall be punished with imprisonment for either description, which may extend to ten years but not less than five years rigorous imprisonment and also with fine.

v. If a woman is raped in the police custody, each and every person, under whose custody the rape was committed and they all were directly responsible for the safety of that woman, shall be punished for failure to provide safety, unless otherwise proved, with imprisonment for either description which may extend to ten years but not less than five years of rigorous imprisonment and also with fine.

Penal Code 1860 [35]

According to the Penal Code 1860 Section 375 Specifies that:

A man is said to commit "rape" who except in the case hereinafter excepted, has sexual intercourse with a woman under circumstances falling under any of the five following descriptions:

Firstly - Against her will.

Secondly - Without her consent.

Thirdly - With her consent, when her consent has been obtained by putting her in fear of death, or of hurt.

Fourthly - With her consent, when the man knows that he is not her husband and that her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married.

Fifthly - With or without her consent, where she is under fourteen years of age.

Explanation - Penetration is sufficient to constitute the sexual intercourse necessary to the offense of rape

Exception - Sexual intercourse by a man with his own wife, the wife not being under thirteen years of age, is not rape.

Punishment for rape :

According to the Penal Code 1860 Section 376 Specifies that:

Whoever commits rape shall be punished with imprisonment for life or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine, unless the woman raped is his own wife and is not under twelve years of age, in which case he shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

The Suppression of Immoral Traffic Act 1933: [36]

The Suppression of Immoral Traffic Act, 1933, Section 11 [Sub-clause (b)] is indirectly in punishment for Rape. In this section states that:

Any female against her will in or upon any premises with intent that she may have sexual intercourse with any man other than her lawful husband, whether with any particular man or generally, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine which may extend to one thousand Taka or with both.

6. Implementation of capital punishment in present time:

In October 2020, a wave of protests and rallies spread across Bangladesh following several high-profile sexual assaults over an alleged gang rape and an online video showing a group of men sexually assaulting a woman. [37]

In response, Bangladesh amended the Women and Children Repression Prevention Act to allow the death penalty for rape.

This response from the government does not protect women victims of sexual assault, but rather deters them from reporting and decreases conviction rates.

President Abdul Hamid signed an ordinance on the October 13, 2020, to amend Section 9 of the Nari o Shishu Nirjaton Domon Ain 2000 (Women and Children Repression Prevention Act 2000) incorporating death penalty, for perpetrators of rape, along with the present highest punishment of life imprisonment.

After incorporation of capital punishment the implementation of this punishment is below 5%, according to an article of Prothom Alo daily newspaper. [38]

A Bangladeshi court issued the death penalty for the first time to five convicts in a rape case after the country amended the law to include a death provision, according to official sources.

“Five convicts who gang-raped a madrasa girl have been awarded capital punishment two days after the amendment of rape law.” Md. Rashidul Islam, chief of the local police station said whether the verdict was declared under the amended law or any previous law is not clear. “But this verdict issued after the enactment of the death penalty in rape cases will set an example for all offenders before committing any such heinous crime.” [39]

A number of lawyers have interviewed on Effectiveness of Capital Punishment against Rape and its Implementation from their answer it may be presumed that how far capital punishment is effective against rape and how far it has been implemented.

Table: Opinion of Lawyers Regarding Effectiveness of Capital Punishment Against Rape and its Implementation

Question	Yes	No/Not Yet	Partial	Total
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Capital punishment is effective (International Perspective)	6	2	2	10
Capital punishment can protect Bangladeshi Girls or Women	1	3	6	10
Death penalty is the only solution reduce rape	0	8	2	10
Capital Punishment can increase number of murder	5	2	3	10
Provision of death penalty is implemented	0	7	3	10
Victim of rape get justice	2	8	0	10

The statistics of local human rights organization Ain-o-Salish Kendra suggest a sharp rise in such crimes in the country, especially in the past two years.

Experts, however, said tougher penalties would not be enough to tackle the problem and that authorities needed to immediately address systemic problems in rape trials and the extremely low conviction rates.

"It's a bad decision, not only because capital punishment is inherently inhumane and should be abolished, but because it is not a real solution to sexual violence," Meenakshi Ganguly, South Asia director of Human Rights Watch, said in a statement. Sultan Mohammed Zakaria, a South Asia researcher at Amnesty International, echoed a similar opinion. "Executions perpetuate violence, they don't prevent it," he said in a statement, adding: "Instead of seeking vengeance, the authorities must focus on ensuring justice for the victims of sexual violence including through delivering the long-term changes that would stop this epidemic of violence and prevent it from recurring." [40]

Table: Death Sentences and execution in Bangladesh 2010-2022 [41]

Year	Death Sentences	Executions
2010	32+	9+
2011	49+	5+
2012	45+	1
2013	220+	2
2014	142+	0
2015	197+	4
2016	245+	10
2017	273+	6
2018	229	0
2019	220	2
2020	113+	2
2021	181+	5
2022	169+	4

Source: Global Reports of Amnesty International on Death Sentences and Executions

Usually, the legal process for this rape-related crime is prolonged. For example, if the victim or the victim's family or their associates did not cooperate properly, did not undergo a medical examination, and did not receive witnesses at any stage, law enforcement did not seek legal recourse in a timely manner. There is nothing to do. In that case it is not possible to proceed with the investigation.

"By introducing the death penalty for rape, Bangladesh has recognized rape as one of the most serious crimes, which is certainly a timely response," the lawyer said, adding: "Under the amended law, trials in rape cases have to be completed in a speedy manner. It's a key milestone in rape law reform in Bangladesh."

7. Factors Contributing to the Rape Epidemic:

There are numerous factors contributing to rape culture against women, and these may vary from country to country. In the context of Bangladesh, there are three main reasons:

- i. **Ineffective Judicial System:** The judicial system of Bangladesh is ineffective and feeble. As stated by the Amnesty International, the issue is not harsh punishment against rapists, but the failure of courts to make convictions in rape cases as well as survivors' trepidation to come forward. In six administrative districts of Bangladesh from 2011 to 2018, the courts brought conviction in just five out of 4,372 rape cases, as reported by Naripokkho, a local women's rights group. There are numerous reasons why prosecutors do not get convictions: illegitimate political intervention, the complex and slow trial system, a corrupt administration, and, in some cases, intentionally false lawsuits. [42]
- ii. **Conservative and Patriarchal Society:** Bangladesh is a conservative country where patriarchy is acutely pervasive. Patriarchal societies anticipate that a man will manifest his manhood through aggressive and dominating behaviors while a woman will show her womanhood through submissive, caring, and emotional behaviors.

On the opposite side of the same coin, **victim-blaming is extremely common**. A Vice News reporter in a video documentary on rape in Bangladesh interviewed several men figures including police officials, community leaders, and religious clerics who laid the blame on women for majority of the rape incidents because of the indecent dress and unrestrained physical movement and personal activities of females. Lately, a popular Bangladeshi actor Ananta Jalil blamed women for rape for wearing revealing clothes in a video posted to his Facebook page. The misogynistic, hegemonic discourse of victim blaming is the reflection of patriarchal Bangladesh.

- iii. **Addiction on Drug: there is an unacknowledged nexus between drug addiction and rape in Bangladesh.** According to Association for Prevention of Drug Abuse (MANAS), a local anti-drug campaign organization, there are now roughly 7.5 million drug addicted in the country, many of whom are hooked on Yaba, known as crazy pill,⁴ which contains methamphetamine and caffeine and arouses sexual fantasy and stimulation. Scientifically speaking, with the medicinal impacts of many narcotics, male drug addicts generally feel manlier, wilder, and sexier, thus becoming rape-prone. An estimation of Bangladesh government's Department of Narcotics Control shows that 80 percent of incidents of rape and rape murder are perpetrated by drug users in the country. [43]

8. Challenges in Controlling Rape in Bangladesh:

We already know that Bangladesh has some remarkable laws to controlling the rape against female. Take also some necessary steps to uproot rape from Bangladesh. But it is not so easily possible to uproot rape from Bangladesh. Because of the some main drawbacks or challenges are given in below:

- In our country large numbers of people are not well educated that's why they don't know about the laws on Bangladesh. Most of the people in our country are poor, that's why when a female raped by any powerful person then that female, there remains constant pressure on victims of rape and her family members
- Fatwa continues to occur although there has been a High Court ruling against them.

- In Our Country Police Are Highly Corrupted That's Result The Police Also Harassed Them By Many Ways While Filing Fir. The police charges bribes from victim's family also for filling FIR. At that time the victim lose her confidence to get justice and she faces so many psychological problem also victim are Not Interested to file FIR in Police Station.
- In the investigations stage police face lack of staff, lack of materials, lack of skills. Interference by outsiders (higher ups), not following procedures, applying violence and abusive language. [44]
- Lack of training and knowledge about orientation to law enforcement personnel on Violence against women (VAW), human rights and gender.
- The magistrates, judges, advocates and prosecutors are frequently pressurized by the political party and some are biased.
- Unaccepted behavior of heat care providers and lack of knowledge and experience in dealing with Violence against women (VAW).
- Inadequacies in the physical medico - legal examinations.

9. Loopholes in the present legal frameworks:

Rape is not a single and simple word. It is one kind of poison for female, which create them one group of man. Rape not only slowly kills a female but also slowly destroys a development process of a country. Bangladesh is one of the third world countries and in there rape is one kind of social and economic threat.

According to the study I would like to conclude that the status of women should be raised so that they do not face any humiliations and the rapes do not take place. The women protection Act should be more influenced and women must be aware about their rights and take actions for self-protection. Some loopholes of our legal frameworks are given below:

Gap in Definition of Sexual Violence: The rape offense is narrowly applied to include vaginal penetration only. Other forms of sexual penetration are covered under —unnatural offenses or sexual oppression/assault, which carry significantly lower penalties.

Bangladeshi law does not provide for any circumstances involving persons in positions of authority wherein consent is immaterial and does not deal with the issue of incapacity to provide consent at all, in the case of adult victims.

In our Penal Code 1860 two types age limitation of rape, section 375, exception said that Sexual intercourse by a man with his own wife the wife not being under fifteen years of age, is not rape. But in another section 376 states the woman raped is his own wife and is not less than twelve years of age, in which case he shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both. The two types of age limitation in the same sector are confusing both police and magistrate to enforce the Law.

Laws Requiring/Permitting Discriminatory or Overly Burdensome Evidence: The law on evidence specifically allows the introduction of evidence in rape cases which shows that —the prosecutrix was of generally immoral character" [45] When a woman accuses someone of rape or sexual assault, her immoral character can be a ground of defense.

Barriers to Accessing Justice within the Criminal Justice System: With review of rape laws it is founded that, the implementation of rape laws remain poor and survivors, particularly those from communities marginalized based on caste, class, and ethnicity, face many obstacles in accessing justice, including:

- Corruption amongst law enforcement officials,
- Failure of the police to register cases of sexual violence,
- The long delays in police investigation and trial of rape cases,
- The extremely low conviction rate in rape cases (around 3%),
- Pressure from families, community, and Salish members to enter into extra-legal settlements and many others.

Delays in Investigation, Prosecution, and Adjudication: A 2020 study from Bangladesh analyzed the medical evidence in 140 rape cases filed in various police stations in Dhaka. It found that for 95% of the victims, the medical examination was done after a week or more than one month after the rape incident.

Delays in Rape Trials: Bangladeshi law imposes a time limit of 180 days for conduct of the trial by special tribunals set up under the Prevention of Women and Child Repression Act, 2000. However, this time limit is almost never adhered to.

Fast-track/specials courts or rape trials: In Bangladesh, the Nari O Shishu Nirjatan Daman Tribunals set up to deal with cases of violence against women and children have struggled with major backlogs and delays. A Supreme Court study found that over 38,000 cases of violence against women and children before these tribunals have been pending for over 5 years.

Bail granted after statement recorded: The Bangladesh it is a common scenario that after recorded statements under section-164 of the Code of criminal Procedure 1898 bail is generally granted during the pendency of a rape case. [46]

Conviction rates in rape cases: Unofficial estimates suggest that the conviction rate in Bangladesh between 2002-2016 was 3%. From 2019-2021 this amount of rate of conviction is below 10%. [47]

10. Conclusion:

Rape is the most heinous crime amongst all crimes that takes place in all over the world. Rape is sexual violence that takes place against women. [48] Rape not only hurts the soul of women at the point of crime taking place but it also hurts women socially, physically and mentally. Rape is not an act of sex but an act of violence. Rape is a crime that is associated with serious psychological harm. Victim of rape not only suffer from higher rates of mental health problems and suicidal behaviors, but often experience intense feelings of harm and guilt. Though we have enough laws to repress the offenders but there exist lacking of ensuring punishment to those who have been committed such abominable crime. Many of the criminal escape the law by using their power and money. So if criminals can escape punishments in this way it would encourage further crimes and it definitely create hardship in implementation of the existing laws. So, the government should monitor the implementation of the existing laws to combat this situation. Being an independent wing for justice our Judiciary have to be more concern for the victim. The court should hear the victim by avoiding victim blaming which introduced in our municipal laws and judges should apply their discretionary power to provide better justice to women in the new context of the Socio-Economic condition.

Rape happens on streets, in cars, in schools, in parks, and in alleys. The rapist has no regard for age, race, or social status. Rape is not a selective crime. It is in most cases, random. Personal safety, however, must begin with the individual. As individuals and as a community, people can take steps to protect themselves and each other against rape and sexual assault. After studying and analyzing the paper, the following steps may be taken to prevent rape:

Some provisions of law's should be changed. The definition of rape should be broadened and section-155 of the Evidence Act, 1872, Should not be applied in case of rape. [49]

Concept of Restorative Justice should be developed. Not just death penalty should be given to the rapist, the rapist must have to order to provide compensation to the victim, i.e. The amount of the compensation may be Taka 20 lac to 50 lac according to the capacity of the accused.

Confidentiality while dealing with victims of rape should be maintained as like:

The proceeding should be conducted by a camera trial keeping only those persons inside the court room who are directly concerned with the case or proceeding and any report considered by the court shall be treated as confidential and publication of report of report of proceedings, photograph of the victim leading directly or indirectly the identity of such victim should be prohibited.

Victim blaming should be stopped which is not only tradition but also legally recognized in our country under the Evidence Act, 1872. The police officers must be imparted proper and special training to deal with victim of a

rape and Investigation of a rape case. [50] Adequate number of female police officers must be employed at every police station to deal with victim of rape. From the beginning of the case lady police should handle the victim. Special helpline police service or short line help service for 24 - hour containing 1 digit and that number which would be traceable from any location of the country to the nearest police station should be introduced so that the rape victim or any on her on behalf of can easily and directly report such incident either before or after the occurrence.

It's in our hands to inspire the future feminists of the world. Challenge the gender stereotypes and violent ideals that children encounter in the media, on the streets, and at school. Children should learn moralities from the social and family level and they will know that family is a safe space for them to express themselves as they are. Have to affirm their choices and teach the importance of consent at a young age.

Steps should be taken for the victim for the physical, mental and spiritual development of the victim. There must provide medical assistance to the victim and police officer should help the victim to get the accurate medical report. Protection of the victim as well as the witness should be ensured.

Martial Art training should be given to all girl or women of any age for active self-defense and girls should bear safety measures like : paper spray, knife, etc. with them for their safety.

It is a recent scenario that after recorded confession of a person under Section 164 of The Code of Criminal Procedure, 1898 the court permits to release the person on bail. But when a case filed against a person for rape bail should not be granted for him rape accused.

From commencement of a trail in a court and until its conclusion proceeding should continue every day without break to deliver proper justice to the rape victim within a short time. Though we have enough laws to repress the offenders but there exist lacking of ensuring punishment to those who have been committed such abominable crime, Many of the criminals escape the law using their power and money. So if the criminals can escape punishment in this way it would encourage further crimes and it would definitely create hardship in the implementation of the existing laws . So, the government should monitor the implementation of existing laws to combat this situation. Judiciary should promote social justice through its judgement. The court must hear the victim without paying attention on victim blaming for justice to the society in case of heinous crime of rape and response by imposition of proper sentence.

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