RAPE:
A DEPRIVATION OF WOMEN’S RIGHTS IN BANGLADESH

Afroza Begum∗

1. Introduction

Article 32 of the Constitution of Bangladesh provides that no person shall be deprived of life and personal liberty save in accordance with law.1 The current judicial practice has begun to link the right to life with human dignity, moving well beyond a mere existence.2 Physical and emotional assaults which occur in incidents of rape clearly violate that dignity.3

In Bangladesh, a number of statutes are in place to deter rape with stringent punishment such as imprisonment for life and death sentence. Notwithstanding these, laws seem to have little impact in preventing rape. Every day, about 10 women on average are violated, many of them as young as six years of age.4 According to a recent study, in one Union (Lower Administrative Unit) under the Division of Chittagong, about 500 women were raped in one month.5 It is further disturbing to observe that the offenders photographed and videotaped the victim when being gang raped and later marketed those.6

∗ LLB (Hons) & LLM (Bangladesh) LLM (Western Sydney, Australia), Associate Professor, Dept. of Law, Islamic University, Kushtia, Bangladesh.
1 The Constitution of the People’s Republic of Bangladesh 1972, Article 32.
4 Staff Reporter, ‘Violence against women on the rise’, The Independent, Dhaka, (1 April 2003).
5 A study conducted by the Bangladesh Mahila Parishad (Women’s Association) reveals that information. See, The Janakanta, Dhaka, (29 May 2002)
To escape disgrace and social humiliation many of those young girls committed suicide. In addition, the archaic, lengthy and expensive criminal justice system often prevents women from bringing cases to the court. If somehow they manage to lodge cases, 95% of the accused in rape cases are acquitted due to faulty investigations or lack of evidence. Other factors can also further undermine a woman’s pursuit of justice. These factors may include (i) the way defence lawyers cross-examine rape victims; (ii) the excessive focus on the conduct of victims during the trial; (iii) the endemic corruption, irresponsibility and insensitive attitudes of police towards women; and (iv) the threats of rapists with their superior social and political connections to the families of victims and to witnesses of the case not to lodge or continue the case.

Bangladesh assumes international obligation to respect and ensure women’s right to equality and dignity through ratifying over a dozen human rights instruments including the Convention on the Elimination of All Forms of Discrimination Against Women 1979 (CEDAW). This article argues that the legal provisions in the country regarding rape, and the manner of their applications, are unfairly prejudicial and discriminatory towards women. The government through this prejudicial practice not only violates women’s fundamental rights to life, but also violates international norms as embodied in the CEDAW. More broadly, this article argues that the responsibility for private acts and omissions should be imposed upon the government. It predominantly focuses on how the law and the trial proceedings involving rape in Bangladesh impact on women’s access to justice and on their possibilities of effective redress. The prime objective of this work is to seek flaws in the rape laws of Bangladesh and to remedy these by reference to international practices. It concludes that a substantial number of changes in the law and trial proceedings for rape, and an accountable government, can minimise the systematic sufferings of rape victims in Bangladesh.

---