

Human Rights Violation Through Rape in Bangladesh: A Legal Study

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Abstract: Rape is a crucial abuse of human rights that mistreats one person's sexual autonomy, bodily integrity, and dignity. It is a violent and coercive act that harms deep physical, psychological, and emotional wounds. Despite laws against rape worldwide, cultural and societal attitudes often blame victims, causing many cases to go unreported and not able to be punished due to fear, stigma, and lack of legal support. The legal understanding of rape has changed over time, moving from a narrow view of forceful intercourse to recognizing any unwilling act as rape. This abstract highlights the legal definitions and protections to treat rape as a serious human rights violation, ensuring justice for victims and encouraging societal change to eliminate this crime.

Keywords: *Grave, Victims, Intercourse, Rape, Stigma*

Introduction: Rape is a disgraceful crime in our society. The honor, freedom, and quality must be upheld and defended. The Penal Code defines rape as "sexual intercourse with a woman against her will, without her consent, by coercion, misrepresentation or fraud or at a time when she has been intoxicated or duped, or is of unsound mental health and in any case if she is under 18 years of age" [1]. The right of women to live an honorable and peaceable life, free from the trouble of sexual violence. Anyone meaning such a crime must consider the severe counters accusations and be dissuaded by the law and its penalties. Despite this, justice for rape victims is often elusive. Many victims hesitate to file complaints due to the societal stigma and embarrassment associated with rape. Even when complaints are filed, perpetrators frequently escape punishment due to gaps in knowledge about the relevant legislation and systemic flaws. In countries like Bangladesh, rape is alarmingly prevalent. Total 573 women were raped in Bangladesh in the year 2023 [2]. Rape is a thoughtful destruction of human rights, and it must be met with severe consequences, including the death penalty for perpetrators in Bangladesh legal system. Rape culture means blaming the victims, sexually explicit jokes, tolerance of sexual harassment, publicly scrutinizing a victim's dress, mental state, motives, and history which shifts the burden of safety on women and blames them when they are violated, pressures women to sacrifice their freedoms and opportunities. Rape injures the women's social and economic progress, negatively impacting societal progress. Hence, force violates mortal rights under both transnational mortal rights vities, similar as the Universal Declaration of Human Rights, 1948 (UDHR) and the Convention on the Elimination of All Forms of Discrimination against Women, 1979 (CEDAW), and Bangladesh human rights and moral rights, including the Constitution of Bangladesh and the Penal Code, 1860 by infringing upon individualities' rights to life, liberty, security, and quality, and by immortalizing demarcation and violence against women [3].

Materials & Method: Scope of the Study

The paper discusses the violation of moral rights regarding the determination of rape similar as, every person have a right to live with quality, right to life, right to strength, right to security and particular integrity, free from torture but rape is an act which violates those rights. Rape is recognized as an evil act by both international and domestic laws and linked those rights which are violated by rape. At the end of this study the paper emphasizes that it will help to prevent such pivotal act.

Meaning and Concept of Human Rights

Human Rights that set norms for moral geste and are defended by law in both public and transnational situations. They're widely honored as inalienable and abecedarian, essential to all humans anyhow of any status, and are equal for everyone. These rights demand empathy, adherence to the rule of law, and obligate individualities to admire others' moral rights. Generally, they cannot be abandoned except through due process under specific conditions.

According to the Universal Declaration of Human Rights (UDHR), human rights are that rights essential to all moral beings, regardless of race, coitus, nation, race, language, religion, or any other status [4]. Likewise, human rights include the right to life and liberty, freedom from slavery and torture, freedom of opinion and expression, the right to work and education, and numerous further [5].

Legal Definition of Rape

The word rape is veritably frequently used in criminal law. Reflecting the fact that violence against women exists along a continuum, the Criminal Code rather uses the term "sexual assault" [6]. The criminal law defines sexual assault as the purposeful sexual touching without concurrence. This approach not only criminalizes rape but also other forms of sexual violence. There are three orders of

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offences in the Penal Code (i) Physical (sexual) assault; (ii) Sexual assault with an armament, pitfalls to a third party of causing fleshly detriment; (iii) Exacerbated sexual assault (injuries, maims, disfigures or endangers) [7].

By discrepancy, rape in present-day, Bangladesh continues to be defined as penile-vaginal penetration by manly-on-lady only, in terms of the social law legislated by the British in 1860 [8]. The description is set up in the Penal Code, 1860 as like a man is said to commit rape that except in the case hereinafter accepted, has sexual intercourse with a woman under circumstances falling under any of the five following descriptions [9]:

- (a) against the will of the concern woman; (b) without concurrence; (c) with her concurrence, when her concurrence has been attained by putting her in fear of death, or of hurt; (d) with her concurrence, when the man knows that he's not her hubby, and that her concurrence is given because she believes that he's another man to whom she's or believes herself to be lawfully married; (e) with or without her concurrence, when she's under fourteen times of age. The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) recommends rape as a crime against a woman which creates fleshly integrity and sexual autonomy, and attention on lack of concurrence [10] CEDAW ensures discrimination against women as any distinction, exclusion, or restriction based on sex that aims to, or results in, impairing or denying women the recognition, enjoyment, or exercise of human rights on an equal basis with men, regardless of their marital status, in political, economic, social, cultural, civil, or other areas [11].

National Legal Framework of Rape: Force is a crime which harms the physical and internal well-being and sexual autonomy of the victim substantially [12]. These acts violate moral rights, including the victim's rights to fleshly integrity, sexual autonomy, life, health, particular security, freedom, and equivalency. Regardless of gender or gender identity, everyone has the right to be free from similar demarcation and violence. The Constitution of Bangladesh ensures the fundamental rights [13], to every citizen and foreigners. These fundamental rights are also considered as to moral rights. The public legal frame addressing rape in Bangladesh is exercised by several laws. Then, presenting to these vittles as briefly:

Under the Penal Code, 1860: This Code defines rape and prescribes severe penalties for those crimes. The Code outlines meaning of rape [14], and specifies the punishment, which can include life imprisonment or with imprisonment of either description for a term which may extend to ten years and shall also liable to fine [15].

Under the Nari O Shishu Nirjatan Daman Ain, 2000: *The Nari O Shishi Nijatan Daman Ain, 2000* explains that rape as a complete legal framework for addressing crimes against women and children. It concludes punishment for rape, death due to rape etc [16]. The maximum penalty for rape from rigorous imprisonment to include the death penalty. Where the rape has occurred or gang rape has been committed, penalty can include the death penalty, life imprisonment and also a fine.

The Evidence Act, 1872: This Act provides that the evidence in rape cases, including the prosecution for attempting rape or for an occurrence of committing rape [17]. This section clearly explains that to prove any rape case, there must be necessary supporting evidence in favor of that crime.

The Code of Criminal Procedure, 1898: This Code outlines the major procedures for investigating and prosecuting rape cases, including mention that few important relevant sections relating to rape by her husband [18]. This section clearly explains that Chief Metropolitan Magistrate and Chief Judicial Magistrate court shall (a) take cognizance of the offence of rape where the sexual intercourse was by a man with his wife, or (b) send the man for trial for the offence or if they thinks it necessary to direct an investigation by a police-officer, with respect to such an offence as is referred to in sub-section (1) of the code.

National Women Development Policy, 2011: This policy includes measures and necessary protection for the women from different serious crimes such as sexual crimes to ensure justice for all.

Under the above mentioned laws collectively aim to provide protection, ensure justice for rape victim, and make ensure human rights for women and children in Bangladesh. This policy has been framed under various laws such as the Constitution of Bangladesh, Domestic Violence (Prevention and Protection) Act, 2010, Citizenship Act (amended), 2009, Mobile Court Act, 2009 etc. This policy has been framed ensuring Human Rights and Fundamental Freedoms of Women such as (a) To eliminate all forms of discriminations to women in recognition of the fact that man and woman are all equal in all the areas of human rights and fundamental freedom, such as, socio-political, economic and cultural freedoms; (b) To revise and amend existing law and make necessary legislation to ensure the human rights of women; (c) Ensure equal rights in all the levels of quality education, employment, technical training, equal emoluments, workplace health and safety, social security and health care etc.

International Legal Framework of Rape: The legal framework at the international level regarding rape essentially focuses on human rights law, international criminal law, and humanitarian law. The main summary of the international legal framework of rape are given below:

International Human Rights Law: International Human Rights Law aims to uphold and defend from violation of corporeal rights, including rape or other types of sexual violence. Key points are comprised:

- (a) The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW): This CEDAW agreement recognizes gender-based violence, like rape, as type of discrimination against women. It prohibits rape or any other such kinds of discrimination [19].

- (b) The Universal Declaration of Human Rights (UDHR), 1948: Though it is not legally binding, the UDHR sets out important rights like the personal security matter [20] and protection against degrading treatment [21].
- (c) The term torture is defined under the Convention against Torture (CAT), 1984, as inflicting severe physical or internal pain on a person designedly. This could be done to get information, to discipline someone for an act or someone differently committed, intimidate or force them, or for any discriminative reason. When this pain or suffering is caused by a public functionary or someone acting in a sanctioned capacity, it's considered torture [22]. So, the rights of rape victims to life with quality, non-discrimination, equivalency before the law, and equal protection under the law are continuously violated in Bangladesh. Indeed though transnational instruments mentioned that the each state party shall take effective legislative to help acts of torture in any home under its governance [23].
- (d) International Covenant on Civil and Political Rights (ICCPR): This Convention contains few provisions safeguarding individuals from torture and degrading treatment [24] and ensuring personal security [25]. The ICCPR compels countries that have ratified the treaty to protect and preserve basic human rights, such as: the right to life and human dignity; equality before the law; freedom of speech, assembly, and association; religious freedom and privacy; freedom from torture, ill-treatment, and arbitrary detention; gender equality; the right to a fair trial; right family life and family unity; and minority rights.
- (e) The Rome Statute of the International Criminal Court (ICC): This law categorizes rape as an offence in contradiction of civilization [26] a war crime [27] and there will be a genocide if it caused by (a) Killing members of the group; (b) Causing serious bodily or mental harm to members of the group; (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; (d) Imposing measures intended to prevent births within the group; (e) Forcibly transferring children of the group to another group [28].

Results and Discussion:

Rape and defilements of Human Rights: Force is a violation of human rights according to transnational and public laws, including the Universal Declaration of Human Rights (UDHR), Convention on the Elimination of All Forms of Demarcation against Women (CEDAW), Bangladesh Constitution, and Penal Code. It infringes on an existent's rights to life, liberty, security, and quality, perpetuates demarcation and violence against women. The major human rights which are violated by rape are as follows:

The Right to Life and Security of Person: Rape violates the important right to life and safety of person as stated in the UDHR and the Bangladesh Constitution [29].

Freedom from Torture and Cruel, Inhuman, or Degrading Treatment: Rape is considered a form of torture or painful, unfeeling, or humiliating behavior or penalty, prohibited under the UDHR and Bangladesh Constitution [30].

Contravention of Right to Equality and Non-Discrimination: Rape disproportionately impacts certain groups like women, children, individuals, and marginalized communities, contravening equal right and non-discrimination [31].

Infringement of Right to Health: Force can lead to physical injuries, sexually transmitted infections, unwanted gravidity, and long-term health consequences, violating the victim's right to health and well-being [32].

Violation of Right to Privacy: Rape invades a victim's privacy by entering their most intimate space without consent, often causing feelings of shame, humiliation, and loss of autonomy [33].

Undermining Right to Justice and Remedies: Rape survivors encounter obstacles in seeking justice, including societal stigma, fear of retaliation, limited legal mechanisms, and lack of support services, undermining their right to seek justice and hold perpetrators accountable.

Impact on Right to Participate in Social and Cultural Life: Rape can have significant social and cultural effects, such as ostracism, exclusion, and hindrance of opportunities for education, employment, and community engagement, limiting the victim's full participation in society [34].

In both national and international law, rape is recognized as a grave desecration of hominid rights, with legal frameworks established to prevent, prosecute, and punish offenders. However, challenges remain in ensuring effective enforcement and support for survivors.

Discussion of Case Studies: In Bangladesh Perspective Ain O Salish Kendra (ASK) is a countrywide legal aid and human rights body. Its aim is to create a society which is based on equality, social and gender justice and rule of law. The report by the Ain O Salish Kendra (ASK) in 2023 talks about some really bad stuff happening to women in Bangladesh. Here are the main points: Total 573 women got raped, and sadly, 33 of them were murdered while 5 decided to end their lives after the traumatic experience. Another 129 women had close calls with attempted rape, which led to 3 more deaths and 3 suicides. Around 142 women faced sexual harassment and stalking, which left 12 of them feeling so hopeless that they took their own lives. During protests, things got even worse with 122 getting tortured and harassed just for speaking out. Tragically, 4 men and 4 women lost their lives during these protests. Domestic violence is a big problem too. A whopping 507 women endured violence at home, with 292 of them dying due to torture and another 142 choosing to end their own lives. Then there's dowry-related violence affecting 142 women, with a heartbreaking result of 64 deaths and six suicides. Even domestic workers aren't safe. About 32 female house

helpers were treated terribly, including acid attacks that resulted in the deaths of six of them. One even passed away mysteriously [35].

Case Study 1: The World Organization against Torture works with 200 member organizations in the world. Its purpose is to culminate torture and ill-treatment, assist victims, and protect human rights defenders at risk wherever they are.

Ms. Nilu Rani Das and Ms. Popy Rani Das, on January 26, 2004, two Hindu minority women, were gang-raped, who also looted their property. The perpetrators threatened further violence if the crime was reported. The men, armed with sharp weapons, broke into Ms. Nilu Rani Das's home, and flew away outside with her, and raped them several times. The attackers looted property worth 8,000 Taka and threatened to abduct and kill Ms. Nilu Rani Das's sons if he make a complain to police. Ms. Nilu Rani Das filed a police report the following day, but there was a delay in police action. Allegations suggest that the victim faced pressure and coercion to include false information in an amended report filed on February 9, 2004. None of the perpetrators have been arrested, and the looted property has not been recovered [36].

Case Study 2: On 29 April, a third gender child abducted by a man, named Mofizul when she was returning home and took her to a paddy field where he raped her. He strangle and killed her when she screamed during rape. RAB arrest the accused and disclosed the fact by the commanding officer of RAB battalion in a press briefing on 1 May, 2024 [37].

Case Study 3: In June 2023, the Sunday Times shared a story about two ex-Ukrainian soldiers. They went through torture by Russians while caught & even got castrated using a knife. But they got released in a swap for prisoners of war. A psychologist taking care of them mentioned hearing similar incidents from her colleagues.

Furthermore, the report talked about doctors at a maternity clinic in Poltava. They saw cases where Russian soldiers assaulted women. Later, these women had window sealant injected into their private parts to make sure they couldn't have kids anymore [38].

Findings of the Study

Here are the key findings discovered in this study:

- (a) **Patriarchal Society:** The society, mostly led by men, can sometimes blame victims based on their attire, mental state, or intentions when it comes to rape cases. Sadly, this influence extends to the countries and international lawmakers.
- (b) **Culture of Impunity:** Despite laws such as the Penal Code, 1860, and the Nari O Shishu Nirjatan Daman Ain, 2000 to punish rapists, many victims do not get the justice they deserve. As a result, the victims are constantly deprived of their human rights. Due to excess power and political instability affecting the executive and judiciary, the number of rapes continues to increase.
- (c) **Denial of Justice:** Women's are considered helpless in the current social system. As a result, victims often do not get fair justice. Several recent rape cases have shown loopholes in rape laws. According to the Dhaka Metropolitan Police, only 24 perpetrators have been convicted in the past five years [39]. The current system results in very few convictions, with most cases going unsolved or not receiving justice. This is because 114 women rapes in the first three months of this year (2024) [40].
- (d) **Rape Culture Friendly Environment:** The prevalence of rape stems from a culture that tolerates and even perpetuates such acts. Media and social structures contribute to this harmful culture that undermines security of women as to justice and humanoid rights at the same time. Many assault cases are resolved informally in rural areas rather than through proper legal processes. This directly encourages the perpetrators to commit the same crime later.
- (e) **Social Stigma and Mental Trauma:** Legal and social barriers prevent many assault survivors from seeking justice or reporting their experiences due to fear of stigma and intrusive questioning. Victim-blaming attitudes further discourage survivors from seeking help.
- (f) **Compensation Money:** Offenders can be required to provide financial compensation under the Penal Code [41]. However, current practices often direct this money to government funds rather than directly benefiting the victims, limiting access to true justice for survivors beyond legal consequences.

Recommendations:

1. A special legislation already been existing which may be effective to prevent, and secure criminal administration of justice system and special concentration may be given to sexual offences to maintain a standard level.
2. National laws or practices with international human rights standards and treaties, such as CEDAW and CAT may be implemented strongly with high hand.
3. The countries should encourage making agreement with international treaties to protect human rights, regarding violation of human rights by rape.
4. Universal sexual education programs may be ensuring to the implementation of controlling rape.
5. The national laws are to be harmonized with international human rights standers to ensure women rights.
6. International monitoring branch may be established for collecting actual data on rape from national source.
7. An amendment of the relevant provisions of the Penal Code,1860 is necessary where sexual crimes defines and explains the word "Penetration".

8. A reformation of the Evidence Act, 1872 may be introduced which relate to rape and maintain the restrictions to questioning the victims.
9. Friendly environment for rape victims on medical checkup may be ensuring at all levels.
10. Implementation of sexual education at home and schools may be needed.
11. More public awareness to be created about rape and how rape violates human rights.
12. The verdict must be pronounced in a specific limitation period.
13. Women should learn self-defense techniques with women's empowerment both socially , mentally and physically.

Conclusions: Rape constitutes a grave violation upon human rights, inflicting profound physical, cerebral, and societal detriment upon its victims and master victims' quality. Despite established transnational branch and domestic legal provisions numerous authorities fail to give acceptable protection and justice for rape victim. Some nebulous legal delineations and judicial walls need reforms. Educational enterprise and public mindfulness juggernauts must laboriously defy permissive societal stations towards sexual violence. Actually, gender demarcation and dangerous artistic morals demands sustained commitment at both public and transnational situations. Harmonizing legislative fabrics with global norms and fostering cross-border collaboration crop as vital strategies. The perpetration of these measures holds the pledge of eradicating rape, delivering justice to survivors, and upholding human rights, challenging combined societal engagement and transformative action.

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