TALKING ABOUT RAPE

10 Telling Quotes from Reported Judgments
Preface

This booklet compiles ten quotations from documents that have overturned rape convictions on appeal (finding 'rape' cases among the 'rarest of rare cases' to impose death penalty) or reduced the punishment from death to life sentence. These ten quotes are extracted from leading law reports and are meant to challenge prevailing perceptions on rape and highlight the need to consider rape as not merely a physical assault, but also a violation of self-esteem and personal autonomy. Rape is often considered as the ultimate violation of the self, and it is crucial to approach cases with due sensitivity and respect for the victim's dignity.

I. "Prestige" and "Honour"

It is often assumed that the victim's "prestige" and "honour" are compromised by a rape. This perception is误导ing. In a society where women are often expected to uphold family honour, the assumption that a rape compromises a woman's "prestige" and "honour" can lead to a situation where the victim is blamed instead of being supported. This quote from a law report highlights how the mother and two brothers of the victim tried to save her "prestige" and "honour." However, in the end, they themselves could not save the chastity of the victim.

II. Losing "Precious Chastity"

Chastity is often considered as the most precious asset of any woman. However, rape is not merely a violation of the body, but also a violation of personal autonomy and self-esteem. The quote from a law report states that rape is the 'ultimate violation of the self.' It is a gross violation of the victim's rights and autonomy, and it is crucial to address it with the seriousness it deserves.

III. Family's Dignity and Honour

Rape is often seen as a threat to the family's "dignity" and "honour." However, it is important to understand that rape is a violation of the victim's rights and autonomy, and it is crucial to address it with the seriousness it deserves. The quote from a law report highlights how the family of the victim is affected by the stigma associated with rape.

IV. "Immoral Act"

Rape is often seen as an "immoral act" committed by "low-bred" people. However, it is important to understand that rape is a violation of human rights and autonomy, and it is crucial to address it with the seriousness it deserves. The quote from a law report highlights how the high court division of the supreme court overturned the conviction of the rapists.

V. "Promiscuity" and Social Resistance

The victims of rape are often labeled as "promiscuous" and blamed for the crime. This is a gross violation of the victim's rights and autonomy. The quote from a law report highlights how the victim refused to go to her parents and kept the commission secret to her parents. She did not disclose the fact of her becoming pregnant until she was 3 months pregnant.

VI. A Woman's Invaluable Asset

Rape is often considered as a violation of the victim's "asset." However, it is important to understand that rape is a violation of personal autonomy and self-esteem. The victim's chastity is an invaluable and deathless shame. The quote from a law report highlights how the victim kept the matter of sexual intercourse a secret to her parents.

VII. Resistance and Injury

Rape is often considered as a "resistance" to the victim. However, it is important to understand that rape is a violation of personal autonomy and self-esteem. The victim's body shows injury marks as a result of rape. The quote from a law report highlights how the victim's body shows injury marks as a result of rape.

VIII. Separation, Pregnancy, and Social Resistance

Rape is often considered as a "separation" from societal norms. However, it is important to understand that rape is a violation of personal autonomy and self-esteem. The victim's social resistance is often seen as proof of "promiscuity." The quote from a law report highlights how the victim's social resistance is often seen as proof of "promiscuity."

IX. Death Sentence andثر

Rape is often considered as a "death sentence" to the victim. However, it is important to understand that rape is a violation of personal autonomy and self-esteem. The victim's life is not less than these "rarest of rare cases." The quote from a law report highlights how the victim's life is not less than these "rarest of rare cases."

X. Seeing a Boy as a "Rabid Beast"

Rape is often considered as a "seeing a boy as a "rabid beast."" However, it is important to understand that rape is a violation of personal autonomy and self-esteem. The victim's desire to maintain her chastity is a basic right. The quote from a law report highlights how the victim's desire to maintain her chastity is a basic right.

© Bangladesh Legal Aid and Services Trust | UN Women (2019)
This publication may be freely reviewed, abstracted, reproduced and translated, in part or in whole, subject to acknowledgement of BLAST and UN Women, but may not be used in conjunction with or for any commercial purposes. Any changes to the text must be approved by BLAST and UN Women. Enquiries should be addressed to publication@blast.org.bd
Preface

This booklet compiles ten quotations from judgments of the High Court Division of the Supreme Court of Bangladesh in appeals relating to cases filed under section 9 of the Nari O Shishu Nirjatan Daman Ain 2000 (Women and Children Repression Prevention Act 2000).

All of these are publicly available and have been reported in three leading law reports, namely the Dhaka Law Reports (DLR), Bangladesh Legal Decisions (BLD) and Bangladesh Law Chronicles (BLC).

This booklet aims to offer a quick insight into prevailing perceptions on rape and highlight the language used by courts. These ten quotes are sourced not only from cases where the court overturned rape convictions on appeal (finding the rape complainant to be unreliable) but also cases where it upheld rape convictions.
I. “Prestige” and “Honour”

“[T]he mother and two brothers of [the] victim also saw the commission of rape on the victim, but they also could not save the chastity of the victim due to threat of the accused and also reaction of the medicine administered to them.... But considering the prestige and honour of herself and her family she kept the commission of rape on her undisclosed.”¹

¹Fatema Begum daughter of Azizer Rahman vs. Aminur Rahman Son of Afser Ali and others 25 BLD (HCD) 2005 342, para 3.
II. “Outraging Modesty”

“This victim is an unmarried college student and comes of a respectable family. She has given testimony before the tribunal outraging her own modesty and honour which are dearest to an unmarried girl. We find no reason to disbelieve the testimony of this victim. Her testimony inspires confidence in our mind and we find her testimony reliable.”

Fatema Begum daughter of Azizer Rahman vs. Aminur Rahman Son of Afser Ali and others 25 BLD (HCD) 2005 342, para 50.
III. Losing “Precious Chastity”

“[The] crime committed by accused-appellant No. 1 Md. Wasim Mia is a dehumanizing one and an affront to human dignity. [The] [T]ribunal responded to society’s cry for justice in imposing appropriate punishment to the real offender who is no other than accused-appellant No. 1 Md. Wasim Mia and, also, awarding compensation as a solace to victim...though, compensation in the circumstances cannot be a solace as because victim...lost her most precious article which is her chastity.”

Md. Wasim Mia and another vs. The State 23 BLD (2003) (HCD) 621, para 46. This quote has been shortened to remove the name of the rape complainant to maintain confidentiality.
IV. “Deathless Shame”

“Rape is the *ultimate violation of the self*. It is a humiliating event in a woman’s life which leads to fear for existence and sense of powerlessness. Rape is not merely a physical assault. It is destructive of the *whole personality* of the victim. A rapist not only violates the victim’s *personal integrity* but leaves indelible marks on the *very soul* of the helpless female or girl... Rape for a woman whether major or minor is *deathless shame* and must be dealt with as the gravest crime against human dignity, (Emphasis ours).”\(^4\)

V. Family’s Dignity and Honour

“In the instant case the victim girl comes of a respectable educated family having good background as she is a daughter of a professor of a college and it is not expected that such a person will lodge any false case outraging her modesty and dignity and honour of her family.”\(^5\)

VI. A Woman’s Invaluable “Asset”

“Before parting of, we must record that, if in this case of gang rape committed by three fully grown up men resulting in the death of a helpless teenager, and thereby smashing her person, her dream, her modesty, her dignity, her chastity being regarded as the invaluable and inviolable asset by any women, and when such a crime is committed by the convicts caring the least about the sanction provided for by the prevailing law and caring not at all about any social resistance, as proved by their preplan and conduct, we are surprised to see as to why this case was not treated as a ‘rarest of rare cases’ and death sentence was not imposed on these three rapists and on their accomplice.”

---

VII. A “Maiden’s Virtue”

“[M]aterials on record tend to show that the victim was senior to the jail appellant by age. Then was it possible on the part of a boy who was junior to her by age and also a minor to commit rape upon her forcibly? Should she not try to resist him by physical obstruction or at least by raising outcry. Should she fall easy prey to his lust without any least resistance to save her virtue which was more precious to a maiden than her life itself?"\(^7\)

\(^7\)Sohel Rana vs. State 57 DLR (2005) (HCD) 591, para 28.
VIII. “Immoral Act”

“She kept the matter of sexual intercourse secret to her parents. She did not disclose the fact of her becoming pregnant till before 3 months when the jail appellant allegedly refused to marry her. The parents of the jail appellant came to know about the occurrence only the day before the salish was held. Such a conduct on the part of the victim does not appear to be one of a virtuous girl, eager and anxious to protect her virtue...The birth of a child was the result of an immoral act for which the victim was equally responsible.” 8

IX. Resistance and Injury

“According to Modi’s Medical Jurisprudence, 13th Edition, page 31, the body, specially the face, breasts, chest, lower part of abdomen, limbs and back should have marks of violence, such as scratches and bruises, as a result of struggle. Such marks are likely to be found on the bodies of grown up women who are able to resist. In the instant case, the victim is a grown up lady and there is absolutely no evidence on record of any struggle having taken place, nor were marks of any injury found on the person either of the complainant or of the accused. We therefore, hold that rape has not been proved to have been committed upon the prosecutrix.”

X. “Promiscuity” and “Free Mixing”

‘Here I feel tempted to recall a comment of the aforesaid case of Jayanti Rani\textsuperscript{10} that:

“If a full grown girl consents to the act of sexual intercourse on a promise of marriage and continues to indulge in such activity until she becomes pregnant, it is an act of promiscuity on her part.”

Here, in the case, there was no charge of abduction. The prosecutrix reached the bedroom of the romeo, on her own accord and stayed there for quite few days. Meanwhile they two came out and once again went back to the refuge of the appellant. Amidst such free mixing, it is presumed that these two adults, man and woman, amicably indulged in sexual intercourses.’\textsuperscript{11}

\textsuperscript{10} Jayanti Rani Panda vs. State of West Bengal 1984 Cri.L.J. 1535.

This booklet compiles ten quotations from reported judgments to provide a quick insight into prevailing perceptions on rape and the language used by courts in rape cases. It is published as part of our *Rape Law Reform Now* campaign, which highlights barriers to justice faced by rape survivors in Bangladesh to emphasise the urgent need for reform.