

## A Study on Pattern of Alleged Rape Cases At SBMC, Barisal

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### SUMMARY

Rape is a common social problem having great implication on the Victim, family, Judiciary and state. However it is very difficult to prove the actual rape because it is difficult to establish whether it is a consented sex or actual rape. 176 cases of alleged rape were studied during the period of 2003-2006 at the SBMC, Barisal. Of these, 130 cases had consented sexual intercourse. 46 victims were subjected to rape. Cases include different age groups, their occupations, living areas, time of arrival for medicolegal examination have been studied. Most of the cases were students. An alarming number of victims were subjected to gang rape. Examination and reporting of the cases with have been discussed.

**Key Words:** Alleged Rape, Pattern, Consented Sex, Gangrape

### Introduction

Rape is defined as the unlawful sexual intercourse by a man with a woman without her consent, against her will or with her consent obtained by force, fear or fraud, or with any woman with or without her consent, below the age of sixteen years<sup>1,2,3,4,5</sup>.

Cases of alleged rape are commonly encountered in Bangladesh. The daily newspapers publish these news that makes the readers concerned about the problem.

The laws regarding rape are stated in the section-375 of penal code-1860, Section-6 of repression of omen and children (Special provisons) Act 1995, and section 3 of suppression of violence against women and children, 2000. Punislunent for committing the offence of rape is rigorous imprisonment for life and additional fine.

Patterns of the 176 victims have been discussed in this paper.

### Materials and Methods

176 alleged rape cases were brought to the author for medicolegal examination in the four years

spanning from 2003 to 2006 at the Department of Forensic Medicine of Sher-E-Bangla Medical College, Barisal. Printed medicolegal examination report forms were used to record the findings of the cases.

After receiving a victim and going through the requisition letter of the investigating officer, the victim was explained the nature and purpose of her medical examination and informed written consent was taken. Consent taking and medical examination were carried out in presence of a female attendant of the medical college.

General information, including identification marks of the victim were recorded. Menstrual history, any history of past sexual intercourse or pregnancy and the complete history of the incident were noted. Her demeanour, any signs of resistance or struggle, conditions of her clothes clad at the time of alleged rape, her height, weight, development of her body, eruption of teeth, growth of axillary and pubic hairs, development of the breasts, any other injuries over the body were noted.

Genital examination was done carefully after full abduction of thighs. The condition of the labia

majora, minora, hymen, fourchette, clitoris, vagina and cervix were noted. High vaginal swabs were taken and examined in the department of pathology for spermatozoa and diplococci. Radiological examination of wrist, elbow, shoulder, ankle, knee, hip joint and pelvis and sometimes clavicle were carried out in the department of Radiology and Imaging of SBMCH for radiological determination of age of the victims. Report of the microbiologists and radiologists were reviewed.

Considering the findings of physical examination of the victim, radiological and laboratory tests, opinion about age, rape, recent or past sexual intercourse was given.

## Discussion

In the study, 46 cases (26.14%) were opined as rape and 130 cases (73.86%) had consent to sexual intercourse. Police started litigation in all the cases and the victims were brought for medicolegal examination with the request to give opinion as to rape or otherwise.

It must be remembered here that a good number of victims of rape do not report to the police because of consequent marital discord, harassment by the police and relatives and to avoid humiliating cross-examination in the court by the defense counsel<sup>6</sup>.

History about the incident, age of the victim, her demeanour, evidence of resistance offered by her, gapping of labia majora with some exposure of the vaginal opening after full abduction of thighs, tear of the hymen, increased dimension of the vaginal canal, presence of spermatozoa in the vaginal swabs were based to give opinion regarding sexual intercourse.

In the study spermatozoa could not be detected in the vaginal swabs. This was likely due to late arrival of the victims for medicolegal examination, again most of the victims had bath and genital wash after the sexual act and before medical examination as they did not know the value that genital wash destroyed the evidence. Table IV)

Diagnosis became easier when coitus took place on children and virgins where signs of genital injuries were usually present.

It was very difficult to diagnose where Sexual intercourse took place in deflorate women and semen not detected in the vaginal swabs.

130 cases (73.86%) of alleged rape were not considered as rape case on the basis of the victim's history of love affairs, leaving home secretly with their fiances, living with them for many days, absence of physical signs of resistance prior to coitus, sometimes their direct admission that they had sexual intercourse with consent and will and without any duress.

The cause of litigation in case of girls who had consented sexual intercourse was that their parents could not accept what their daughters have done or the alleged fiances refused further relationship with the girls.

When any of the ingredients of rape could be shown by medical examination finding the case was opined as a rape case. In other cases, opinion like "sexual intercourse took place in the past or medical examination findings were not inconsistent with the statement of the victim" was given.

But KS Narayan Reddy stated that the medical officer should never make a diagnosis of rape, he may give opinion that there are signs of recent vaginal penetration or recent sexual intercourse and the signs are consistent with the history given. He further stated that rape is an accusation easily to be made and hard to be proved and harder to be defended by the party accused.

The important corroborative signs to diagnose rape are signs of active resistance, presence of spermatozoa, diplococci in the vaginal swabs. The presence of spermatozoa in the vagina is a proof of sexual intercourse but not of rape. Absence of spermatozoa is no proof that intercourse has not taken place for they may have been removed by washing, or by vaginal discharges, or there may not have been emission of semen during intercourse or the man was azospermic due to vasectomy or naturally or condom was used by the rapist.

Gang rape was quite common (45.65% of raped cases) in my study. A group (2 to 7) of unscrupulous persons planned and abducted the victim and subjected her to forceful sexual intercourse by each of the rapists. Sometimes the victim was threatened to hurt or death if she would refuse or resist the sexual act and the victim had to surrender.

Most of the alleged rape victim occupation were student (50%), Servant (5.11%) and one house (44.88%) Table II. The educational level was (89.77%) educated and (10.23%) illiterate Table III. Mostly of the alleged rape victim were Village (94%) from town (5.98%) Table I. Most motive for alleged rape was sexual pleasure but many were change of religion Hindu girls being Muslim 2.27% and fiance Hindu being Muslim 1.39% Table VI. The common age group of vulnerable victims was thirteen to eighteen years (73.9%) of the raped cases. Twenty seven girls (67% of the raped cases) were below sixteen years of age, what was the age of valid consent for sexual intercourse. The rapists who were the young adults chose minor girls for sexual gratification.

Most of the alleged victims of rape were nulliparous (97.16%). The time interval between sexual intercourse and medicolegal examination of the victims was between three to seven days in 68.18% cases. (Table V)

This was the main cause of negative results of vaginal swab examination for spermatozoa.

A few (1.17%) of the victims were found pregnant following alleged sexual intercourse (Table VI). So, problem would arise if pregnancy could continue to full term and a baby would be born. Again, no doctor would carry out abortion in this case if no therapeutic indication arises. But treatment like M. R. (menstruation regulatin) is widely available in this country for women who missed a period due to pregnancy, which is nothing but an unlawful induced abortion.

This study excluded an autopsy case of suicidal hanging of an unmarried female servant aged about 18 years. High vaginal swab from her dead body taken prior to autopsy showed spermatozoa under microscopic examination. It is clear that she

was subjected to sexual intercourse before hanging. The motive of her suicide could not be explained. The offender could not be found out. Here, DNA finger printing examination could solve the problem.

Death associated with sexual offence is not commonly encountered. Death occurs either because the woman rejects the sexual approaches or the offenders do not want to keep her alive to complain against them. The mode of killing is pressure on the neck, head injuries, stabbing or injuries associated with sexual activities themselves<sup>7</sup>.

## Results

The results of the medicolegal examination of the victims are shown in the following tables.

**Table I:** Residence of the victims

	No. of Victims	Percentage
Villages	166	94.32%
Towns	10	5.98%
Total	176	1.00%

**Table II:** Occupation of the victims

	No. of victims	Percentage
Students	88	50%
Servants	9	5.11%
Own house works	49	44.88%
<b>Total</b>	<b>176</b>	<b>100%</b>

**Table III:** Education status (from class-II to XII of the victims)

No. of victims		Percentage
Educated	158	89.77 %
Illiterate	18	10.23 %
Total	176	100%

**Table IV:** Time between alleged coitus and medical examination

	No. of victims	Percentage
Between 24 & 72 hours	6	3.41%
Between 3 & 7 days	120	68.18 %
Between 8 & 30 days	38	21.60%
Between 1 & 4 months	12	6.82%
Total	176	100%

**Table V:** Parity of victims

	No. of victims	Percentage
Parous	5	2.84 %
Nalliparous	171	97.16%
<b>Total</b>	<b>176</b>	<b>100%</b>

**Table VI:** Pregnancy status of the victims

	No. of victims	Percentage
Non-pregnant	173	98.29%
Pregnant	3	1.71%
<b>Total</b>	<b>176</b>	<b>100%</b>

**Table VII:** Changing religion by the victims and their fiances

	No. of victims	Percentage
Hindu girls becoming Muslim	4	2.27%
Victim's Hindu fiance becoming Muslim	2	1.14%
<b>Total</b>	<b>176</b>	<b>100%</b>

**Table VIII:** Division at rape cases and cases of consented coitus.

	No. of victims	Percentage
Victims subjected to rape	46	26.14%
Cases of sexual intercourse with consent	130	73.86%
<b>Total</b>	<b>176</b>	<b>100%</b>

## Conclusion

This study shows that only one fourth of the alleged rape victims are the real rape cases. The victims of other cases had consent to sexual intercourse. There were several victims below the age of consent who cannot give valid consent to sexual intercourse as per law.

Moral and religious education for the teen-aged and young people, and wide publication and broadcasting about the offence and its punishment may reduce the crime from society. Quick and sincere legal investigation and medical examination of the victims will certainly help the courts to punish the culprits and this will threaten others to commit such offences.

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