



MEMORANDUM

To: Hon. Justice M. Imman Ali, Supreme Court of Bangladesh

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CC: Elizabeth Brundige, Executive Director, Avon Global Center for Women and Justice and Visiting Assistant Clinical Professor, Cornell Law School

Date: May 7, 2013

Re: Child Marriage in Bangladesh: occurrence and links to sexual harassment

Bangladesh has one of the highest occurrences of child marriage in the world.¹ This high rate of marriage of girls below the age of 18 is due to a variety of causes, including patriarchal social mores, parental desire to safeguard girls against premarital sex and out-of-wedlock pregnancies (and the associated social stigma associated with these), and poverty, linked with the perception of girls as an economic burden. In addition to these more widely known causes of early marriage, the widespread prevalence of severe and public sexual harassment in Bangladesh is gaining attention as an important, albeit lesser-studied cause of child marriage. This memorandum examines the occurrence of child marriage in Bangladesh and explores its link with sexual harassment.

Occurrence of Child Marriage in Bangladesh

According to a 2012 United Nations Population Fund (UNFPA) report, “Bangladesh has one of the highest child marriage prevalence rates in the world. On average, about two out of three girls will be married before their 18th birthday.” Furthermore, the prevalence of child marriage in Bangladesh is “much higher than the regional average for South Asia (46%).² The report found that, on average, 66% of girls in Bangladesh will be married before their 18th birthday and that in the western part of the country, on average, 74% of girls will enter into child marriage.³ Higher rates of child marriage in Bangladesh are also associated with girls “who are the least educated, poorest and living in rural areas.”⁴

¹ For the purposes of this memorandum, child marriages are understood as marriages of individuals under the age of 18. The Committee on the Elimination of Discrimination Against Women has stated “the minimum age for marriage should be 18 for both men and women.” CEDAW Committee, General Recommendation No. 21, para. 36. With a child marriage rate of 66%, Bangladesh has the third highest rate of child marriage in the world, after Niger (75%) and Chad and Central African Republic (both at 68%). World Health Organization, Media Centre, *Child Marriages: 39,000 every day*, March 7, 2013, http://www.who.int/mediacentre/news/releases/2013/child_marriage_20130307/en/.

² UNITED NATIONS POPULATION FUND, MARRYING TOO YOUNG: END CHILD MARRIAGE, 64 (2012), available at <http://www.unfpa.org/webdav/site/global/shared/documents/publications/2012/MarryingTooYoung.pdf> [hereinafter MARRYING TOO YOUNG: END CHILD MARRIAGE].

³ *Id.*

⁴ *Id.*

Indeed, the report notes that “[g]irls from the poorest 20% of the households were almost twice as like[l]y to be married/in union before age 18 than girls from the richest 20% of the households.”⁵

Occurrence of Sexual Harassment of Girls in Bangladesh

Sexual harassment of women and girls is a widespread and grave problem in Bangladesh; “[a]ccording to the Bangladesh National Women Lawyers’ Association, almost 90 percent of girls aged 10-18 years have experienced what is known locally as “eve-teasing”, where boys intercept girls on the street, and shout obscenities, laugh at them or grab their clothes.”⁶ Another study found a more modest (yet still extremely high) rate of 43% of adolescent unmarried girls who had experienced some form of sexual harassment.⁷ The BNWLA study, (referenced in various news and academic sources yet seemingly unavailable online) found that 91% of women and girls in Bangladesh have experienced sexual harassment at some point in their lives.⁸ A report by Odhikar, a Bangladesh-based NGO working to promote and protect civil and political rights in Bangladesh, provides some illustrative numbers on the prevalence of sexual harassment:

During the month of January 2011, a reported total of 672 girls and women were victims of sexual harassment. Among the 672 females, 29 committed suicide, 06 were killed, 59 were injured, 91 were ass[a]ulted, 12 were abducted, 15 were victims of attempted rape, 460 were stalked due to their protest against the sexual harassment...⁹

⁵ *Id.*

⁶ Irin News, *Bangladesh: When sexual harassment leads to suicide*, Dec. 13, 2010, <http://www.irinnews.org/Report/91356/BANGLADESH-When-sexual-harassment-leads-to-suicide>. See also Weisfeld-Adams, *Harassment: the effect of “eve-teasing” on development in Bangladesh*, 2 (2008), available at <http://www.thp.org/system/files/Harassment.pdf>; Kristan J. Bakker, *Eliminating Sexual Harassment of Adolescent Girls in Bangladesh: A Comparative Analysis of Multi-Level Strategies*, Capstone Paper submitted in partial fulfillment of the requirements for a Master of Sustainable Development at SIT Graduate Institute in Brattleboro, Vermont, USA, 6 (2013), available at <http://digitalcollections.sit.edu/capstones/2592/>. “Eve-teasing” is a form of sexual harassment that typically occurs in public places and can consist of catcalls, groping, leering, the making of lewd gestures, and other sexually charged acts. BRAC Annual Report 2010, 37 (2010) available at <http://www.brac.net/sites/default/files/Annual-Report-2010/BRAC-Annual-Report-2010-full.pdf>. The severity of “eve-teasing” cannot be dismissed; in 2011, the Bangladesh Supreme Court, High Court Division, held that “eve-teasing” constitutes sexual harassment. Bangladesh National Women Lawyers Association (BNWLA) v. Government of Bangladesh and Others, Writ Petition No. 8769 of 2010, Supreme Court of Bangladesh, High Court Division (2011), available at <http://ww3.lawschool.cornell.edu/AvonResources/BNWLA%20v%20Bangladesh.pdf>.

⁷ Nurul Alam et al., Sexually Harassing Behavior Against Adolescent Girls in Rural Bangladesh: Implications for Achieving Millennium Development Goals, 25 (3) J. Interpersonal Violence 443, 443 (2010). Interestingly, this study notes that the survey upon which these results are based did not include many older adolescents as “some of them got married and did not fit the inclusion criteria.” *Id.* at 448. The lower finding of rate of sexual harassment of girls may therefore be related to the fact that girls who did experience sexual harassment as teenagers may have entered into early marriage and may not have been included within the survey.

⁸ Weisfeld-Adams, *supra* note 6, at 2. See also Bakker, *supra* note 6, at 6.

⁹ ODHIKAR, HUMAN RIGHTS REPORT 2011, 110 (2012), available at http://www.odhikar.org/documents/2011/English/Human_Rights_Report_2011.pdf.

In a 2010 report, BRAC, a Bangladesh-based development organization working to empower the poor by tackling various poverty-related issues, including gender issues, notes that because of the prevalence of sexual harassment, “[t]he general consensus is that public spaces in Bangladesh are considered unsafe for women.”¹⁰

The seriousness of this problem has been underscored by recent news reports.¹¹ Despite this, the problem is likely still extremely underreported due to the stigma attached to being the recipient of sexual harassment. For example, one female teacher, who had accused a superior of sexual harassment, described her reluctance to come forward about the harassment, saying, “If I reveal my identity, people will see me on television, newspapers will print my photo. I will be treated very badly, isn’t that right?”¹² The stigma associated with sexual harassment is so great that victims may face additional negative consequences if they complain about the harassment they have suffered.¹³ Furthermore, the “everyday” nature of the harassment endured by girls and women in Bangladesh also contributes to the lack of reporting of incidences of such harassment. However, some cases have gained significant media traction and have served to focus a spotlight on this issue.¹⁴

In addition, the Bangladeshi judiciary has recognized the seriousness of the problem of sexual harassment and the lack of legislation on this matter and has taken steps to proactively address this issue. In a 2009 judgment, the Supreme Court of Bangladesh High Court Division sought to address the lacuna in the law by creating guidelines for the prevention and punishment of sexual harassment in the workplace and in educational institutions.¹⁵ Furthermore, in 2011, the Supreme Court of Bangladesh High Court Division held that “eve-teasing” also constitutes sexual harassment.¹⁶

In 2010, the State Minister for Women and Children Affairs, Shirin Sharmin Chowdhury, stated that the Bangladeshi government was considering adding to the Women and Children Repression Prevention Act a section addressing stalking and sexual harassment.¹⁷ In addition, in 2010 the Education Ministry voted to have an “Eve Teasing

¹⁰ BRAC Annual Report 2010, *supra* note 6, at 36.

¹¹ See e.g. United News of Bangladesh, *14 killed in political violence in July; 6 fell victim to extra-judicial killing: Odhikar*, August 1, 2012 (stating that during the month of July, 2012, there were 47 reported incidents of sexual harassment against women and girls); The Financial Express, *No let-up in eve teasing and stalking*, December 3, 2011; Asia Calling, Farzana Rupa, *Women Commit Suicide to Escape Sexual Harassment in Bangladesh*, February 19, 2011, http://www.asiacalling.org/index.php?option=com_content&view=article&id=1864%3Awomen-commit-suicide-to-escape-sexual-harassment-in-bangladesh&catid=99%3Abangladesh&Itemid=377&lang=en. See also Bangladesh National Women Lawyers Association (BNWLA) v. Government of Bangladesh and Others, Writ Petition No. 5916 of 2008, Supreme Court of Bangladesh, High Court Division (2009), available at <http://www.law.georgetown.edu/rossrights/chapters/BangladeshWomenLawyers.html> (listing news reports highlighting incidents of sexual harassment).

¹² Rupa, *Women Commit Suicide to Escape Sexual Harassment in Bangladesh*, *supra* note 11.

¹³ *Id.*

¹⁴ See *id.*

¹⁵ See BNWLA v. Government of Bangladesh and Others, Writ Petition No. 5916 of 2008, *supra* note 11.

¹⁶ See BNWLA v. Government of Bangladesh and Others, Writ Petition No. 8769 of 2010, *supra* note 6.

¹⁷ The Daily Star, *Change in law to punish stalkers soon says state minister*, November 11, 2010, <http://archive.thedailystar.net/newDesign/news-details.php?nid=162146>.

Protection Day” to raise awareness about sexual harassment.¹⁸ However, as of the writing of this memorandum, the Bangladeshi government had not enacted any legislation specifically targeting sexual harassment.¹⁹

Child Marriage Linked to Sexual Harassment in Bangladesh

Sexual harassment can have a ripple effect in various areas, negatively affecting women’s and girls’ access to education, ability to move about freely in society, ability to work outside the home, freedom of dress and speech, and ability to avoid early marriage. The link between sexual harassment and child marriage is under-explored but has been gaining attention in the media as victims of sexual harassment, parents of teenaged girls and NGOs working to promote women’s rights have recently identified sexual harassment as a major cause of early marriage amongst girls in Bangladesh.²⁰

As one report by the United Nations Population Fund (UNFPA) stated, “Child marriage is often seen as a safeguard against premarital sex, and the duty to protect the girl from sexual harassment and violence is transferred from father to husband.”²¹ Furthermore, parents may see marriage as a safety mechanism to protect girls from sexual harassment as the associated stigma and negative social and physical consequences. As a report by the International Center for Research on Women and Plan International notes, “The safety and security of young girls worries parents[,] and they feel that an unmarried girl is vulnerable to sexual exploitation and abuse. Marriage is seen as a preventative measure to protect young girls from potential danger.”²² Indeed, parents may “push underage daughters into early marriages to help escape the aggravations caused by sexual harassment” and “may believe that if their daughter has a husband, they will be saved from such dangers.”²³ One news report noted that a Dhaka-based NGO, Steps Towards Development, has stated that, “in a country where more than 64 percent of girls marry before they are 18, some parents have pushed eve-teasing victims into early marriage to “protect” their honour and safety.”²⁴

¹⁸ Hindustan Times, *Eve teasing taking a heavy toll on Bangladeshi women*, June 16, 2010, <http://www.hindustantimes.com/world-news/Bangladesh/Eve-teasing-taking-a-heavy-toll-on-Bangladeshi-women/Article1-558661.aspx>.

¹⁹ See The Prevention of Oppression Against Women and Children Act of 2000, Act No. VIII of 2000 (BD) (Feb. 14, 2000), *available at* <http://www.hsph.harvard.edu/population/trafficking/bangladesh.traf.00.pdf>.

²⁰ See e.g. United News of Bangladesh, *Schools must have sexual harassment protection policy, guideline: Speakers*, March 14, 2013; The Financial Express, *No let-up in eve teasing and stalking*, *supra* note 11.

²¹ MARRYING TOO YOUNG: END CHILD MARRIAGE, *supra* note 2, at 12.

²² INTERNATIONAL CENTER FOR RESEARCH ON WOMEN AND PLAN ASIA REGIONAL OFFICE, CHILD MARRIAGE IN BANGLADESH, INDIA AND NEPAL (2013), 17, *available at* <http://www.icrw.org/files/publications/PLAN%20ASIA%20Child%20Marriage-3%20Country%20Study.pdf> [hereinafter CHILD MARRIAGE IN BANGLADESH, INDIA AND NEPAL].

²³ BRAC Annual Report 2010, *supra* note 6, 37. See also The Financial Express, *No let-up in eve teasing and stalking*, *supra* note 11; BBC News, Salim Mia, *Bangladesh ‘Eve teasing’ takes a terrible toll*, June 11, 2010, <http://www.bbc.co.uk/news/10220920>.

²⁴ Irin News, *Bangladesh: When sexual harassment leads to suicide*, *supra* note 6. See also United News of Bangladesh, *Adolescent girls in city slums suffer violence at home, in community: Study*, November 23, 2012, <http://www.unbconnect.com/component/news/task-show/id-95681> (giving the example of a 16-year-old girl under familial pressure to enter into early marriage to protect her own and her family’s reputation).

A news report from November 2012 describes the situation of Ayesha (name has been changed in the news report), a 16-year-old living in the Malibaugh slums in Dhaka:

“I work in a garment factory at Rampura in the city. I’ve to w[a]ke up early in the morning to join my workplace. On my way out of the slum, I’m subjected to teasing by stalkers every day,” she said. Aware of such regular stalking, Ayesha said, her family has been putting pressure on her to get married to avoid such unpleasant incident of stalking and to protect their reputation. “If my family arranges marriage for me ignoring my choice, I will be helpless. I don’t know what I should do,” she added.²⁵

The high occurrence of sexual harassment can be especially important when paired with the fact that girls from poor families are more likely to enter into child marriage, as girls from families that do not have the financial ability to pursue legal recourse against harassers may be more likely to be sexually harassed.²⁶ As one report notes, in such a situation, a poor family may have limited means to achieve redress, and “[g]iven the importance of chastity, early marriage is seen as a solution.”²⁷

Indeed, the desire of parents to protect their daughters is especially pertinent in a country where “eve-teasing” has led to suicides by young girls seeking to escape the negative attention, the mental and emotional toll and related negative consequences, such as social stigma and physical violence.²⁸ One news report described how sexual harassment drove one young girl to end her life:

She was a bright, vivacious young woman. Not surprisingly, those qualities made her a sought-after date. But Farzana Afrin Rumi carefully declined all entreaties, focusing instead on her college exams. Undaunted, the failed suitors kept pestering her almost daily. One day they broke into her house in southern Khulna and assaulted her. It was too much. Rumi, unable to endure the shame, took her own life in 2003. She was only 17.²⁹

Where the sexual harassment is associated with stigma and negative physical consequences for the victim and impunity for the perpetrators, victims may seek to avoid

See also UNICEF, Jessie Mawson, *Government, NGO partners and adolescents target ‘Eve teasing,’* July 21, 2010, http://www.unicef.org/infobycountry/bangladesh_55216.html.

²⁵ United News of Bangladesh, *Adolescent girls in city slums suffer violence at home, in community: Study*, *supra* note 24.

²⁶ See CHILD MARRIAGE IN BANGLADESH, INDIA AND NEPAL, *supra* note 22, at 18.

²⁷ *Id.*

²⁸ See *BNWLA v. Government of Bangladesh and Others*, Writ Petition No. 8769 of 2010 (2011), 6-8; Irin News, *Bangladesh: When sexual harassment leads to suicide*, *supra* note 6; The Financial Express, *No let-up in eve teasing and stalking*, *supra* note 11; Bangladesh Government News, *Uplift of nation not possible without development of women*, August 13, 2011; BBC News, Salim Mia, *Bangladesh ‘Eve teasing’ takes a terrible toll*, *supra* note 23; Khabar South Asia, Shahriar Sharif, *“Eve Teasing” claims young womens’ lives*, June 26, 2012, http://khabarsouthasia.com/en_GB/articles/apwi/articles/features/2012/06/26/feature-01.

²⁹ Khabar South Asia, *“Eve Teasing” claims young womens’ lives*, *supra* note 28.

being in public and may, in the absence of other feasible recourse, even seek to take their own lives. In 2010, 28 women “committed suicide . . . and another seven attempted it to escape frequent sexual harassment.”³⁰ In some cases refusals of marriage proposals and other sexual advances from sexual harassers have even culminated in grave physical attacks upon the victim,³¹ including through the use of acid, where the perpetrator throws acid upon the face or body of the victim with the intent of scarring and disfiguring her for life.³² Indeed, one news source quoted Zinnat Afroze, a social development advisor at the Bangladesh office of the international NGO Plan International, naming sexual harassment as one of the two root causes (along with the prospect of reduced dowry payments for a younger bride) of early marriage in Bangladesh.³³

Conclusion

In Bangladeshi society, where education for girls is not a priority and where a “good” marriage may, in the absence of education and employment opportunities, be the pinnacle of achievement for a woman, a high value is placed upon chastity and a girl’s virtue prior to marriage. In such a setting, sexual harassment can brand the victim as a “bad” girl and reduce her chances of achieving a good marriage. In addition, the impunity that perpetrators enjoy means that girls who encounter sexual harassment and their families have little to no recourse against the harassment. This is especially so if avenues to redress might include expensive legal battles or publicity and therefore increased social stigma for the victim. Under such circumstances, the parents of a teenaged girl may believe that early marriage can be a solution to the problem of protecting their daughter’s chastity and good reputation, ensuring a good marriage and therefore a good life for their daughter. Indeed, where poverty renders meaningful redress for sexual harassment unachievable, families may perceive child marriage to be the only viable means of protecting their daughters against unwanted sexual advances.

Sexual harassment can also lead to immense mental pressure for the victim, who may feel helpless in the face of this everyday occurrence and seek to end the persecution and escape social stigma by committing suicide. Parents and families of teenaged girls may reasonably perceive suicide to be a possible outcome of sexual harassment, as there have been multiple such incidents reported in the news. Early marriage may present an

³⁰ Irin News, *Bangladesh: When sexual harassment leads to suicide*, *supra* note 6; Bakker, *supra* note 6, at 1.

³¹ See e.g. The Financial Express, *Teenage girl strangled to death after rape*, July 21, 2011; BBC News, Salim Mia, *Bangladesh ‘Eve teasing’ takes a terrible toll*, *supra* note 23.

³² See AVON GLOBAL CENTER FOR WOMEN AND JUSTICE ET AL., *COMBATING ACID VIOLENCE IN INDIA, BANGLADESH, AND CAMBODIA*, 18-19 (2011) *available at* <http://www.lawschool.cornell.edu/womenandjustice/upload/Combating-Acid-Violence-Report.pdf>; Bangladesh Government News, *Uplift of Nation Not Possible Without Development of Women*, *supra* note 28. See also Farzana Zafreen et al., *Socio-Demographic Characteristics of Acid Victims in Bangladesh*, 6 J. ARMED FORCES MED. COLLEGE BANGLADESH; 12, 14 (2010); Bangladesh Government News, *Uplift of nation not possible without development of women*, *supra* note 28.

³³ Irin News, *Bangladesh: Parents still not heeding early marriage warnings*, Apr. 6, 2011, <http://www.irinnews.org/Report/92375/BANGLADESH-Parents-still-not-heeding-child-marriage-warnings>. See also WUNRN, *Bangladesh – Reducing Child Marriage Through Online Birth Records*, July 3, 2012, http://www.wunrn.com/news/2012/07_12/07_16/071612_bangladesh3.htm.

attractive solution to parents who wish to safeguard their daughters from suicide and self-harm and who are not aware of the dangers associated with child marriage.

In Bangladesh, early marriage affects almost two thirds of the country's female population, and the vast majority of girls encounter sexual harassment as an everyday occurrence. Although the relationship between sexual harassment and child marriage is under-researched, recent news reports and studies underscore that sexual harassment is indeed an important factor contributing to Bangladesh's high rates of child marriage. Although the Bangladeshi judiciary has taken important steps to address sexual harassment, the government must do much more to give effect to the Supreme Court's directives and to address sexual harassment as part of a larger effort to address child marriage.