

Sexual Harassment of Female Students– Violence Against Female Enlightenment: Bangladesh Perspective

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Abstract

Sexual harassment to females or violence against women is not a rare occurrence in Bangladesh like many other countries of the world. But harassment of female students which is an unwanted issue for every civilized community has become a burning question nowadays due to exposure in both electronic and press media. This article is intended to explore and understand the causes and consequences of sexual harassment and sexual violence. It particularly attaches supreme emphasis on identifying and solving any sexual harassment problem that may exist either in or outside educational institutions. A situational analysis of sexual harassment of female students with some recent reported incidents has also been provided. The prevailing guidelines and provisions of laws have been discussed in comparison with the international instruments and policies of some other countries. Finally, an attempt has been made to design a concerted anti-sexual harassment policy in the form of probable necessary recommendations in order to ensure a sound educational environment for facilitating the enlightenment of the female students in Bangladesh.

Keywords : *Sexual Harassment, Violence Against Women, Eve Teasing, Physical Psychological Torture & Enlightenment of Female Students.*

1.0 Introduction

Women have always been susceptible to violence since the evolution of human civilization. Not only in developing or under-developed countries but also in many developed countries of the world, women frequently fall victim to different types of violence. Bangladesh is not an exception to this. In Bangladesh, women particularly tender-aged females very often undergo different types of violence like sexual harassment, physical assault, murder, rape, grievous hurt, psychological torture and many other degrading or inhuman treatment.

It is quite natural that when any violent act occurs, general people do not possess any curiosity as to the identity of the culprit or aggressor; rather they express high regret regarding the nature and extent of the violence. But when

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the violence is committed by the parents, legal guardians or teachers of the victim, people become amazed because every violence has its own ethics and when it is done by any fiduciary relation, such unethical violence cannot be endured in usual circumstances.

Everyday in Bangladesh, female students, particularly tender aged girl students are frequently harassed at their educational institutions, on roads, at coaching centres or even inside their houses while receiving education from private tutors. It is quite shameful that the percentage of harassment by teachers is higher than harassment by others. The incidents which had been exposed in electronic and press media showed that majority females had been reported to have been sexually harassed by their teachers rather than the others.

Sexual harassment in education always remains a 'forgotten secret' since educators and administrators refuse to admit the problem existing in their institutions or do not want to accept their legal and ethical responsibilities to deal with it. Sexual harassment not only ruins the female entity but also poses a great threat towards female enlightenment. In Bangladesh, sexual harassment of female students has been prevailing and continuing for a long time but due to lack of exposure in both electronic and press media, this violent issue has always remained in darkness.

2.0 Understanding the concept of Sexual Harassment

The term 'Sexual Harassment' was first used in 1973 by Dr. Mary Rowe in a report about various forms of gender issues. (Mary, R. 1974) Sexual harassment means an uninvited and unwelcome verbal or physical behaviour of a sexual nature especially by a person in authority towards a subordinate (as an employee or student). (Denaro, N. 2013). It can take many forms, including requests for sexual favours, unwelcome sexual advances or other unwelcome verbal, physical or visual conduct of a sexual nature made, either explicitly or implicitly, as a term or condition of any individual's employment, as a basis for employment decisions affecting the individual, or in a manner that creates an intimidating or offensive working environment. (Merriam-Webster, 1828).

Sexual harassment can happen to anyone - male or female, student or adult employee. It makes one feel uncomfortable, fearful or powerless, and interferes with his / her usual activities. Although most definitions refer to sexual harassment in employment, with a few changes they apply to educational institutions too. In educational institutions, students particularly young female students undergo sexual harassment more comparing to the male students. Behaviour that is enjoyed or welcome is not sexual harassment.

'Unwelcome' is a key element in determining whether any behaviour

constitutes sexual harassment or not. (Brown, N. October 2013). Conduct of a sexual nature is unwelcome when the students being harassed do not request or invite the conduct and regard it as offensive or undesirable. There are situations where it is obvious and reasonable that behaviour is unwelcome. But there are also situations where it may not be so obvious.

While definitions of sexual harassment vary, most include similar essential elements like:

- Touching someone in a sexually suggestive way that is not welcome;
- Making verbal comments that are offensive (including offensive name calling) and vulgar comments about someone's gender, physical anatomy or characteristics and also joking having sexual implication;
- Facial expressions (e.g. winking), leers and stares, howling, catcalls, whistles;
- Concerning, blocking, standing too close or following;
- Showing sexually oriented or suggestive pictures, magazines or other materials;
- Demand or request for sexual favours;

In the case [Bangladesh National Women Lawyers Association (BNWLA) vs. Government of Bangladesh and others. Writ Petition No. 5916, (2008)] the term 'Sexual Harassment' has been defined as an unwelcome sexually determined behaviour (whether directly or by implication) and it also includes:

- Insult through letters, telephone calls, cell phone calls, SMS, pottering, notice, cartoon, writing on bench, chair, table, notice boards, walls of office, factory, classroom, washroom having sexual implication;
- Taking still or video photographs for the purpose of blackmailing and character assassination;
- Preventing participation in sports, cultural, organizational and academic activities on the ground of sex and / or for the purpose of sexual harassment;
- Making love proposal and exerting pressure or posing threats in case of refusal to love proposal;

Attempt to establish sexual relation by intimidation, deception or false assurance.

2.1 What constitutes Sexual Harassment between a teacher and a female student?

Sexual harassment by teachers is one of the major factors responsible for the existence of sexual harassment in educational institutions. The following expressions and signs of a teacher will also constitute sexual harassment: (Feyi, F. & Moji O. 2002).

- **Staring, leering and ogling** – These are non-verbal means of sexual harassment. A teacher may constantly stare at a particular female student which may make her feel embarrassed and uncomfortable.
- **Frequently commenting on personal appearance of students** – Teachers should not pass remarks like: “I like your hairstyle”, or “Your face looks impressive” etc. which will lead to the opportunity to indulge in what will turn out to be sexual harassment. Usually, students have to maintain particular dress code and teachers must stick to inflicting prescribed punishment for not maintaining the dress code.
- **Touching the student** – Everyone, including both male and female students, has a right to his or her body. So, physically touching a student particularly a female student is not appropriate.
- **Persistently emphasizing sexuality in all contexts** – This can occur when a teacher continuously views all topics through sexuality. If, for instance, in illustrating a point (both inside and outside the class), a teacher uses sexually degrading words and students feel uncomfortable when such occurs, then sexual harassment of the student may take place.

2.2 Immersion of dedication and morality on the part of the teachers

Imparting education to others is the most sacred activity in this universe and teachers are entrusted with this virtuous duty. When the teachers' community deviate from their dedication and sacred responsibility, it is a matter of great shame and disgrace to the whole society since teachers are the actual nation-builders and torch-bearers of an enlightened community.

Like many other highly developed countries, sexual violence has become normalized in the educational institutions of Bangladesh and as a result of which female students frequently experience sexual aggression from male teachers. It is also horrifying that in less than a period of last four months, at least twenty incidents of sexual violence of female students by their male

teachers and within the arena of their educational institutions have been reported in different dailies of the country. This unwanted issue gives rise to the following questions:

- Are the girl students really safe even at one of the most sacred places of educational institutions?
- Can the parents enjoy an anxiety-free state of mind after sending their daughters to acquire knowledge?
- What will be the value of ethics and morality if the female students are ruined at the honorary hands of their respectable teachers?
- Can the nation expect any type of progress from this demoralized unethical educational spirit?

3.0 Prevailing scenario of Sexual Harassment of female students in Bangladesh: Some reported incidents (2005-2012)

The case of Parimal Joydhar : The beginning of a restlessness

The shameful story of Parimal Joydhar occurred on July, 2011 has become a milestone fact in the history of 'Sexual Harassment of female students in Bangladesh.' It had been reported that Parimal Joydhar, a male teacher of Bengali subject of Viqarunnisa School and College was giving coaching to the students at his residence located at Bashundhara residential area in Dhaka. A female student of class ten of the said institution went for evening-hour coaching on Bengali subject from Parimal. The teacher not only raped her but also recorded the incident in his mobile and threatened the victim that he would post it on the internet if she disclosed the fact to others. Having no other way of escaping from this act of blackmailing, the victim reported the matter to her parents and subsequently a complaint was lodged with the authorities of Viqarunnisa School and College. There were similar incidents which frequently took place at many of the top-ranking educational institutions in the country. There were even allegations against some of the female teachers of leading English medium schools in Dhaka of doing immoral activities. (Rezwan, 2011).

Incidents of Jahangirnagar University

'The Daily Star' in its weekly magazine stated that in the absence of any formal structure of complaint hearing, many Bangladeshi students keep incidents of sexual harassment to themselves. Students fear having their identities exposed to social stigma and in the case of a teacher-student relationship the student is usually too aware of the power advantage the teacher has over her. The magazine continued that sexual harassment on campus finally exploded as a

public issue at Jahangirnagar University (J.U). Since then, a section of progressive teachers have been campaigning for a formal policy on sexual harassment and to date there has been no step in the right direction towards approving such a policy. [The Daily Star. (2008, August 15). p.1]

On November 16, 2006, allegations were brought against a teacher of the Bengali Department of Jahangirnagar University by a first year female student of that department. A fact-finding committee, formed to conduct primary investigation of the allegation against the teacher found her allegations to be true. [The Daily Star. (2006, December 24). p.2]

Rajshahi University

In May 2006, the students of the Botany Department of Rajshahi University called a strike on the campus demanding removal of Prof Nurul Aman for alleged sexual harassment of a female student of the department. [The Daily Star. (2006, May 8). p.1]

Students of Sociology Department of Rajshahi University led demonstration in the campus demanding punishment for, and dismissal of, a teacher of the department for alleged sexual harassment of a female student of the department. [The New Age. (2006, May 10). p.4]

Dhaka University

Assistant Professor Golam Mostafa, was eventually dismissed from his duties. Just before this, a teacher of the BBA department resigned over allegations of sexual harassment. Authorities of Psychology Department at Dhaka University (DU) temporarily relieved a teacher of all kinds of academic activities in the department for his alleged involvement in sexually harassing a female student of the same department. The student along with her father submitted a memorandum to the Vice-Chancellor of Dhaka University accusing the teacher of sexual harassment. [The Daily Star. (2008, August 15). p.1]

Chittagong District

- Mr. Suman Kanti Shill, a teacher of 'Krishnakumari City Corporation Girls' High School' was suspended on the ground of sexual harassment by the governing body after perusing the inquiry report submitted by the concerned inquiry committee headed by the Magistrate of the Chittagong City Corporation. [The Daily Kaler Kontho. (2011, September 05). p.2]

- Three specific allegations of sexual harassment were reported against three male teachers of three high schools, sponsored by Chittagong City Corporation. They were Assistant teacher, Mr. Pranadhir Das of 'Shahidnagar City

Corporation Girls' High School'; Mr. Ashish Baran Raha of 'Shoilabala City Corporation Girls' High School' and Mr. Riton Mutsuddi of 'Aparnacharan City Corporation Girls' High School'. The most specific allegation was against Mr. Ashish Baran Raha, a teacher of 'Shoilabala Girls' High School'. Despite written complaints to Chief Education officer of The City Corporation and to The Education Board of Chittagong, no disciplinary action was immediately taken against Ashish Baran since he was politically empowered. However, it was found that inquiry was going on by the concerned authority. [The Daily Samakal. (2011, July 06). p.1]

- It was alleged that Mr. Shihab Uddin, the headmaster of 'Chadaha Keocia High School', Satkania, sexually harassed a female student of class nine. She had been sexually harassed for quite a number of occasions. The victim finally reported the incident to her parents and they informed the matter to local people. But the headmaster denied the allegation and threatened her that he would expel her from the school. The girl successfully passed the final term exam of class nine but her result was kept withheld. Her parents tried to get herself admitted to another school but due to the influence of Mr. Shihab Uddin, they failed to do so. Consequently, the parents of the girl prevented her from going to school and she had been absent from school since then. Written complaint had been lodged to the governing body of that school, the Education Board, Chittagong and Upazilla Nirbahi Officer of Satkania. The concerned authority inquired of the matter and assured to take adequate disciplinary action against the culprit. It was also found that Mr. Shihab committed sexual harassment not only to that particular student but also to many other female students of the school. [The Daily Kaler Kontho. (2011, July 31). p.1]

Ishwardi, Pabna

A teacher of 'Basherbandha Bohumukhi High School' was caught red-handed while harassing a female student of class seven. He was handed over to the police and the Mobile Court sent him to Pabna jail sentencing four months' imprisonment. [The Daily Samakal. (2011, July 11). p.1]

Roumari, Kurigram

Two madrasa teachers, Moulana Atikur Rahman and Touhidul Islam were caught red-handed while attempting to rape a female student of class nine. The family of the victim filed a complaint case to the Magistrate Court and warrant of arrest had been issued but the teachers evaded the warrant. Processions were held by different organizations and common people built human-chain demanding arrest of the accused but they remained out of reach. [The Daily Samakal. (2011, July 14). p.1]

Sadar Thana, Zessore

The governing body of 'MSTP Girls' School' recommended to suspend one of the teachers of that school, Mr. Abdul Khaleque on the ground of committing sexual harassment to a female student of class nine. The student was harassed many times both at school and at the residence of the teacher during private coaching. [The Daily Kaler Kontho. (2011, July 24). p.1]

Char Samaiya, Bhola Sadar Upazilla

Assistant teacher, Mr. Shishir Kumar Dey of 'Borhan Uddin High School' sexually harassed a female student at his residence while imparting private lessons to her. Written complaints had been lodged to the headmaster as well as the governing body. The governing body said that they had already suspended the teacher from the school when similar allegation was brought before and proved against him. [The Daily Kaler Kontho. (2011, July 25). p.1]

Manikgonj

After having received a complaint, the Honourable Court sentenced three years' imprisonment to a college teacher of Manikgonj Sadar Thana for sexual harassment towards a female student of that college. ['Samay' Channel. (2011, July 26). The News Headline]

Sreepur, Gazipur

Mr. Mahfuzul Haque Iqbal, assistant Professor of 'Mizanur Rahman Khan Women's Degree College' was temporarily suspended from his employment by the governing body of that college. He was alleged to have committed sexual harassment to one of his female students. [The Daily Kaler Kontho. (2011, September 13). p.1]

Moulavibazar, Sylhet

Mr. Mazedul Islam, a teacher of a coaching centre was arrested by the police after a female student filed an FIR to the police station complaining of sexual assault and harassment against him. Later, the Mobile Court sentenced him simple imprisonment of six months and sent him to criminal jail. [The Daily Kaler Kontho. (2011, September 21). p.2]

Sailkupa Upazila

A primary school teacher in Sailkupa upazila has been absconding since June 14 after he attempted to rape a class III student during school hours the same day. The incident came to light Thursday night when relatives of the 11-year-old girl

filed a case against Ramjan Ali Mollah with Saikupa Police Station. Police said Ramjan, an assistant teacher of Bahadurpur Non-government Primary School, ordered the girl to bring a glass of water in the library room about 2:00pm on June 14. As she entered the library room, Ramjan violated her and fled the scene while the girl started screaming. Saikupa Officer-in-charge Sagir Mia said that police were trying to arrest the teacher. [The Daily Star. (2011, June 18). p.1]

Thakurgaon

A female student of class eight of 'Umed Ali High School' was engaged in unethical physical relationship with assistant teacher, Mr. Isarul Haque Isa and as a consequence of which she became pregnant. The accused teacher compelled the girl to suffer miscarriage of her baby and threatened her not to inform the matter to anyone. But the matter was disclosed and charges were brought of rape and sexual harassment against that teacher. The governing body of the school temporarily suspended the accused teacher from taking classes. The local people protested highly demanding exemplary punishment of the teacher. [The Daily Kaler Kontho. (2011, October 01). p.2]

Sreebardi, Sherpur

Mr. Humayun Kabir, assistant teacher of 'Sreebardi Govt. Model Primary School' was arrested by the police after the parents of a female student of class five of that school filed an FIR against him. It was alleged that the teacher unethically proposed to give a kiss to her. [The Daily Kaler Kontho. (2011, October 14). p.1]

Some tables containing statistics relating to sexual harassment have been provided below. No authentic data relating to committal of sexual harassment to female students exclusively has been found. So, the following tables have been prepared relying solely upon the information and statistics provided by some NGO reports and national dailies.

Table 01: Sexual Harassment Statistics (2010-2012) (Odhikar, 2013, p.78)

Year (s)	Girls victimized	Females victimized for protesting	Males victimized for protesting	Total
2012	479	20	129	628
2011	672	42	201	915
2010	273	26	139	438
Total	1424	88	469	1981

Table 02: Consequences of victims resulting from sexual harassment (Odhikar, 2013, p.79)

Total females sexually harassed	Committed suicide	Stabbed to death	Injured	Assaulted	Victims of attempted rape	Harassed in various other ways
479	18	03	24	15	69	350

Table 03: Percentage of Sexual Harassment in comparison with the other forms of violence against women in Bangladesh (2012) (Odhikar, 2013, p.80)

Type of violence	Percentage (%)
Sexual harassment	03
Eve teasing	14
Physical torture	09
Suicide	08
Rape	12
Murder	24
Suspicious death	02
Others	28

Table 04: Percentage of sexual harassment of female students comparing to harassment of females other than students (Odhikar, 2013, p.80)

Percentage of sexual harassment of female students	Percentage of sexual harassment of females other than students
30-35%	65-70%

Table 05: Sexual Harassment and other related violence against women in Bangladesh committed in 2010 (Bangladesh Mahila Parishad, 2010, p.96) [Note 1]

Month	Sexual harassment	Sexual assault	Eve teasing	Physical assault	Rape	Suicide for eve teasing or sexual harassment	Murder
Jan	05	--	08	18	37	01	70
Feb	13	--	13	30	39	03	72
Mar	16	14	24	22	53	03	103
Apr	19	--	77	37	60	05	113
May	09	--	77	24	63	05	92
Jun	07	01	59	27	38	01	100
Jul	15	03	41	46	61	01	101
Aug	21	06	54	33	54	01	117
Sep	08	04	81	21	53	02	112
Oct	19	01	76	49	58	03	113
Nov	14	07	206	32	48	01	74
Dec.	13	01	85	15	29	--	51
Total	159	37	801	354	593	26	1118

4.0 Common causes of vulnerability of female students in Bangladesh

4.1 Fear of 'not to be believed'

Fear of criticism prevents female students from reporting sexual violence in educational institutions. Usually, parents entrust high faith upon the teachers and educational staffs. The sexually harassed female students become ashamed and think that their complaint won't be taken seriously. Somehow, they will be blamed and will receive additional abuse from both parents and the society. They believe that if they report to the authority or their parents, they will bring troubles on themselves. (Theresa, V. A. A. 2008). They don't think that reporting will make any difference; they don't believe that anything will be done about the harassment.

4.2 Teachers having control and exercising superiority

Students are usually of the understanding that teachers have control over their academic career. Some teachers use their position of authority in soliciting sex from students. This concept of exercise of authority makes it difficult for females to refuse sexual advances. They feel embarrassed, helpless, hopeless and powerless. Instead of reporting, they blame themselves.

4.3 Failure to seek justice

One of the main problems is that the sexually harassed female students actually don't know how and where to seek justice against the harassment. They don't even trust their own perceptions of what happen to them.

4.4 Inadequate or idle laws

Due to under-reporting and loopholes or inadequacy of the idle laws, actual culprits remain out of conviction process. This failure of conviction raises confusion among the victims as to whether they should bring the unfortunate incident to light or not. Even if they report the act, nothing will be done. So it is better not to report.

5.0 Probable impacts of Sexual Harassment on Female Students

5.1 Traumatic stress or disorder on female students

The victims suffer from 'emotional trauma' as a consequence of which they feel dirty and ashamed, slowly and gradually lose self-determination and very often develop a sense of distrust and disgrace to others. It is to be noted that in Bangladesh, in a society where great emphasis is given on woman's chastity and where her standing within the family and society depends on it, character assassination affects her in multifarious ways. She loses her dignity, her reputation and value as a woman not only within her immediate family like her husband and children but also within her extended family and in-laws family. She is put to shame to an extent that she gets psychologically shattered. [Bangladesh National Women Lawyers Association (BNWLA) vs. Government of Bangladesh and others, 2008]. The psychological consequences of violence against women can be as grave as the physical effects. Depression is one of the most common consequences of sexual and physical violence against women. Women who suffer from violence are also at a higher risk of stress and anxiety disorders, including post-traumatic stress disorder. (Burden of disease, 2007).

5.2 Drop-out from educational institutions

Out of shame, fear and dishonour those who are sexually harassed, donot like to go to educational institutions and sometimes their guardians also donot allow them to go. So, the drop-out rate of female students in many educational institutions is increasing.

5.3 Early marriage

The parents of the female victims think that if their daughters are married off and have husbands, they will be saved from this danger. Out of this thought,

they push their daughters into early marriages.

5.4 Retardation of development

The period between childhood and adulthood is very important for female students in their development. In this period, they need adequate guidance and social support. But sexual harassment frustrates their psychological and intellectual development and compel them to be dependant on male counterparts.

5.5 Less scope of utilizing potential female resource

Due to dropping-out, early marriage and disruption of development, a considerable portion of potential female resource is being left out from the all-out progressive activities of the country.

6.0 Laws and Guidelines relating to Sexual Harassment under the Constitution and other National Legislations of Bangladesh

There is no separate full-fledged law regulating sexual harassment in Bangladesh. Of course, The Draft Sexual Harassment Law has been prepared but it is yet to come into effect. Provisions relating to sexual harassment and its consequences are dealt with in 'The Constitution of the Peoples Republic of Bangladesh', 'The Women and Children Repression Prevention (Amendment) Act, 2003'; 'The Guidelines of the High Court Division passed in 2009', 'The Penal Code, 1860' 'The Children Act, 1974' and 'Government Servants Discipline and Conduct Rules, 1979'. But there are inconsistencies in the provisions of these Laws and Guidelines since these laws neither specifically define sexual harassment nor provide a clear distinction between sexual harassment or assault and sexual violence.

6.1 The Constitution of the Peoples' Republic of Bangladesh

- The Constitution provides that the State shall endeavour to ensure equality of opportunity to all citizens. [The Constitution of the Peoples' Republic of Bangladesh. Sub-article (1) of article 19, 1972]
- It further provides that steps shall be taken to ensure participation of women in all spheres of national life, which is not possible unless we can put a stop to sexual harassment. Such participation cannot be ensured unless they are protected from this flagrant and pervasive vice. (The Constitution of the Peoples' Republic of Bangladesh. Article 10, 1972)
- All citizens are equal before the law and are entitled to equal protection of law. (The Constitution of the Peoples' Republic of Bangladesh. Article 26, 1972)

- There shall be equality of opportunity for all citizens in respect of employment or office in the service of the Republic and that no citizen shall, on the grounds only of religion, race, caste, sex or place of birth, be ineligible for, or discriminated against, in respect of any employment or office in the service of the Republic. (The Constitution of the Peoples' Republic of Bangladesh. Article 29, 1972)
- Women should have equal rights with men in all spheres of the State and of public life. [The Constitution of the Peoples' Republic of Bangladesh. Sub-article (2) of article 28, 1972]
- Nothing in this article shall prevent the State from making special provision in favour of women or children or for the advancement of any backward section of citizens. [The Constitution of the Peoples' Republic of Bangladesh. Sub-article (4) of article 28, 1972]
- To enjoy the protection of the law, and to be treated in accordance with law, and only in accordance with law, is the inalienable right of every citizen and in particular no action detrimental to the life, liberty, body, reputation or property of any person shall be taken except in accordance with law. (The Constitution of the Peoples' Republic of Bangladesh. Article 31, 1972)
- No person shall be deprived of life or personal liberty save in accordance with law. (The Constitution of the Peoples' Republic of Bangladesh. Article 32, 1972)
- The fundamental rights guaranteed in the Constitution (The Constitution of the Peoples' Republic of Bangladesh. Chapter III, 1972) of Bangladesh are sufficient to embrace all the elements of gender equality including prevention of sexual harassment or abuse.

6.2 Directives in the form of Guidelines provided by the High Court Division against Sexual Harassment

- The High Court Division of the Supreme Court of Bangladesh issued a set of guidelines [Bangladesh National Women Lawyers Association (BNWLA) vs. Government of Bangladesh and others. 2008] on May 14, 2009 preventing sexual harassment of women, girls and children at their workplaces, educational institutions and other public places including roads across the country. The HCD directed the government to make a law on the basis of the guidelines and to treat it as a law until the law is made.
- The HC directed the concerned authorities to form a five-member harassment complaint committee headed by a woman at every workplace

and institution to investigate allegations of harassment of women. According to the HC rule, majority of the committee members must be women. The committee will examine complaints from girls or women if they are subjected to any mental, physical or sexual harassment and recommend to the authorities to take action against the accused persons.

- Sexual harassment has been widely interpreted in the Guidelines. According to the Guidelines, "Disturbing women and children through letters, e-mails, sms, posters, writings on walls, benches, chairs, tables, notice boards and threatening or pressing them to make sexual relations are sexual harassment and torture. Besides rape, sexual provocation, envious or intentional propaganda against women and children, and showing such films, digital images, paintings, cartoons, leaflets, posters and still photographs are also considered as indirect sexual harassment and torture." It has also been stated in the Guideline that nobody can touch or hurt with any bad intention any part of the body of a girl or woman. Any indecent word or comment cannot be used about them, and any unknown adult girl or any woman cannot be addressed as a beautiful one with any bad intention. Teasing women and children through e-mail or telephone will also be considered as offence.
- The HC ordered that any kind of provocation or character assassination will have to be stopped. The HC also prohibited the authorities concerned from disclosing the names and addresses of the complainants and accused persons until the allegations are proved. The HC asked the Law Secretary, Women and Children Affairs Secretary, Education Secretary, Labour Secretary, Information Secretary, University Grants Commission (UGC), University Authorities, Bangladesh Garment Manufacturers and Exporters Association (BGMEA), Bangladesh Knitwear Manufacturers and Exporters Association (BKMEA), Bangladesh Police and Bangladesh Bar Council to comply with the Guidelines.
- The HCD also issued a rule on Wednesday, January 26, 2011, asking the government to explain why a direction should not be given to frame guidelines or policies or enact a proper law to address the issue of eve-teasing to protect the rights of women and girls in the society. Delivering the judgment upon a Public Interest Litigation (PIL) writ petition over eve-teasing, a division bench headed by Justice M. Imman Ali passed the order making its rule absolute. The High Court on Wednesday asked the government to set up a separate cell at each police station across the country in a bid to address the rising criminal offence of sexual harassment and stalking [Note 2] of women. The HC in its observation said the word eve-teasing, a criminal offence, is not fitting as it reduces the gravity of the

offence. Henceforth the word eve-teasing would be replaced by the word sexual harassment in the next enactment of any law in this regard. Besides, the HC asked the government to insert the word stalking, another criminal offence, in the proposed amendment to section 10 Ka of the Nari O Shishu Nirjatan Daman Ain 2000, and enact a law to prevent victims and witnesses considering the prevailing situation. (High Court Division's Landmark Directives. 2009).

- This move by High Court must remain as a landmark in the history of judiciary for protecting women from sexual harassment.

6.3 The Women and Children Repression Prevention (Amendment) Act, 2003

According to this Act, if a woman is forced to commit suicide as a direct consequence of somebody's wilful dishonor or sexual harassment or assault, then the guilty person will be liable to a maximum of ten years' and a minimum of five years' imprisonment. [The Women and Children Repression Prevention (Amendment) Act. Sec. 09, 2003]

The Act also provides punishment for sexual harassment / assault with a maximum of ten years' and a minimum of three years' imprisonment including fine. [The Women and Children Repression Prevention (Amendment) Act. Sec. 09, 2003]

6.4 The Penal Code, 1860

- Whoever assaults or uses criminal force to any woman, intending to outrage or knowing it to be likely that he will thereby outrage her modesty, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both. (The Penal Code. Sec. 354, 1860).
- The Act further states that whoever intending to insult the modesty of any woman, utters any word, makes any sound or gesture, or exhibits any object, intending that such word or sound shall be heard, or that such gesture or object shall be seen, by such woman, or intrudes upon the privacy of such woman, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both. (The Penal Code. Sec. 509, 1860).

6.5 Government Servants Discipline and Conduct Rules, 1979

Conduct towards female colleagues – No Government servant shall use any language or behave with his female colleagues in any manner which is

improper and goes against the official decorum and dignity of female colleagues. (Government Servants Discipline and Conduct Rules. Rule 27A, 1979).

7.0 Major recommendations : In quest of distinct Legislation and appropriate preventive measures

A multi-level approach is required to address harassment in educational settings. But because sexual harassment in educational institutions negatively affects children, often leading to higher dropout rates among schoolgirls, legislation and policy must be very aggressive. In addition, national legislation and local policy must address the fact that adult teachers and staff, as well as students, can be perpetrators of sexual harassment in the educational settings. This requires special considerations in the drafting of law and policy. (The Advocates For Human Rights. 2010).

Table 06: Sexual Harassment Laws and Guidelines prevailing in Bangladesh

Enactments / Guidelines	Article s / Clauses / Sections
The Constitution of the Peoples Republic of Bangladesh	Article : 10, 19, 26, 28, 29, 31, 32 & Chapter III
Guidelines of the High Court Division	Clause : 01 to 11
The Women and Children Repression Prevention (Amendment) Act, 2003	Section : 10
The Penal Code, 1860	Section : 354, 509
Government Servants Discipline and Conduct Rules, 1979	Rule : 27A

7.1 Role of the Government of Bangladesh in combating sexual harassment

At present there are no legislative provisions to address sexual harassment of women and girl children and in the absence of the legislative provisions the need to find out an effective and alternative mechanism to cater the need is an urgent social imperative. In February, 2008, the Government of Bangladesh in the Ministry of Women and Children Affairs adopted 'National Women Development Policy'. Even after adoption of the Policy in 2008, the Government is yet to enact any law to protect the women at their workplaces and educational institutes. In this connection, it is important to mention that the University Grant Commission formulated draft guidelines, namely, "The Guidelines for Elimination of Sexual Harassment and Repression at Higher Educational Institutes, 2008" but ultimately could not adopt those guidelines for various reasons. [Bangladesh National Women Lawyers Association (BNWLA) vs. Government of Bangladesh and others. 2008]

The Government should immediately adopt an anti-sexual harassment policy and enact a full-fledged Law on 'Sexual Harassment' considering the Guidelines of the High Court Division and by following the international models combating sexual harassment prevailing in other developed countries of the world. In the new legislation, the term 'Sexual Harassment' should be precisely defined and must be distinctive from sexual violence. The enactment should contain severe punishment against sexual aggressors and the implementation procedure must be smooth and free from any unexpected delay or inconvenience. In the 'National Women Development Policy', the Ministry of Women and Children Affairs stated about its confirmation and commitment to abide by different international conventions and other international instruments to safeguard and uphold the rights of the women in Bangladesh. It is now left to the sweet will of the Ministry to execute the commitment.

The fundamental rights guaranteed in chapter III of the Constitution of Bangladesh are sufficient to embrace all the elements of gender equality including prevention of sexual harassment or abuse. The international conventions and norms are to be read into the fundamental rights in the absence of any domestic law occupying the field when there is no inconsistency between them. It is now an accepted rule of judicial construction to interpret municipal law in conformity with international law and conventions when there is no inconsistency between them or there is a void in the domestic law.

In the case (H.M. Ershad v. Bangladesh. 2001) it is held that: "The national Courts should not straightway ignore the international obligations which a country undertakes. If the domestic laws are not clear enough or there is nothing therein, the national courts should draw upon the principles incorporated in the international instruments." In the case (Apparel Export Promotion Council v. Chopra. 1999) it is held that "In cases involving violation of human rights, the Courts must forever remain alive to the international instruments and conventions and apply the same to a given case when there is no inconsistency between the international norms and the domestic law occupying the field." The Ministry of Education should administer and supervise 'A confidential report' evaluating the performance of teachers in every educational institutions. The report shall include questions about sexual violence and it shall be filled in by the students. The Ministry of Education, if possible, should make arrangements to facilitate the investigation of sexual violence in educational institutions.

7.2 Role of the abused and their parents

Victims or parents of the victims should not remain silent. One important step to be taken is to speak up. They must come forward and raise voice against the criminals so that innocent young girls may be saved. Students particularly

female students feel shy to lodge complaint to the concerned authority against the sexual aggressor possessing the wrong idea that they would be made liable for that unusual circumstances. They should remember that not speaking up may mean that they are allowing or giving their consent to such an unwarranted action to take place. So, they should be communicated properly that they are not responsible for uninvited sexual offer they receive from their teachers or other students. An important thing parents need to do is to reassure a child who has been sexually harassed that it is not the child's fault, but that the fault lies with the offender.

Parents should also note that efforts should be made on the parents' part to arm the child with the necessary information in order to prevent such occurrences. Victimized female students may keep records of every incident, including dates, times and places, exactly what was said and done by everyone involved and the names of witnesses. This would provide the evidence that is needed to prove that they have actually been harassed. General students and official staffs should be encouraged to report instances of victimization of female students by their teachers or other students.

7.3 Role of the educational institutions

The authorities of all educational institutions should take effective measures for prevention of sexual harassment. Constitutional and statutory provisions against gender discrimination and sexual harassment or torture and also punishment for the offences should be notified, published and circulated widely in an effective manner. To ensure that there is no hostile environment towards female students at educational institutions and to engender confidence and trust in them that they are not placed in a disadvantaged position in comparison to their male fellow students. [Bangladesh National Women Lawyers Association (BNWLA) vs. Government of Bangladesh and others. Clause 6a, 6b and 6c, 2008].

In all educational institutions, the concerned authority will constitute a "Complaint Committee" in order to receive complaints and to conduct investigation and make recommendations. The Complaint Committee may have minimum five members and majority of the members will be women. The head of the Complaint Committee should be a woman, if available. The Complaint Committee should have at least two members from outside the institution concerned, preferably from organizations working on gender issues and sexual abuse. The Complaint Committees will submit annual reports to the Government. A complainant can file the complaint with a female member of the Complaint Committee separately. Complaint can be lodged by the victim or through her relatives, friends or lawyers, and it can be sent by mail also. It must be ensured that the identity of the complainant and also that of the accused will

not be disclosed until the allegation is proved. Security of the complainant will also be ensured by the concerned authority. Normally the complaint has to be lodged with the Complaint Committee within 30 working days of the occurrence.

In case of minor harassment, if it is possible, the Complaint Committee shall dispose of the complaint with the consent of the parties involved and shall report to the concerned authority of the educational institution as the case may be. In all other cases, the Complaint Committee shall investigate the matter. The Complaint Committee will have the power to send registered notice by mail to the parties and the witnesses, conduct hearing, gather evidence, and examine all relevant papers. In this type of complaint, apart from oral evidence emphasis should be placed on circumstantial evidence. To conduct the work of the Complaint Committee effectively the related office of the educational institutions will be bound to extend any cooperation which is requested from them. While recording the testimony of the complainant(s) any question or behaviour which is intentionally based, insulting or harassing should be avoided. The testimony must be recorded in camera.

If the complainant wants to withdraw the complaint or stop the investigation then the reason behind this has to be investigated and mentioned in the report. The Complaint Committee shall submit the investigation report with recommendation within 30 working days to the concerned authority of the educational institution as the case may be. The period of 30 days may be extended up to 60 days where it is found necessary. If it is proved that a false complaint has been filed intentionally then a report will be submitted to the concerned authority recommending appropriate action for the complainant(s).

The Complaint Committee will take decisions on the basis of the view expressed by the majority of its members. The concerned authority may suspend temporarily the accused person (other than students) and in case of students, may prevent them from attending their classes on the receipt of the recommendation of the Complaint Committee. If the accused is found guilty of sexual harassment, the concerned authority shall treat it as misconduct and take proper action according to the disciplinary rules of the educational institutions within 30 (thirty) days and / or shall refer the matter to the appropriate Court or Tribunal if the act complained of constitutes an offence under any penal law. [Bangladesh National Women Lawyers Association (BNWLA) vs. Government of Bangladesh and others. Clause 7, 8, 9, 10 and 11, 2008]

7.4 Role of the media / Awareness raising and creating public opinion

Raising awareness against sexual harassment can be a strong initiative to combat it. All educational institutions will have to attach prime importance to

the publicity and publication against sexual harassment and gender discrimination. There must be sufficient orientation before the formal classes starting for a new session in educational institutions, and monthly, half yearly orientation in all institutions.

There must be arrangement for proper counseling for the concerned persons, if necessary. The educational institutions have to maintain regular communication and effective consultation with the administrative authorities to create awareness among the personnel in law enforcing agencies in this regard. Booklets must be prepared and published containing the guidelines and provisions of the Constitution and Statutes regarding gender equality and sexual offences. [Bangladesh National Women Lawyers Association (BNWLA) vs. Government of Bangladesh and others. Clause 5a, 5b, 5c, 5d and 5e, 2008].

Besides, both electronic and press media have to play a key role in this respect by publishing analytical report with true picture highlighting the instances of sexual harassment that occur at every corner of the country. It shouldn't be forgotten that eve-teasing has been reduced to a great extent only by virtue of this electronic and press media. It is necessary that within all educational institutions the relationship between the parents, guardians and their wards/children should be cordial so that sexual harassment is discussed openly. Imparting education to children about sexual violence by both parents and teachers may be introduced. It is a happy news that "Draft Education Law" in the light of National Education Policy has been prepared for the first time in Bangladesh and in the text book of secondary level, a separate chapter on 'Gender Studies' containing rules and regulations against sexual harassment in educational settings has been recommended for inclusion. [Staff Correspondent, (2011, October 01). The Daily Kaler Kontho, p.1]

7.5 Other strategic initiatives

A public website may be introduced where young victims of sexual violence can express themselves, make reports and thus receive some form of support and reassurance. Through this website, both students and teachers can confidentially report acts of sexual harassment against them or other students. Research should be introduced to investigate programmes used by other countries to control sexual violence in educational institutions. The opportunity of physical and sexual harassment is created due to the culture of private coaching. Necessary actions should be taken by the government to stop such culture of private coaching.

8.0 Conclusion

Sexual harassment, physical and verbal, is not a rare affair that female students are subjected to in modern Bangladesh. But it has become a disease which is slowly and agonizingly spreading in the society and leaving a huge negative impact upon females. There being no full-fledged law on sexual harassment in Bangladesh to date, women of Bangladesh are exposed to sexual harassment randomly. Since the High Court Division of the Supreme Court issued a set of guidelines defining sexual delinquency to prevent any kind of physical, mental or sexual harassment of women, girls and children at their workplaces, educational institutions and other public places, including roads across the country, the authorities concerned should not only carry out the directions but also implement expeditious trial of all incidents of sexual harassment and repression against women and punishment of people responsible for sexual harassment. (Hossain, M. A. 2011).

Sexual harassment of female students by their respectable teachers shall be interpreted as a crime or violence against educational advancement. Legislation alone cannot curb this vice. Besides, it cannot be eradicated overnight. Eradicating sexual harassment from educational arena is, therefore, a revolution and everyone must be involved in. Raising awareness, deliberate upliftment of ethical norms and values and appropriate targeted measures are required to overcome this undesirable situation.

Notes

[1] No authentic data or statistics is available regarding commitment of sexual harassment of female students only.

[2] Stalking is a term commonly used to refer to unwanted and obsessive attention by an individual or group to another person. Stalking behaviors are related to harassment and intimidation and may include following the victim in person and/or monitoring them via the internet.

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