

WOMEN'S SAFETY IN TRANSPORT, CONCEPT OF ZERO FIR AND JURISDICTIONAL GAPS IN BANGLADESHI CRIMINAL JUSTICE SYSTEM

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ABSTRACT

Public transport is an indispensable part of modern life which provides an option of easy mobility service. However, the excessive burden of passengers, chronic environment, overloaded gathering and so on turns the transport sector as the safest place for the perpetrators to commit different types of crimes. General analysis of these related crimes clearly reveals that female passengers are the random victims here and we have to go through some pathetic news like a number of women are raped or gang raped on public transport, the rate of sexual harassment is increasing in road and transport and women are afraid of travelling alone at night. Ultimately, it makes the safe movement of women questionable. But the mandatory requirement of territorial jurisdiction as well as the commission of these crimes in moving transport makes it challengeable for a particular authority to start a prompt legal action. This critical issue has been already taken into consideration by different countries of the world through their legislation as well as different groundbreaking judicial interpretations. This paper aims to identify the nature and pattern of crimes committed against women in moving transport, to analyze existing laws of Bangladesh relating to this particular issue and also explore the possible solution in order to improve the present devastating situation of this branch of crime considering the concept of Zero FIR along with other adequate measures by concerned authority through allowing for a variety of legislative and judicial actions taken by different countries all over the world.

I. INTRODUCTION

It is an acknowledged fact that public transport is an essential contributing factor to economic sustainability, easy mobility, accessibility, affordability and most importantly connectivity.¹ Despite the huge importance of public transport in our everyday life, crime on public transport and the fear of crime associated

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¹ Schaffner, C., "The Importance of Public Transportation for Sustainability in Arctic Cities", June 26, 2017, available at <<https://blogs.gwu.edu/arcticpire/2017/06/26/the-importance-of-public-transportation-for-sustainability-in-arctic-cities/>> (Last visited on February 17, 2019).

with it can have a negative effect that implies risk to the physical safety of passengers and staff, as well as financial losses.² And the fear of crimes in moving transports is being acute for women in Bangladesh as they are the worst victims among all which led to more restriction to women's safety and freedom of movement. The real scenario of women's victimization in public transportation is clearly captured by the survey conducted by Action Aid which revealed 84% of Bangladeshi women have experienced staring, deliberate touching, groping, and sexual comments while travelling.³ With the news of that a mentally disabled woman was raped by the bus driver along with two of his accomplices near to Ibrahimabad Rail station at Bhuapur in Tangail on August 30, 2018⁴ or a women of 45 years old was killed on a moving bus at Dhaka-Tangail highway in Ashulia,⁵ a female garment worker was raped on a moving bus by its workers in Dhamrai⁶, we, the people of a civil society, are being traumatized. We are upset with the inhumanity that has been featured in all this news where women are raped, murdered and harassed in public transport and in some way this cruelty through a big question to us whether our existing legal protection as well as institutional arrangement is sufficient to tackle these crimes against women in moving transport? It becomes high times to attribute more attention to crimes against women in moving transport, especially sexual violence committed on the street, on public transport or in other public places as like domestic violence.⁷ All these types of harassing acts that are randomly experienced by women in public transport along with the other common mode of violence against women in private places can be properly understood as the violations of international law because it is clearly mentioned in the United Nations Declaration on the Elimination of Violence Against Women, 1993 that "violation against women is any act of gender-based violence that results in, or is likely to result in, physical, sexual, or psychological harm or suffering to women, including threats of such

² "Preventing crime on Urban Public Transport", available at <http://www.crime-preventionintl.org/fileadmin/user_upload/Publications/International_Report/CIPC_5th-IR_EN_Chapter-4.pdf > (Last visited on February 17, 2019).

³ Mazumder, H., & Pokharel, B., "Sexual Violence on Public Transportation: A Threat to Women's Mobility in Bangladesh", 28 (2018) *Journal of Aggression, Maltreatment & Trauma*, pp.1-3.

⁴ "Bus Driver held over rape of disabled girl in Tangail", *UNB News*, November 29, 2018, available at <<https://unb.com.bd/category/bangladesh/bus-driver-held-over-rape-of-disabled-girl-in-tangail/7477> > (Last visited on September 17, 2021).

⁵ Staff Correspondent, "Father pushed off moving bus, daughter killed", *NEWAGE Bangladesh*, November 11, 2018, available at <<http://www.newagebd.net/article/55736/father-pushed-off-moving-bus-daughter-killed>> (Last visited on September 17, 2021)

⁶ *ibid.*

⁷ Tabary, Z. "220,000 women sexually harassed on public transport in France: study" *EVERYTHINGNEWS*, December 22, 2017, available at <<https://www.reuters.com/article/us-women-france-sexcrimes/220000-women-sexually-harassed-on-public-transport-in-france-study-idUSKBN1EF2J2>> (Last visited on September 17, 2021).

acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private.”⁸ So adequate legal protections, required amendment in existing laws where necessary are needed to incorporate as a demand of time to make our domestic laws exhaustive considering the effective initiatives taken by other countries in this regard. In this consequence zero FIR can be a great concept for seeking a way to take prompt action by law enforcement agencies to reduce crimes against women in moving transport enhancing the opportunity of easy excess of legal protection for women victims irrespective of jurisdictional dilemma.

II. CONCEPTUAL CLARIFICATION

1. Meaning of Public Transport and Moving Transport: Public transport is an organized system comprising a range of transport modes, including railway (railroads, light rail, metro/subway/underground railway, high-speed rail, and intercity rail), buses, trolleybuses, and trams; ferries; coaches; airlines; water taxis, gondolas; and pedicabs, mainly used by the public as a means of transporting passengers in mass numbers, generally a for-hire system that occurs across a fixed route or line.⁹ As per Section 2 (11) of the Road Transport Act, 2018, Public Transport means “any motor vehicle used or adapted to be used for the carriage of passengers for hire”. In the context of Bangladesh, “Public transport” comprises a wide variety of modes of transport by road, railway, air and water means¹⁰ which includes buses, minibuses, premium (air-conditioned) buses, intercity train, local train, commuter train facilities, intercity bus/coach, local bus, airlines, launches, water bus, boats, trawlers, Uber, rent-a-car, CNG auto rickshaw, autos, regular taxicabs, easy bikes, rickshaw powered by raw muscle, van gari etc. are exclusively used for carrying people and cargo from one place to another in exchange of money.¹¹

Moving transport simply indicates the going or running transport from one place to another to convey the passengers or cargo to the destination. Special emphasizes is given in this paper on moving transport because in most cases different forms of sexual harassment occurred in a public transport when the transport like train or bus was moving as the victim could not flee, huge

⁸ Lind, M., “Violence against Women Riding Public Transport is a Global Issue - Especially in Developing Countries”, *SCHOLARS STRATEGY NETWORK*, June 1, 2013, available at <<https://scholars.org/brief/violence-against-women-riding-public-transport-global-issue-especially-developing-countries>> (Last visited on September 17, 2021).

⁹ Newton, A. D., “Crime on Public Transport, in: *Encyclopedia of Criminology and Criminal Justice*”, London, 2014, pp. 709-720.

¹⁰ Islam, A. M., & Hoque, S. M., “Mode of Transportation Choices in Bangladesh: An Application of Multinomial Logistic Model”, 9 (3) (2020) *International Journal of Probability and Statistics*, pp. 45-53.

¹¹ Zulfikar, A., “Public Transport in Bangladesh”, Dhaka 2017, available at <https://www.researchgate.net/publication/318727300_Public_transport_in_Bangladesh> (Last visited on February 17, 2019).