

Violence against women in Bangladesh-laws and reality

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Abstract

This paper is an attempt to describe various forms of violence against women and their shared links and common roots in the sociopolitical and ideological relations between men and women in Bangladesh society. This paper also raises the issues inherent in considering the complexity of violence and presents cases of resistance against violence. This paper also sheds light on the significant role of women's groups and other Govt. and nongovernment organizations in bringing about the kinds of qualitative change necessary to establish rights for women in Bangladesh.

Keywords: Violence, Murder, Rights, Women, Discrimination.

Introduction

Bangladesh is one of the poorest countries in the world and its estimated prevalence rate of violence against women is extremely high which in turn, is an obstacle to the achievement of equality, development and peace. Due to a lack of reliable base-line surveys, the exact number of women affected by violence is unknown. However, non-governmental organization (NGO) reports indicate that Bangladesh has one of the highest rate globally despite advancements of Women's Rights and a strong history of women's movements. Deeply embedded in cultural and socio-economic practices, violence against women is sanctioned by both society and the state, in the name of culture, tradition and religion.¹

Recognizing violence against women as a violation of Human Rights is a significant turning-point in the struggle to end violence against women globally. A human rights perspective broadens the definition of violence against women and focuses attention on discrimination and inequalities that are maintained or tolerated by the state and that increase women's vulnerability to violence. Violence against women has been recognized as a Human Rights issue since the 1993 World Conference on Human Rights in Vienna, which established that "human rights of women and of the girl-child are an inalienable, integral and indivisible part

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¹ Bhuyia, A, T, Sharmin and S.M,A,Hanif,(2003), "Nature of Domestic Violence against Women in a Rural Area of Bangladesh: Implication for Preventive Interventions," 1st edition, Dhaka:J Health Popul Nutr, ICDDR, ,10-15 .

of universal human rights. Violence against Women (VAW) is the most obvious gender-specific violation of Human Rights, and is a form of discrimination against women. It enforces women's subordination and patriarchal structures throughout all levels of society, leading to issues such as the undervaluation of women's economic contributions. VAW is not only embedded in gender norms; gender norms are also constructed through VAW, and the low status of women – economically, socially, culturally and politically both constitutes and enables the further denial of human rights in gender-specific ways, often at the hands of family members, male and female. Thus, VAW both reflects and determines gendered social structures. That is why framing VAW as a Human Rights violation requiring immediate action is crucial to challenge the economic, social and cultural marginalization of women in Bangladesh.

Despite the existing legislation prohibiting violence and discrimination against women, several police and newspaper reports and hospital statistics indicated the widespread increase in violence against women in Bangladesh, including domestic violence, rape, acid-throwing, dowry-related violence, fatwa-instigated violence and sexual harassment in the workplace. These all contribute to the exploitation, deprivation and oppression of women in Bangladesh, and are violations of the fundamental Human Rights.²

The government of Bangladesh is failing to respect the rights of women as it does not consider all forms of violence against women, including sexual harassment at the workplace or religious induced violence sanctioning immoral behavior and fatwas (an arbitrary religious decree) which remain outside the circumference of the law. The failure to prosecute perpetrators domestic violence is a failure to implement women's civil and political Human Rights, and is also an indicator of the prevalent gender bias present in legal and judicial systems. The CEDAW committee further notes that there is a continuing high prevalence of trafficking for the sexual exploitation of women and girls in Bangladesh. Only a small number of traffickers have been arrested and convicted. Prostitution is another issue to which the government has provided insufficient attention; it is neither banned nor recognized in Bangladeshi law, yet there is a high occurrence of it throughout the country. Little has been done to uphold and protect the rights of commercial sex workers, according to the comments of the CEDAW committee on the combined sixth and seventh periodic report of Bangladesh.

Violence against women remains a pervasive, yet under-acknowledged Human Rights violation in all countries of the world, being especially prevalent in Bangladesh. Violence against women is a deeply entrenched problem in most societies because attitudes and practices that support violence are institutionalized in custom and law at all levels of society – marriage and the family, home, community and state. The Bangladeshi government commits itself to respect, protect and fulfill the rights of women and to work towards the elimination of violence against women through international conventions, covenants and treaties. Withdrawing its reservations to article 2 and article 16.1[c] of CEDAW will allow the full implementation of the convention and for the promotion of women's full enjoyment

² Farouk,S,A, (2005), ``*Violence Against Women: A Statistical Overview, Challenges and gaps in Data Collection and Methodology and Approaches for Overcoming Them*,''1st edition, Geneva: Expert Group Meeting, DAW,ECE and WHO ,20-25.

of their rights including those related to family life. To promote Women's Human Rights and prevent any form of violence against women, the Bangladeshi government must commit to ensuring a number of prerequisites. These include gender equality; improvement of service delivery (ensuring access to justice and services for victims, e.g. women's refuges and shelters); the allocation of adequate resources and funding; ensuring that victims of violence have access to immediate means of redress, rehabilitation and protection; and they must hold offenders accountable for their actions, establishing transparency and accountability in order to enforce positive regulations and legislation.

Rational of the study

The reasons for selecting violence against women as an issue to investigate in the study were manifold. Social practice in our country undermines women's basic human right to a life or dignity, worth and equality. It promotes inequality between men and women, by creating a dominant and subordinate order between the sexes and it thus breaches the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). In the face of actual or threatened violence, women cannot develop to their full human potential or participate in the economic, social, cultural, civil and political arenas on equal terms with men.

Methodology of the Study

Source of Data

Both primary and secondary data are collected for this study.

In primary source, we collect the data our self using methods such as interviews and questionnaires. Focus group interviews, Observation, case studies, Diaries, Critical incidents, Portfolios. The key point here is that the data we collect is unique to us and our research and until we publish, no one else has access to it. Primary data is effective to increase the authenticity and reliability of the research results as it helps to obtain real world information.

In secondary source, data are collected by us from sources other than primary respondents. The main resources of secondary data are, Naripokkho (NP), Bangladesh Mahila Parishad (BMP), Women for Women (WFW), Ain-O-Salish Kendra(ASK), Ministry of Home Affairs, Department of Women Affairs (DWA), Inspector General of Police (IGP) Office, Deputy Inspector General (DIG, Crime), Dhaka Medical College Hospital, Sir Salimullah Medical College Hospital, Community Development Library (CDL), ODHIKAR (A Coalition for Human Rights), and Bangladesh Society for Enforcement of Human Rights (BSEHR).

Objective of the Study

In line with the identified research issues the objectives are as follows:

1. To review the present situation with regard to certain forms of violence against women with regard to frequency, causes and consequences.
2. To make an inventory of State interventions, both past and present, for combating violence against women and compare these to those specified by CEDAW (General Recommendation 19).
3. To assess the effectiveness of these state interventions in reducing violence against women and identify recommendations or areas for action on the basis of the gaps identified.

Limitation of the study

The data which was collected, maintained and compiled in different ways by different organizations and researchers, comparison was difficult. Moreover, while preparing the quantitative tables on incidents of violence, it was not possible to get the details from each source. Many of the organizations have to rely on reports appearing in the newspapers, which are not always complete. Data compilation from newspaper clipping is the only major source of information on incidences of violence in all most all organizations visited. These organizations compile information on the incidence of violence from most common four to five newspapers. In many cases there are overlapping. It should be pointed out here that there exists a lot of debate about the transparency of this important media, newspaper. Details of the incidences are not found from these data, and follow up are not made except in some special cases. Moreover, in the existing data, there is no information about the perpetrators. Furthermore, lack of gender disaggregated data on violence against women deprives the researcher to come up with comparative analysis of the situation of violence against women in Bangladesh.

Extent and trends in incidences of violence against women

General Evidence

Increased research, reporting and activism in the area of violence against women have created an awareness of the problem both nationally and globally. Nonetheless disaggregated data for violence is largely unavailable, except in cases of acid assaults, murders/suicides and custodial violence. The following table shows trends in violence since 2008.

Comparative Frequency of different forms of violence by year

Types of violence	2008	2009	2010	2011	2012	2013
Dowry	82	79	101	134	122	147
Induced Physical torture	258	300	217	350	469	218
Acid attack	21	20	29	39	19	51
Rape	407	582	543	285	326	661
Murder	1904	1500	1879	2269	806	1787

Source: Ministry of Home Affairs, Department of Women Affairs (DWA), 2013.

Family Violence

The family violence is more frequent in rural areas than in urban areas and similarly it is more of a phenomenon in poor households.³

³ Schuler, S, R, S, M, Hashemi and S, H, Badal, (2000) *Man's Violence against Women in Bangladesh: Undermined or Exacerbated by microcredit Programmes* 1st edition, Geneva: Development in Practice, UNICEF, 10-14.

Rape and Sexual Violence

Rape is the second most common form of violence among police First Information Reports of violence against women as well as the form of violence for which women are admitted to hospital for treatment. The majority of rape victims were young. i.e., 1345 (66%) of total victims are below 25 years of age. Out of total 2045 victims, 39% are below 15 years of age indicates extreme vulnerable position of girl children in Bangladesh. In case of 28% (567) cases age is not mentioned. Out of these total 2045 incidents, only 37% of cases are filed. Although most institutional records show that younger women are more susceptible to rape. A detailed look at institutional case records reveal that the age of women is not recorded in most court dockets.

The following table shows the year wise incidents of rape:

Year wise incidents of Rape

Year	Age						Total	Case Filed
	0-5	6-10	11-15	21-25	26-30	Age not mentioned		
2010	9	32	44	41	23	71	220	138
2011	4	34	58	50	22	83	251	152
2012	12	108	173	133	78	201	705	460
2013	37	158	136	129	54	209	723	350

Source: Inspector General of Police (IGP) Office, 2013.

Murder/Suicide

The total number of suicides, from 2010-2013 March, was 450 of which a considerable number of victims (64%) were below 25 years of age and 38% were below 20 years of age. Out of 450 incidents 28% cases were filed with law enforcing authorities. In case of murders, the victims were comparatively older than victims of other forms of violence, such as rape. Out of 379 incidents, 34% victims were more than 30 years of age and 18% were between 21-25 years of age. Age was not mentioned in 22% cases.

The low social and economic status of women can be both a cause and a consequence of violence against women. Gender violence represents an expression of human behaviors and attitudes and is deep rooted in the society. The immediate causes of violence vary with the type of violence or in other words, there are different causes for different types of violence. However, causes can be categorized as immediate, intermediary and underlying. The immediate causes are the “trigger” factors e.g. alcoholism but the underlying factors are generally the subordinated position of the women and her powerlessness.⁴

⁴ Zaman,H,(1999)“*Violence against Women in Bangladesh: Issues and Responses*,” 1st edition, Dhaka: Women`s Studies International Forum,44-50.

Causes of Murder (2010-2013)

Causes	Male	Female	Total
Enmity	14	-	14
Family Feud	7	17	24
Political	14	-	14
Land Dispute	14	4	18
Dacoity	10	-	10
Dowry	-	12	12
Rape and Failed Rape	-	8	8
Unidentified causes	46	46	92

Source: Inspector General of Police (IGP) office, 2013.

Community Violence

During 2008-2009, there were 92 incidents of community violence of which 52 (56%) were lashes and 13 (14%) was social boycott/isolation and 12 (13%) was “hilla” marriage. Of these 92 cases only 22 cases were filed with law enforcing authorities. In the period Oct-Nov 2008, 4 cases of community violence occurred. Out of these four cases, in one case after lashing and cutting hair both husband and wife committed suicide. Two of the other punishments were lashings. All the “Fatwas” were given due to pre-marital love affairs.

Year wise incidents of community violence (2008-2013)

Year	Hilla	Lashes	Stoning	Social boycott	Beaten with shoes	Whipping	Cutting Hair	Burnt alive	Abandonment	Suicide	Total
2008	1	2	-	3	2	1	3	-	2	3	17
2009	2	2	1	2	-	1	2	-	2	2	14
2010	3	2	1	2	1	-	1	1	3	2	16
2011	1	2	1	2	2	2	1	-	3	3	17
2012	2	1	2	3	2	2	3	1	2	4	22
2013	1	2	1	2	3	2	3	1	2	5	22

Source: Ain-O-Shalis Kendra Documentation, 2013.

Custodial violence

Though sex disaggregated data is not available but out of total 90,000 cases in the last 25 years, women were targets of 5867 cases which also included rape. Apart from these, during 1996-97, 85 persons including Seema Chowdhury died in police custody among which 41 died in 1997 and the rest 37 died in 1998. It is worth mentioning here that among the 37 who died in 1998, 3 were convicted and rest 34 died due to police torture i.e., their accusation was

not proved or they were innocent in most cases perpetrators are either unknown persons or miscreants. The second most important perpetrators are husbands or lovers. When girl children are victims of violence, most cases the perpetrators are known persons (63) followed by neighbors (38) and lovers (29) as found from secondary sources. It important to note here that though violence may occur at any time of the day but night and early morning are two important time of occurrence of girl child abuse.

Violence in Police Custody in last 25 years

Compliant of violence	90,000
Investigation done	11,923
Judicial trial is done	212
Convicted	223
Died (due to torture by police)	321
Judicial trial is done(out of 321)	3
Charge sheet was not submitted	-
Violence against women including rape	5867

Source: Daily Dinkal, 31July 1998 cited in Naripokkho, 2014.

State interventions related to violence against women

Obligations under CEDAW:

The State has generally regarded violence against women as a women's issue or at best as a crime against an individual. However, the women's movement in Bangladesh has emphasized that incidences of violence against women should be considered as crimes against the state since state laws are violated and it is the States responsibility to ensure that justice is served.

Bangladesh has ratified the Convention on the Elimination of All Forms of Discrimination against Women with reservations Articles 2 and 16.1 c. These reservations are in process of being reviewed. It has also ratified the Optional Protocol but has declared that it would not undertake the obligations arising out of Articles 8 and 9 of the Optional Protocol.

Beijing Follow-up:

Bangladesh has endorsed the Platform for Action (PFA) of the Fourth World Conference of Women held in Beijing in 1995 without any reservations and it committed to ensuring its implementation at national level.

Accordingly a National Action Plan (NAP) was drafted (February 1997) for the advancement of women through reviewing twelve ministries. Apart from other issues, the NAP envisaged a specific national policy on violence against women adopting the definitions of Beijing Platform of Action.⁵

⁵ Hossain,K,T,(2007)``Violence against Women in Bangladesh,`` 2nd edition, ,Hong Kong: Keung Publishing house ,40-45.

Following the NAP, the government declared a National Policy on Women on 8 March 1997. The National Policy identified actions against violence against women as a priority area for government intervention. It suggested the following specific actions for the eradication of all kinds of oppression against women:

- Eradication of physical, mental and sexual harassment at the family and social level, rape, prostitution of women, dowry, and violence against women.
- Amendment of the existing laws, which are repressive to women in order to update these laws and formulation of new laws and giving special assistance to the oppressed women.
- Stop trafficking of women and rehabilitate women who have been trafficked.
- Eradicate oppression of women, ensure participation of women in judicial system, and at all levels of police force in order to implement the laws properly.
- Make judicial procedures easy so that all legal procedures to prevent the torture of women and the girl child and trafficking are complete within six months.

Similarly, the Fifth Five-Year Plan has identified elimination of all sorts of violence against women, including trafficking of women and girl child as one of the goals.

More specifically, the Plan suggested adoption of appropriate measures towards

- The reduction of insecurity faced by women and girls;
- The elimination of all sorts of violence against women, and for the treatment and rehabilitation of violence survivors; and
- The elimination of trafficking of women and girl children (The Fifth Five Year plan, 1997-2002).

From the eighties, due to the increasing pressure put forward by women's movement for combating violence against women, the Government of Bangladesh has undertaken series of steps and measures designed to reduce violence against women which will be discussed as follows:

- Laws
- Law enforcement
- Criminal Justice System

Law

a) The Muslim Family Laws Ordinance 1961 (Amended up to date). This ordinance extends to the whole of Bangladesh and applies to all Muslim citizens of Bangladesh wherever they may be. This ordinance describes terms like "Arbitration Council",

‘Chairman’, Municipal Corporation Paurashava, Union Parishad, Polygamy, Succession, Divorce in Islam, Modes of Talaq, Dissolution of Marriage otherwise than by Talaq, Maintenance and Dower. The provisions of this ordinance shall have the effect notwithstanding any law, customs and usage.

b) The enactment of Dowry Prohibition Act of 1980 (Act No. XXXV of 1980), later amended by the Dowry Prohibition (Amendment) Ordinance, 1982 (Ordinance No. XLIV of 1982). This act had been enacted to prohibit the taking or giving of dowry in marriage. If any person after the commencement of this act gives or takes dowry, his punishment will be five years’ imprisonment or not less than one year or will be fined.

c) The Cruelty to Women (Deterrent Punishment) Ordinance 1983. This ordinance is a special law providing for deterrent punishment to the offences of cruelty to women. This ordinance includes offences like kidnapping, trafficking, dowry death and torture, rape etc. The offences under this ordinance shall be tried by criminal courts.

All provisions under this ordinance shall have effect over other general laws.

d) Child Marriage Restraint Act 1929 (as Amendment in 1984). The Act defines the terms, ‘child and minors’, meaning a person under twenty one years of age in case of male and under eighteen years of age in case of female. The Act also describes the punishment for male adult above twenty one years of age or female adult above eighteen years of age contracting a child marriage shall be punishable with simple imprisonment which may extend to one month, or with fine which may extend to one thousand taka or with both.

e) The Family Court Ordinance, 1985 (Ordinance No. xviii of 1985). It was an ordinance to provide for the establishment of Family Courts at the district and thana level. It extends to the whole of Bangladesh except the districts of Rangamati Hill Tract, Bandarban Hill Tract and Khagrachari Hill Tract. The Family Court shall have exclusive jurisdiction to entertain, try and dispose of any suit relating to, or arising out of, all or any of the following matters, namely;

- i) Dissolution of marriage
- ii) Restitution of conjugal rights
- iii) Dower
- iv) Maintenance
- v) Guardianship and custody of children.

f) Promulgation of (Amendment) Ordinance inserting the new section 326-A in the Penal Code providing capital punishment for acid throwing.

g) Prevention of Repression of Women and Children Act 2000 replaced the Repression of Women and Children (Special Enactment) Act 1995: The Act defines, court, rape, Dowry, Women, Children, Code of Criminal Procedure, 1898, High Court Division and importance of such laws. This law also describes punishment of various offences.

It provides for Special Courts for the cases coming under the Act. The offences are considered to be non-bail able (with certain exceptions). There is a time limit set for the investigation and the completion of the case (although in most cases it is not respected). The 2000 Act compared to the 1995 Special Enactment has included three new forms of violence to be considered as offences: sexual harassment, media coverage of the victim and filing of false cases under the Act. It also stipulates that the maintenance for a child born out of rape has to be provided by the rapist.

Law Enforcement

The Government of Bangladesh in 1993 has set up a cell, called “Nari Nirjaton Protirodh Cell”, within the Police Headquarter, to take specific cases and complaints involving violence against women. This cell is administered by an Inspector and collects monthly data from all districts (Naripokkho, 1998).

Detective Branch (DB)

These branches of the police may get involved with cases to do with violence against women, but their work is not solely related to VAW. Police from the DB on their 8 hours shifts are supposed to be responsible for checking hospital registers for cases of violence.

It seems they usually only check the registers when they are following up specific cases.

(Naripokkho, 1998).

Criminal Justice System

Special Courts:

There are Special Courts established under the Women and Children Oppression act to try the offences like: i) death and grievous hurt by erosive, poisonous or corrosive substance, ii) rape, iii) dowry (death and grievous), iv) trafficking and v) kidnapping and abduction. The 2000 Act provides for setting up of special courts one in each district. So far ten of these have been set up.

Special Tribunals:

These courts are set up under a special status called the Special Powers Act 1974. In 1983 there was another ordinance as mentioned before, to control oppression and violence against women called “Cruelty to Women (Deterrent Punishment) Ordinance”. Under this Ordinance offences like kidnapping, trafficking, dowry death and torture, rape etc. are being tried in special tribunal courts governed by the Special Powers Act 1974. These courts have the power to give death sentences, which should be confirmed by the High Court Division of the Supreme Court.

Village Courts:

The village courts are established under the Village Court Ordinance of 1976 to deal with few civil and criminal matters including specific complaints of polygamy, divorce, maintenance etc. For criminal matters this court deals with minor physical assault and some other minor criminal matters.

Conclusion and recommendation

In spite of all these initiatives, progress in the achievement of women's rights has been slow world-wide. When the assessment of the implementation of the Forward Looking Strategies was carried out for the Fourth World Conference on Women, it was acknowledged that a decade after Nairobi, equality between women and men has not been achieved. State should take a fresh commitment to the realization of women's equal rights. State should take actions at national level in fulfilling their obligations to women to be systematically monitored and used as a base by women for advocacy.

To combat violence against women:

- (1) Removal of remaining reservation on CEDAW Article 2 and 16.1(c) is needed.
- (2) The family court governed by Family Law Ordinance 1985 should be lead by a 1st class magistrate or Judge whose authority must be same.
- (3) Assault and battery within marriage and marital rape should be recognizes in the Women and Children Repression Act, 2000.
- (4) Training and orientation to Law enforcement personnel on VAW human rights and gender to remove negative and disrespectful attitude of police towards women.

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