



# **Sonargaon University (SU)**

## **Research Monograph**

**On**

## **An Analysis of Factors Associated with Domestic Violence against Women in Bangladesh**

**Research Monograph Submitted for the partial fulfillment of the award of the degree in**

**LLM (1 Year)**

**Department of Law**

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### **Submitted by**

**Mithila Afrin**

ID No. LLM2501032004

Program : LLM (1 Year)

Department of Law

Sonargaon University (SU)

### **Supervised by**

**Sharmin Jahan Runa**

Assistant Professor & Department Head

Department of Law

Sonargaon University (SU)

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## Letter of Transmittal

To

**Sharmin Jahan Runa**

Assistant Professor & Department Head

Department of Law

Sonargaon University (SU)

Subject: Submission of Research Monograph on “**An Analysis of Factors Associated with Domestic Violence against Women in Bangladesh**”

Dear Madam,

This is a great pleasure to submit the Research Monograph on “**An Analysis of Factors Associated with Domestic Violence against Women in Bangladesh**” as a partial requirement for the fulfillment of my LL.M course under the Department of Law of the Sonargaon University (SU).

I have given due efforts to make this Research Monograph as fruitful one and to make it as informative as possible. I hope that this paper will not be the formality of academic course completion rather it will be a source of information for other purpose on this topic.

Yours sincerely

.....

Mithila Afrin

ID No. LLM2501032004

Program : LL.M (1 Year)

Department of Law

Sonargaon University (SU)

## Declaration

I do hereby declare that the Research Monograph Title “**An Analysis of Factors Associated with Domestic Violence against Women in Bangladesh**” prepared solely by me and which has been submitted to the department of Law, Sonargaon University (SU) for achieving the LL.M (1 Year) Degree. This is an original work of mine. No part of this research, in any way of or in from, has been submitted to any University or Institution for any Degree, Diploma or for other similar purposes.

.....

Mithila Afrin

ID No. LLM2501032004

Program : LL.M (1 Year)

Department of Law

Sonargaon University (SU)

## **Supervisor Certificate**

This is to certify that the work presented in this dissertation is based on the work, carried out by the author herself under my supervision in Department of Law, Sonargaon University (SU).

It is also certifying that the work presented here is original and suitable for submission as the style and contents, for fulfillment of LL.M. program.

.....  
**Sharmin Jahan Runa**

Assistant Professor & Department Head

Department of Law

Sonargaon University (SU)

## Acknowledgement

**\*In the name of Allah, the Beneficent, the Merciful".** Praise by Allah & thanks to Allah for patronizing me to finish this Research Monograph. I am very happy to finish it. It is a great Research of my life. It is a long cherished hope of my life to become a great lawyer. That's why I have admitted in the Department of Law in Sonargaon University (SU) to fulfill my dream. But through my whole study life in this field, I did not get much more opportunities to examine and show my knowledge and skill in this wide field. Lastly I have got a great chance to make my study meaningful when I got the chance to prepare a Research Monograph on **An Analysis of Factors Associated with Domestic Violence against Women in Bangladesh**

I acknowledge my grateful to respected course teacher **Sharmin Jahan Runa** for instructing me how to prepare a Research Monograph and his famous Books lectures on this subject help me to complete my task sincerely.

I am also thankful to my classmate as they help me to complete the Research Monograph. I am extremely paying my solitude to all the authors and writers whose works help me to draft this original Research Monograph.

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Thank you

**Mithila Afrin**

## ABSTRACT

Domestic violence may be defined as violence perpetrated by a man upon a woman and vice versa in course of leading a domestic life. Domestic violence in Bangladesh is not rarity but phenomenal prevalence. Women are reported to be physically tortured, sexually assaulted, psychologically injured and mentally humiliated within their homes by their husband or other members of the family. Physical injury is mostly due to women for realization of illegally demanded dowry in Bangladesh, the children are seen to be subject of domestic violence. Domestic violence is experienced more or less in almost all countries in one form or another and considered as a Serious Social problem. It is found to exist in almost all strata of social classes, cultures, social status and ethnic background victims of domestic violence in the under developed countries are mostly found to be wives who are economically disadvantaged. Various women's organization in Bangladesh has taken up the responsibility of working for advancement of women folk. A very loud demand has been and is being made by them for stopping domestic violence against women. They urge security and safety for the women. Most of the women experience domestic violence at the hands of an intimate partner or family member in her lifetime. Acid burning, dowry deaths are very common in this context. To combat against this violation, the present law should be implemented. However despite the deployment of strong laws to deal with the problem Domestic Violence against Women is increasing. Social awareness raising efforts need to be introduced. Educational programs should focus on patriarchal social norms that perpetuate Domestic Violence. Increased research on Domestic violence can also contribute in addressing the problem identifying crucial factors of interventions.

**Keywords:** Categories of violence, Constitutional rights, Protection, Legislation

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# **CHAPTER ONE**

## **GENERAL INTRODUCTION**

### **1.1 Statement of the Problem**

Domestic violence is not an uncommon occasion in Bangladesh. The exact prevalence in domestic violence is difficult to capture due to cultural understanding and sensitivity of the issues existing in the society. As domestic violence surrounds a range of issues, the significance of the problem is observed in various forms and facts. In Bangladesh, it is prevalent in immeasurable ways, from wife abuse to rape, dowry killings, acid throwing, sexual harassment and mental torturing.

Gender-based domestic violence affects men, women and children. It is a serious problem that exceeds racial, economic, social and religious lines. More so, it affects human health, undermines human dignity and in the long run become a major drawback to economic development. When families get involved in gender-based violence, a lot of time is spent in settling of disputes and nursing psychological and physical wounds of violence. This becomes worse where management strategies of gender based domestic violence are not available.

At present, women are the victim of violence, and they die and suffer in silence. Women's sufferings lead to acute and continual physical problems including psychological depression and suicide. The existing laws do not directly deal with domestic violence, and the judicial and legislative systems are not very much receptive to deal with this issue. The National Health Policy is still underway to be publicized. The Health Sector Reform documents, such as Health and Population Sectorial Program (HPSP) and Health, Nutrition and Population Sectorial Program (HNPS) bring issues of violence against women at surface, but domestic violence as a health issue is not yet prioritized. Even with the project-based trial of different interventions by the Government and national and international NGOs, it is still not clear how domestic violence as a health issue being addressed by them. Considering the fact, this research aims to explore how domestic violence is addressed as a health issue at policy level, how the policy communities interact with each other to deal with women's domestic violence and what challenges and gaps remain in addressing domestic violence.

## **1.2 Research Question**

An Analysis of Factors Associated with Domestic Violence against Women in Bangladesh?

## **1.3 Objective of the Research**

Domestic violence is one of the most discussed problems nowadays in Bangladesh. Recently, this problem is increasing day by day. We have laws in our country to protect domestic violence but these laws aren't implemented properly. Hope, one day we will go ahead by overlapping this problem. But, in spite of having statutory laws, there is no effective progress on this issue. So, with a view to set up some effective solutions I have decided to make a thesis on this issue. The main objective of my research is to explore the cause, impact and ways of root out the domestic violence, propose different approaches in the eye of law and social awareness for remove domestic's violence and give some recommendation for preventing violation of women rights.

## **1.4 Literature Review**

Several research works have been done and books are published on the topic of domestic violence, but in my knowledge there is no such work which has solely focused on domestic violence. Moreover, most of the previous works have been by persons who have legal teaching background without knowledge on this topic. On the legal relationship some books and journals which bear much significance, are being stated below in brief:-

Domestic violence in Bangladesh is now most important issue. Kazi Tobarok Hossain and Md. Saidur Rashid Sumon highlight some of the major dimensions of violence against women in Bangladesh.<sup>1</sup>

In addition they discuss different types of violence against women take place quite frequently in Bangladesh such as domestic violence, acid violence, rape, gang rape, murder, and forced prostitution, eve-teasing which is very much relevant to my research topic.<sup>2</sup> I agree with them but I would like to focus specially the domestic violence in Bangladesh as well as the problems which actually the women face and the effective solution to solve such problems.

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<sup>1</sup>Kazi Tobarok Hossain and Md, Saidur Rashid Sumon, „Violence against Women: Nature, Causes and Dimensions in Contemporary Bangladesh“ (2013) 10(1) *Bangladesh e-Journal of Sociology*, 79.

<sup>2</sup>*Ibid.*

Shirin Sabnam Tohin mainly highlights the domestic violence which is a universal crisis and which not only affects women's health but also goes beyond to affect their social and economic lives.<sup>3</sup> In every country, domestic violence has been found to be by far the most common, widespread and far-reaching form of general-based violence. Domestic violence against women, especially violence committed by a women's husband is a serious problem in Bangladesh. Violence against women perpetrated by her intimate partners or ex-partners is also available in Bangladesh.<sup>4</sup>

In Bangladesh, most of the women experience domestic violence at the hands of an intimate partner or family member in her lifetime. Dictate and provoke spousal violence against women impediments women's well-being and overall development that it has direct consequences for women's health-physical, mental, sexual and reproductive as well as economic cost, and afterwards adverse effects on psychological development of children.<sup>5</sup>

Despite the enactment of laws and recognition of international laws as to women's human right in Bangladesh, it is still pervasive. I have found some information regarding domestic violence against women in Bangladesh which is also inseparable part of my research.<sup>6</sup> I agree with her but I would like to focus specially the domestic violence in Bangladesh as well as the problems which actually the women face and the effective solution to solve such problems.

Kazi Shariful Islam states that violence is not a very unfamiliar scenario of third world country like Bangladesh.<sup>7</sup> Domestic violence is very much familiar in this country. But very especially the main victims of this violence are women. Because of the socio-economic situation most of the women are helpless of this type of developing countries.<sup>8</sup>

Most of the people believe that only financial condition and lack of education are only liable for the domestic violence against the women. It is one of the reason but not the only reason. A lot of rich and literate women are also victimized for this violence. So it will be really foolish work to say economic or illiteracy is the main reasons for this violence.<sup>9</sup> I agree with him but I would

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<sup>3</sup>Shirin Sabnam Tohin, „Prevalence, factors and psychology of spousal violence in Bangladesh: A comparative study on rural-urban traits“ (2015) 3(11) *Quest Journal of Research in Humanities and Social Science*, 58-67.

<sup>4</sup>*Ibid.*

<sup>5</sup>*Ibid.*

<sup>6</sup>*Supra note 3.*

<sup>7</sup>Kazi Shariful Islam, „Domestic Violence against Women in Bangladesh: A Critical Analysis from Social Legal Perspective“ (2015) 7(7) *European Journal of Business and Management*, 404.

<sup>8</sup>*Ibid.*

<sup>9</sup>*Ibid.*

like to focus specially the domestic violence in Bangladesh as well as the problems which actually the women face and the effective solution to solve such problems.

Kaosar Afsana, Sabina Faiz Rashid and Wilfreda Thurston highlight that Bangladeshi part of an international comparative study done on domestic violence policy communities in five countries.<sup>10</sup> The principal focus here is to explore the extent to which domestic violence is understood as a health policy issue and addressed in the National Health Policy of Bangladesh. The results are based on review of country level health policies and plans for the next five years and on the interview of policy-makers, service providers, health care professionals, lawyers and police force working at government and non-governmental organizations and woman victims as well.<sup>11</sup>

The findings reveals that after the International conference on population and development in Cairo and Women's conference in Beijing, much emphasis has been placed on violence issues in Bangladesh, particularly by the government and non-governmental organizations (NGOs). However, in recent years the one stop crisis Centre operating under the Ministry of Women and Child affairs had been in place in two tertiary hospitals in Bangladesh. The Centre offered medical treatment for the immediate problems caused by domestic violence and also arranged legal and social supports for abused women through NGOs, but, they did not have any programs for violence prevention. Their communications with local NGOs allowed them to receive cases from far villages.<sup>12</sup>

Many NGOs relied on each other for linkages and partnerships to assist abused and vulnerable women, however, critical gaps existed in overall integrated coordination. It is crucial to have comprehensive understanding of the policy makers and planners about how domestic violence affects women's health, how gender inequity causes domestic violence and why it is important to address domestic violence in health policy. This will lead to better policies and strategies to improve the situation of women's health affected by domestic violence and facilitate abused women to receive appropriate legal and social support in Bangladesh.<sup>13</sup> I agree with them but I

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<sup>10</sup>Kaosar Afsana, Sabina Faiz Rashid and Wilfreda Thurston, Challenges and gaps in addressing domestic violence in Health Policy of Bangladesh (October 2015)  
<[https://www.ucalgary.ca/wethurston/files/wethurston/Report\\_WDVHPBangladesh.pdf](https://www.ucalgary.ca/wethurston/files/wethurston/Report_WDVHPBangladesh.pdf)>.

<sup>11</sup>*Ibid.*

<sup>12</sup>*Supra note 10.*

<sup>13</sup>*Ibid.*

would like to focus specially the domestic violence in Bangladesh as well as the problems which actually the women face and the effective solution to solve such problems.

Roushan Jahan and Mahmuda Islam highlight on the issue or the problem of domestic violence against women in Bangladesh.<sup>14</sup> It found that in a remote rural area of Bangladesh most of the women experienced physical violence, verbal abuse and other violence through their husbands or their in laws family.<sup>15</sup> Beating by the husband was negatively related with age of husband: the odds of beating among women with husbands aged less than 30 years were six times of those with husbands aged 50 years or more.<sup>16</sup>

Members of micro-credit societies also had higher odds of being beaten than non-members. The book discusses the possibility of community-centered interventions by raising awareness about the violation of human rights issues and other legal and psychological consequences to prevent domestic violence against women.<sup>17</sup> I agree with them but I would like to focus specially the domestic violence in Bangladesh as well as the problems which actually the women face in their life time to perform their duties and responsibilities and the effective solution to solve such problems.

## **1.5 Analytical Framework**

My dissertation is about Domestic Violence in Bangladesh: An Analysis. In my dissertation, I will analysis the topic on the basis of following criteria"s.

### **Implementation of Law**

Implementation of law is the most important criteria of my research. Implementation of law means the application of the law by law enforcing agency in practical life. Without proper implementation every law is useless. From the view point of this sense this criteria has been chosen. It also includes lacunas of law. In every law, there is a common question whether the law is properly executed or not or whether is there any lacuna in the law for which it cannot be implemented properly. Implementation means the proper effectiveness toward anything. Law is

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<sup>14</sup>Roushan Jahan and Mahmuda Islam, *Violence against Women in Bangladesh Analysis and Action* (Women for women and South Asian Association for women studies, 1<sup>st</sup>ed, 1997).

<sup>15</sup>*Ibid.*

<sup>16</sup>*Ibid.*

<sup>17</sup>*Supra note 14.*

only a guideline rather than anything. So proper implementation of law is necessary. In my thesis, on the basis of this point I will find out whether the laws related to domestic violence are properly executed or by the law enforcing agencies and whether there are any gaps in the law in Bangladesh.

### **Lack of proper implementation**

The next criteria of my dissertation are implementation of law. It means the application of the law in real life. In every law, there is a common question whether the law is properly executed or not. In my thesis, I will try to find out whether the provisions of The Domestic Violence (Prevention and Protection) Act 2010 is properly executed or not by the law enforcing agencies and whether there is any inconsistency of it.

### **Lack of awareness**

My third and final criterion of my research work is “lack of awareness”. Lack of awareness is one of my research criteria. Awareness includes the public awareness about the domestic violence against women in Bangladesh. To prevent this domestic violence against women, public awareness is most important in our country. So, people should know about their rights so that they can ensure and establish their rights and should take proper steps to prevent this domestic violence against women in Bangladesh.

## **1.6 Limitation of Research**

There were not available sources for collecting data. Time limitation was not sufficient. Lack of sufficient materials i.e. Reference papers, books, journals etc.

## **1.7 Structure of the Thesis**

In my research there are six chapters.

Second chapter basically deals about the violence against women. As it is an analysis so the categories of violence will be discussed in this chapter. In this chapter, what are the Factors

Associated with Domestic Violence against and their definition will be discussed elaborately. In spite of these causes of domestic violence will be discussed in the chapter.

Third chapter basically discusses about the rights and remedies of victims. Here what are the rights of victim and the remedies available of statute laws for the victims will be discussed from the viewpoint of Domestic Violence (Prevention and Protection) Act, 2010. In spite of discussing these, a brief discussion regarding the domestic violence against women and their rights and remedies will be discussed in the chapter very specifically.

Fourth chapter will narrates the practical scenario due to domestic violence against women in Bangladesh. Here practical scenario means the practical effect due to the violence against women in Bangladesh. How domestic violence will be protected and what are the procedures to protect this domestic violence will be discussed elaborately in this chapter. Which have been discussed in the second and third chapter of the research will be interlinked and this will help me to explain the practical aspect very specifically.

Fifth chapter will narrates the international instruments regarding women rights. Here what are the rights against domestic violence in the viewpoint of various international instruments will be discussed elaborately in this chapter. In spite of discussing this matter, a brief discussion regarding development of women rights in Bangladesh will be discussed in this chapter.

Final chapter basically deals about the ultimate findings of my research. Here the answer of my research question will be provided by mentioning my ultimate findings and logical reasoning's will be discussed in the chapter. Beside of answering research question some recommendations will be provided in this chapter regarding solution of the problem.

## Chapter Two

### Factors Associated with Domestic Violence against

#### 2.1 Introduction

Gender-based violence is violence involving men and women, in which the female is often the victim, and which is derived from unequal power relationships between men and women. Violence against Women is about power and control, where the offender of the same uses violence as a way of immobilizing the other. Gender based violence is violence directed at individuals on the basis of their gender and boys and men can also be the target. Gender based violence is acknowledged as a violation of human rights and a constraint to development throughout the world. It affects women and men, girls and boys of all ages in different ways. However, females are more often the victims than males. Domestic violence, or violence offended in the home or family environment, is a major social problem in Bangladesh. Domestic violence incidences are fairly common and widespread across the country. Women of all economic strata are vulnerable to maltreatment and abuse by husbands, in-laws, and other family members.

This chapter basically deals about the violence against women. So, firstly I will discuss what the domestic violence is and then what are the categories of violence and their definition will be discussed here. In spite of these cause of domestic violence will also be discussed in this chapter. And lastly the findings of this chapter will be mentioned as conclusion.

#### 2.2 Domestic Violence

According to section 3 of the Domestic Violence (Prevention and Protection) Act, 2010, “domestic violence means physical abuse, psychological abuse, sexual abuse or economic abuse against a woman or a child of a family by any other person of that family with whom victim is, or has been, in family relationship.”<sup>18</sup>

- a) **Physical abuse:-** Physical abuse that is, any act or conduct which is of such a nature as to cause bodily pain, harm, or danger to life, limb, or health or impair the health or development of the victim and includes assault, criminal intimidation and criminal force.

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<sup>18</sup>*Domestic Violence (Prevention and Protection) Act, 2010 s 3.*

- b) Psychological abuse:-** Psychological abuse, that includes but is not limited to-
- i) Verbal abuse including insults, ridicule, humiliation, insults or threats of any nature
  - ii) Harassment or
  - iii) Controlling behavior, such as restrictions on mobility, communication or self-expression
- c) Sexual abuse:-** Sexual abuse that is, any conduct of a sexual nature that abuses, humiliates, degrades or otherwise violates the dignity of the victim
- d) Economic abuse:-** Economical abuse that includes but is not limited to-
- i) Deprivation of all or any economic or financial resources or property to which the victim is entitled under any law or custom whether payable under any law or custom or an order of a court or any other competent authority.
  - ii) Not allow to use the articles of daily necessities to the victim.
  - iii) Deprivation or prohibiting the victim from applying legal rights to her stridhan or dower or alimony or any consideration for marriage or any property owned by the victim.
  - iv) Transferring without consent of the victim or prohibiting the victim from applying legal rights to any assets whether movable or immovable owned by her.
  - v) Deprivation or prohibiting the victim from applying legal rights to continued access to resources or facilities which the victim is entitled to use or enjoy by virtue of the family relationship.”<sup>19</sup>

In the absence of dependable national data it is really difficult to talk much on the basis of inadequate quantitative information regarding violence against women in Bangladesh. However, when we go through daily newspapers, we generally find more than one incident of violence

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<sup>19</sup>*Domestic Violence (Prevention and Protection) Act, 2010 s 3.*

against women every day in the country. Such news covers a wide range of different forms of violence against women in our society. These are discussed below:-

### **2.3 Trafficking in women**

Trafficking of women and children is a significant problem in developing countries around the globe and particularly in south Asia.<sup>20</sup>In the absence of social protection economic security and legal support, an alarming number of women and children from the poor, marginalized section of community become easy victims of trafficking Bangladeshi women and children are trafficked both within the country and internationally.<sup>21</sup> The never ending demand for the women and children make trafficking highly profitable business.<sup>22</sup> Victims of Trafficking are generally trafficked for forced prostitution, but sometimes also for other purposes such as organ transplants and slave labor.<sup>23</sup>

### **2.4 Torture by Husband**

Wife beating is the most commonly occurring act of domestic violence in Bangladesh. In Bangladesh it is common knowledge that husband exert their authority and physically assault wives for even minor mistakes such as unsatisfactory meal, an untidy room, and a conversation with another man or any act of disagreement.<sup>24</sup> Men have been socially conditioned to genuinely believe in their own superiority.<sup>25</sup>From childhood they are treated differently from their sisters.<sup>26</sup>They grow to believe that they are more valuable and more deserving than women that their opinions and views should have more weight than any woman"s.<sup>27</sup> In This way, men are able to delude themselves into believing that abuse of their wives amounts to a religious duty and they are completely justified in their actions.<sup>28</sup>

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<sup>20</sup>Kazi Shariful Islam, „Domestic Violence against Women in Bangladesh: A Critical Analysis from Social Legal Perspective“ (2015) 7(7) *European Journal of Business and Management*, 406.

<sup>21</sup>*Ibid.*

<sup>22</sup>*Ibid.*

<sup>23</sup>*Ibid.*

<sup>24</sup>*Ibid* 407.

<sup>25</sup>*Ibid.*

<sup>26</sup>*Ibid.*

<sup>27</sup>*Ibid.*

<sup>28</sup>*Ibid.*

## 2.5 Dowry related Violence

The practice of dowry demand (joutuk) is not deeply rooted in Bengali Muslim tradition but has emerged as a major social evil in recent years.<sup>29</sup> Generally, dowry means the property that the bride's family gives to the groom or his family upon marriage. In Bangladesh law, dowry has been given an extended meaning. Whatever is presented, whether before or after marriage under demand, compulsion or pressure as consideration for the marriage can be said to be dowry.<sup>30</sup> Rising unemployment has contributed to the phenomenon as more and more young men are unable to find employment, their families use marriage and dowry demand as a source of income, prospective grooms and their families demand large sums of money or property from the would be brides family as a pre-condition to the marriage agreement. Although dowry demand is illegal the practice persists in the rural communities.<sup>31</sup>

## 2.6 Acid Assaults

Acid assaults are another prevalent form of violence that may well be a phenomenon unique to Bangladesh.<sup>32</sup> The first documented case of acid attack occurred in 1983 in Sylhet.<sup>33</sup> Acid attacks usually occur when men want to take revenge for the refusal of proposals for sex or marriage, or when demands for dowry are not met or when there is a political clash. However men are also sometimes subject to acid attacks.<sup>34</sup>

## 2.7 Rape and sexual violence

According to Section 375 of the Bangladesh Penal Code, rape occurs when a man has intercourse with a woman of any age without her consent.<sup>35</sup> Many instances of gang rape are also reported as well as rape followed by murder. Rape may occur in different form: marital rape, rape in armed conflicts, rape of women refugees, statutory rape, gang rape, and jack rolling or recreational

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<sup>29</sup>*Supra note 6.*

<sup>30</sup>*Ibid.*

<sup>31</sup>*Ibid.*

<sup>32</sup>*Supra note 2.*

<sup>33</sup>*Ibid.*

<sup>34</sup>*Ibid.*

<sup>35</sup>*Penal Code s 375.*

rape.<sup>36</sup>“Sexual assault or abuse is any type of sexual activity that a person does not agree to, including:

- a) Rape or attempted rape
- b) Touching body or making touch someone else
- c) Incent or sexual contact with a child
- d) Someone watching or photography in sexual situations
- e) Someone exposing his or her body.”<sup>37</sup>

## **2.8 Murder and Suicide**

Both women and men are victims of murder at the hands of strangers as well as known People including family members.<sup>38</sup> Women are often murdered by their closest relatives such as husband, brother, son and in-law as consequence of family quarrel, demand for land, polygamy, husbands extra-marital affair or remarriage, demands for dowry, failure to give birth to children especially a son. In many cases, women commit suicide when they cannot bear the pain of physical and mental torture as a consequence of rape, religion based community violence such as fatwa, dowry demands and abandonment.<sup>39</sup>

## **2.9 Pornography**

Another concern highlighted in the special reporters report is “Pornography” which is represents a form of violation against women that “glamorizes the degradation and maltreatment of women and asserts their subordinate function as mere receptacles for male lust”.<sup>40</sup>

## **2.10 Eve-teasing**

Eve-teasing is a great concern today in the discussion of the violation against women in Bangladesh. Eve-teasing is not new problem in Bangladesh. However, recently it’s a magnitude has increased and it has become a big crisis for the country. Nowadays, it is dealt with seriously

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<sup>36</sup>*Supra note 2.*

<sup>37</sup>*Supra note 17.*

<sup>38</sup>*Supra note 6.*

<sup>39</sup>*Ibid.*

<sup>40</sup>*Ibid 407.*

by different types of professionals, especially social activities and academics.<sup>41</sup> The term “Eve-teasing” is an activity where the girls are teased by the boys.<sup>42</sup> It means, when a boy or a group of boys try to disturb a girl or girls by yelling, showing, sexual gesture and instrument, obstructing, offering bad proposal etc.<sup>43</sup>

## 2.11 Harassment at work places

Whether out of choice or out of compulsion, most of the women who are involved in the work place in all vital sectors of country’s economy may fall in the unorganized sectors.<sup>44</sup> They are ill-paid but don’t leave the job due to increasing unemployment. This need for survival drives to rape situations. Harassment at work place is all pervasive. Women from all backgrounds are attacks each year at work. Among women, murder is the leading cause of death from a work place injury.<sup>45</sup> Sometimes women are attacked during a robbery. Usually, though women are hurt by someone they know, like a co-workers, customer, client or patient. Sometimes attacks are the result of domestic the violation that spills over into the workplace.<sup>46</sup>

## 2.12 Conclusion

Violence against women is a manifestation of historically unequal power relations between men and women, which have led to domination over and discrimination against women by men and to the prevention of their full advancement, and that violence against women is one of the crucial social mechanisms by which women are forced into a subordinate position compared with men.<sup>47</sup> Domestic violence and torture for dowry or dowry deaths generally occur in the privacy of the husband’s home and with collusion of his family members.<sup>48</sup> Often police reports record cases of dowry deaths or forced suicide as unnatural deaths. In rural areas most of the suicide or

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<sup>41</sup>*Supra note 22.*

<sup>42</sup>*Ibid.*

<sup>43</sup>*Ibid.*

<sup>44</sup>*Supra note 2, 408.*

<sup>45</sup>*Ibid.*

<sup>46</sup>*Ibid.*

<sup>47</sup>Roushan Jahan and Mahmuda Islam, *Violence against Women in Bangladesh Analysis and Action* (Women for women and South Asian Association for women studies, 1<sup>st</sup>ed, 1997) 58.

<sup>48</sup>*Ibid.*

accidental deaths are predominantly female.<sup>49</sup> In case of wife beating or domestic violence wives do not usually report the abuse to the police.<sup>50</sup> In offences like wife beating police either file a case on a specific provision like dowry or make the case lighter by making a charge attracting a lesser penalty.<sup>51</sup> After discussing this chapter it has been said that various kinds of domestic violence occurred in our country. But there have no proper implementation of law against these types of domestic violence in our country. As a result the police have no power to arrest the husband for these matters. This is one of the main reasons for not having any official statistics on offences like domestic violence.

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<sup>49</sup>*Supra note 2.*

<sup>50</sup>*Ibid.*

<sup>51</sup>*Ibid.*

## **Chapter Three**

### **Rights of Victim and Remedies of Statute Laws**

#### **3.1 Introduction**

The Constitution of Bangladesh and several special laws specifically protect women's rights to life and safety and severely punish offenders. The Penal Code, Criminal Procedure Code, Dowry Prohibition Act, and Repression of Violence against Women and Children Act 2000, the Domestic Violence (Prevention and Protection) Act, 2010, among others, all contain provisions punishing those who dare commit any sort of crime against women. The effective implementation of rights ineffectively depends on the due process of law.

This chapter discusses about the rights and remedies of the victims. Here what are the rights of victim and the remedies available of Statute laws will be discussed from the viewpoint of the Domestic Violence (Prevention and Protection) Act, 2010. A brief discussion regarding the domestic violence against women and their rights and remedies will also be discussed in this chapter very specifically.

#### **3.2 Right to Reside in the Shared Home**

Section 10 of the Domestic Violence (Prevention and Protection) Act, 2010 provides that the victim shall have every right to reside in the shared residence due to family relationship.<sup>52</sup>

#### **3.3 Application to Court**

According to the section 11 of the Domestic Violence (Prevention and Protection) Act, 2010 a victim or on her behalf a police officer or an enforcement officer or a service provider or any other person can apply to get remedy. Such application to get remedy shall be submitted in such form as may be prescribed by the rule. After receiving such application the Court shall fix up the date of hearing the victim within 7 (seven) working days.<sup>53</sup>

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<sup>52</sup>*The Domestic Violence (Prevention and Protection) Act, 2010 s 10.*

<sup>53</sup>*Ibid s 11.*

### **3.4 Place of Filing Application**

A petition may be filed in any court under whose local jurisdiction the following places are situated, where-

- a) the applicant resides<sup>54</sup>
- b) the respondent resides<sup>55</sup>
- c) the domestic violence occur<sup>56</sup> or
- d) the victim temporarily resides.<sup>57</sup>

### **3.5 Interim Protection Order and Issuances of Notice**

Section 13 of the Domestic Violence (Prevention and Protection) Act, 2010 provides that upon receipt of an application to get remedy, if the court satisfied by examining the documents submitted thereto that there is prima facie that the respondent has committed or abetting to commit domestic violence.<sup>58</sup> Then an ex-parte interim protection order may be issued against the respondent and simultaneously a show cause notice to the respondent to reply within 7 working days why permanent protection order shall not be issue against high court. The notice may be issued by registered post, process server, and law enforcing agencies or by any other ways prescribed by the rules.<sup>59</sup>

### **3.6 Protection Order**

According to section 14 of the Domestic Violence (Prevention and Protection) Act, 2010 after giving the opportunity to the parties of being heard, if the court satisfied that domestic violence has taken place or is likely to take place, then the court issue a protection order in favor of the victim and issue order restraining the respondent committing following acts, namely-

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<sup>54</sup>*Supra note 1, s 12.*

<sup>55</sup>*Ibid.*

<sup>56</sup>*Ibid.*

<sup>57</sup>*Ibid.*

<sup>58</sup>*Ibid s 13.*

<sup>59</sup>*Ibid.*

- a) From committing any act of domestic violence<sup>60</sup>
- b) Aiding or abetting in the commission of any acts of domestic violence<sup>61</sup>
- c) Prohibiting or restraining from entering any protected person's place of employment, business, or educational institution or other institution which the protected person ordinarily visits<sup>62</sup>
- d) Prohibiting or restraining from making any personal, written, telephone, mobile phone, email, or any other form of communication with the protected person<sup>63</sup>
- e) Prohibiting from causing violence to the dependents of the victim or any relatives or any person who gives assistance to the victim from domestic violence<sup>64</sup>
- f) Any other act that may be cited in the protection order.<sup>65</sup>

### **3.7 Residence Order**

According to section 15 of the Domestic Violence (Prevention and Protection) Act, 2010 on the basis of applicant, the court may issue some residence orders namely, restraining the respondent from residing or visiting the shared residence or specified part thereof where the victim resides, restraining the respondent from dispossessing the possession of the victim from the shared household, directing the enforcement officer to make arrangement for a safe shelter or safe place for the victim and her child on her consent in such alternative arrangement, during the existence of the protection order of the court.<sup>66</sup>The court may impose any additional conditional or pass any other direction which it may deem reasonably necessary or incidental to protect or to provide for the safety to the victim or her child or any member of the family. The court may require the respondent to execute the bond, with or without sureties, that neither he/she nor any of his/her family members will commit any further acts of domestic violence. The court may direct the respondent to return to the possession of the victim any immovable property, herstridhan or

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<sup>60</sup>*Supra note 1 s 14.*

<sup>61</sup>*Ibid.*

<sup>62</sup>*Ibid.*

<sup>63</sup>*Ibid.*

<sup>64</sup>*Ibid.*

<sup>65</sup>*Ibid.*

<sup>66</sup>*Ibid s 15.*

dower or alimony or any other marital property and movable assets, valuables, documents, certificates and any other property or valuable security to which she is entitled.<sup>67</sup>

### **3.8 Compensation Order**

Section 16 of this Act provides that if there is any personal injury or financial loss or psychological damage or damage to movable or immovable or any possibility of such damage as a result of domestic violence, she may file a claim for compensation either along with an application.<sup>68</sup> The court shall disposed of such application submitted within 6 (six) months of its receive. The court may pass an order against the respondent for the maintenance of the victim as well as her children which is adequate, reasonable and consistent with the standard of living of the victim. The court may pass an order of lump sum payment or monthly payments of maintenance.<sup>69</sup> The court shall send a copy of the compensation order to the concern parties and to the officer in charge of the police station within local limits of whose jurisdictions the respondent ordinarily resides or stay. If the respondent is an employee of government, non-government, semi-government or an autonomous organization, then a copy of the compensation order shall be sent to the higher authority of the respondent. The compensation imposed, may be realized according to the provisions of the Public Demands Recovery Act, 1913.<sup>70</sup>

### **3.9 Custody Orders**

At any stage of hearing of the application for a protection order or for any other relief under this act the court may grant order for temporary custody of any child, or to any applicant in favor of the victim.<sup>71</sup>

### **3.10 Duties and Responsibilities of Police Officer**

A Police Officer, who has received a complaint of domestic violence or is otherwise present at the place of an incident of domestic violence or when the incident of domestic violence is reported to him or her, shall inform the victim of her right to make an application for obtaining a

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<sup>67</sup>*Supra note 15.*

<sup>68</sup>*Supra note 1 s 16.*

<sup>69</sup>*Ibid.*

<sup>70</sup>*Ibid.*

<sup>71</sup>*Ibid s 17.*

relief by way of any orders or of the availability of medical services or of the availability of services of the Enforcement Officers or of her right to free legal services under the Legal Aid Act, 2000 through an application or of her right to file a complaint under any other existing law; and other duties and responsibilities prescribed by the government in this behalf under the Domestic Violence (Prevention and Preservation) Act, 2010.<sup>72</sup>

### **3.11 Appointment of Enforcement Officer**

By notification in the official gazette, the Government may appoint one or more Enforcement Officers in each Upazila, Thana, District or in a Metropolitan area and shall also notify the area or areas within which an Enforcement Officer shall exercise the powers and functions conferred on him under this Act.<sup>73</sup>

### **3.12 Duties and Responsibilities of Enforcement Officer**

Section 6 of this Act provides about the duties and responsibilities of an Enforcement Officer namely, to assist the court in discharge of its functions under this Act, to provide report to the court regarding domestic violence, to forward copies thereof to the police officer in charge of the police station within the local limits of whose jurisdiction the domestic violence is alleged to have been committed, to make an application to the Court, if the victim so desires, claiming relief for issuance of a protection order, to take necessary steps so that the victim is provided legal aid under the Legal Aid Act 2000 and make available the application form along with other facilities free of cost, to maintain a list of all legal aid and human rights organization or psycho-social counseling services, shelter homes and medical facilities within the jurisdiction of the Court, to refer the victim to a safe shelter home if the victim so requires and forward a copy of a report of having lodged the victim in a shelter home to the police station and the Court having jurisdiction in the area where the shelter home is situated, to refer the victim for medical examination if required and forward a copy of the medical report to the police station and the Court having jurisdiction in the area where the domestic violence is alleged to have taken place, to ensure that the order for compensation is executed and to perform such other duties as may be

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<sup>72</sup>*Supra note 1 s 4.*

<sup>73</sup>*Ibid s 5.*

prescribed by rules.<sup>74</sup> Under the supervision of the court the Enforcement Officer shall perform the duties and responsibilities imposed on him/her by the Government or by the Court under this Act.<sup>75</sup>

### **3.13 Analysis of Protection against Domestic Violence**

As the Bangladesh Government is committed to prevent violence against women, it has taken multiple steps to ensure that the human rights of women are respected and protected.<sup>76</sup> That's why legislation has been enacted to prevent violence and discrimination against women with a special emphasis to break away from the tradition of treating women as property.<sup>77</sup> Therefore, the Constitution of Bangladesh protects women's rights to life and safety by including provision in article 2,28,31 and 32.<sup>78</sup> Accordingly, the government of Bangladesh has undertaken series of steps, and measures designed to reduce violence against women through amendment and enactment of the Penal Code 1860, the Code of Criminal Procedure 1898, the Acid Control Act 2000, The Acid Crime Prevention Act 2002, the Child Marriage Restraints Act 1929, the Dowry Prohibition Act 1980, National Human Rights Act 2009, the Prevention of Repression of Women and Children Act 2000. All these contain provision punishing those are dare to commit any sort of violence against women. Here, it becomes pertinent to mention that the main focus of these acts is the enhancement of punishment rather than prevention strategies.

### **3.14 Conclusion**

The foregoing discussion of this chapter provides a clear concept of the rights and remedies of the victim of domestic violence. There are some existing laws which contain provisions relating to the rights and remedies of the victim of domestic violence but they are not properly implemented in our country. For that reason this type of violence is occurred often and increased day by day in our country. So we should take proper steps immediately to implement those laws rightly in our country.

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<sup>74</sup>*Supra note 1 s 6.*

<sup>75</sup>*Ibid.*

<sup>76</sup>Mst. Taslima Khatun and Khandakar Farzana Rahman, „Domestic Violence against Women in Bangladesh: Analysis from a social-legal Perspective“, *Bangladesh e-Journal of Sociology*, 9 (2012) 27.

<sup>77</sup>*Ibid.*

<sup>78</sup>*The Constitution of the People's Republic of Bangladesh.*

# CHAPTER FOUR

## ANALYSIS OF PROTECTION AGAINST DOMESTIC VIOLENCE

### 4.1 Introduction

As the Bangladesh Government is committed to prevent violence against women, it has taken multiple steps to ensure that the human rights of women are respected and protected. That's why legislation has been enacted to prevent violence and discrimination against women with a special emphasis to break away.

This chapter discusses about the practical scenario due to domestic violence against women in Bangladesh. Here practical scenario means the practical effect due to the violence women in Bangladesh. How domestic violence will be protected and what are the procedures to protect this domestic violence will be discussed elaborately in this chapter. Which have been discussed in the second and third chapter of this research will be interlinked and this will help me to explain the practical aspect very specifically.

### 4.2 Special Courts

There are Special Courts established under the Women and Children Oppression Act, 1995 to try the offences like<sup>79</sup>,

1. Death and grievous hurt by erosive, poisonous or corrosive Substance<sup>80</sup>
2. Rape<sup>81</sup>
3. Dowry (death and grievous)<sup>82</sup>
4. Trafficking<sup>83</sup> and
5. Kidnapping and abduction<sup>84</sup>

If required the Government can establish Special Courts in any other place by gazette notification. The Special Court consists of District and Session Judge and Additional District and

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<sup>79</sup>*Oppression of Women and Children (Special Enactment) Act 1995 s 16.*

<sup>80</sup>*Ibid.*

<sup>81</sup>*Ibid.*

<sup>82</sup>*Ibid.*

<sup>83</sup>*Ibid.*

<sup>84</sup>*Supra note 82.*

Session Judge. The Government may, if necessary, appoint a District and Session Judge as Judge of the Special Court in addition to his/her normal duties.<sup>85</sup>

### **Implementation of Law**

Implementation of law is the most important criteria of my research. Implementation of law means the application of the law by law enforcing agency in practical life. Without proper implementation every law is useless. From the view point of this sense this criteria has been chosen. In every law, there is a common question whether the law is properly executed or not or whether is there any lacuna in the law for which it cannot be implemented properly. In my thesis, on the basis of this point I found that very often this Special Court was not established.

### **Lack of proper implementation**

The next criteria of my dissertation are implementation of law. It means the application of the law in real life. In every law, there is a common question whether the law is properly executed or not. In my thesis, I found that though these special courts were established but they do not work properly.

### **Lack of awareness**

Lack of awareness is one of my research criteria. Awareness includes the public awareness about the domestic violence against women in Bangladesh. To prevent this domestic violence against women, public awareness is most important in our country. People should know about their rights so that they can ensure and establish their rights and should take proper steps to prevent this domestic violence against women in Bangladesh. But it is very much unfortunate that they do not know about their rights.

## **4.3 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

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<sup>85</sup>*Ibid.*

courts governed by the Special Powers Act, 1974.<sup>86</sup> These courts have the power to give death sentences, which should be confirmed by the High Court Division of the Supreme Court.<sup>87</sup>

### **Implementation of Law**

In case of the special tribunals, sometimes these special tribunals were established.

### **Lack of proper implementation**

Although sometimes the special tribunals were established but very often they do not work properly. So it can be said that here also lack of proper implementation of law.

## **4.4 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. In case of criminal and civil issues, the elected Union Parish had Chairman as an Ex-officio chairman Judge of the village court conducts the trial like other any formal court.<sup>88</sup> A village Court shall consist of a Chairman and two members to be nominated in the prescribed manner, by each of the parties to the dispute.<sup>89</sup>

## **4.5 Institutional Support Services**

There are some institutional support services for woman against the domestic violence, namely-

### **4.5.1 The National Council for Women's Development (NCWD)**

A 44 member National Council for Women's Development has been established in 1995, which is a national mechanism for women's advancement. It consists of Ministers and Secretaries from several line Ministries, public representatives and eminent individuals with the Prime Minister as Head of the Council.<sup>90</sup> This council has undertaken the problem of violence as one of its areas of specific intervention. It is mandated to formulate laws and rules to establish women's legal

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<sup>86</sup>*Special Powers Act 1974.*

<sup>87</sup>*Ibid.*

<sup>88</sup>*Village Court Act 2006.*

<sup>89</sup>*Supra note 91 s 5.*

<sup>90</sup>*The National Council for Women's Development.*

rights, their development and the prevention of oppression against women. The responsibilities of NCWD are as follows:

- a) To ensure women's participation in socio-economic development work, the Council will formulate rules and regulations for the development work of different Ministries, divisions and other agencies and coordinate them<sup>91</sup>
- b) The council will formulate laws and regulations to ensure women's legal rights and development and to prevent of oppression against women<sup>92</sup>
- c) The Council will also take measures to preserve women's interests in all areas in which women are active and ensure their participation and advancement<sup>93</sup>.

#### **4.5.2 Inter-ministerial Advisory Committee**

The Government has also set up an Inter-ministerial Advisory Committee, chaired by the State Minister of Women and Children's Affairs for the prevention of repression against women and children.<sup>94</sup> Secretaries of several ministries including home, law, health, information and local Government are members. The Committee also includes chairperson of several members of the Parliament as members. The main function of the committee is to review the cases of violence against women received through Department of Women's Affairs field offices, assess the cases that were disposed of and the reasons for those not being disposed of. The Advisory Committee meets every two months.<sup>95</sup>

#### **4.6 Nari Nirjatan Protirodh Cell under the Department of Women and Children Affairs**

The Department of Women and Children's Affairs under the Ministry of Women and Children Affairs runs a cell called "Nari Nirjatan Protirodh Cell" headed by a joint Secretary to monitor

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<sup>91</sup>*Ibid.*

<sup>92</sup>*Ibid.*

<sup>93</sup>*Ibid.*

<sup>94</sup>*The Domestic Violence Advisory Council*, (May, 2009), < [http://www.women.gov.on.ca/owd/english/ending-violence/dvac\\_report.shtml](http://www.women.gov.on.ca/owd/english/ending-violence/dvac_report.shtml)>.

<sup>95</sup>*Ibid.*

and deal with instances of violence against women at the National level.<sup>96</sup> The cell also provides legal assistance to abuse women through counseling services. Moreover, the cell collects information on cases of violence from the newspapers and refers them to the Deputy Commissioners for taking legal actions.<sup>97</sup> The cell also receives direct applications from aggrieved persons. Recently the Department of Women Affairs has published a book named “Women’s Support Activities Project Report 1997” by compiling the data of last 1995 to 1997 and other information.

### **Implementation of Law**

In case of this cell, here also same condition as like as the special courts

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### **Lack of proper implementation**

Although sometimes this cell was established but very often they do not work properly. So it can be said that here also lack of proper implementation of law.

### **Lack of awareness**

To prevent this domestic violence against women, public awareness is most important in our country. People should know about their rights so that they can ensure and establish their rights and should take proper steps to prevent this domestic violence against women in Bangladesh. But it is very much unfortunate that they do not know about their rights and also this Nari Nirjatan Protirodh Cell under the Department of Women and Children Affairs.

## **4.7 Committees at the District and Thana Level to prevent Violence against Women**

To prevent violence against women at the district and thana level, committees have been set up by the Department of Women and Children’s Affairs in every District and Thana under the chairmanship of the Deputy Commissioner and the Thana Nirbahi Officer respectively and the Women’s Affairs Officer is the Member Secretary.<sup>98</sup> These committees receive various cases and complaints. Upon receiving complaints, the main responsibility of Thana Committees is to take

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<sup>96</sup>Syeda Rubbaiyat Hossain, *Women’s Rights*, (July, 2017), <<http://www.askbd.org/ask/womens-rights-2/>>.

<sup>97</sup> Ibid.

<sup>98</sup> Salma Kahn, *Violence Against Women: Bangladesh Context*, June 2015, <<https://www.hurights.or.jp/archives/focus/section2/2005/06/violence-against-women-bangladesh-context.html>>.

necessary steps to settle complaints through mediation provide counseling and assist with legal proceedings.<sup>99</sup> The Thana committees refer the cases to the District Committee which cannot be resolved by it and by District Committee to the Director, Women's Affairs Division. Each committee within its jurisdiction adopts measures to resist violence, strives to convert anti-dowry campaigns into a national movement and collect statistics on the instances of violence. The Deputy Commissioner is responsible to furnish monthly reports on violence in the District including the Thanas to the Women's Affairs Division, which will in turn report to the council.<sup>100</sup>

## 4.8 Conclusion

The foregoing discussion of this chapter makes it clear that though there some existing laws and provisions for the women against domestic violence but in practice they are not properly implemented. Though the Statutory laws ensure some rights of women against domestic violence but it cannot act properly. This is why it is considered as one of the reasons of being domestic violence in our country. On the other hand our women were not aware about their rights against domestic violence that is why very often they do not get remedy. Actually they do not have any knowledge about their rights and remedies against this domestic violence. So it is our responsibility to inform them about their rights against this kind of violence. It can be said that to prevent this domestic violence against women, public awareness is most important in our country. People should know about their rights so that they can ensure and establish their rights and should take proper steps to prevent this domestic violence against women in Bangladesh.

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<sup>99</sup>*Ibid.*

<sup>100</sup>*Supra note 101.*

## **Chapter Five**

# **International Instrument regarding Women Rights against Domestic Violence**

### **5.1 Introduction**

This chapter will narrate the international instruments regarding women rights. Here what are the rights against domestic violence in the viewpoint of various international instruments will be discussed elaborately in this chapter. I will discuss domestic violence under United Nation Treaties such as United Nation General Assemble, Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), Universal Declaration of Human Rights (UDHR), and Convention against Torture (CAT). In spite of discussing this matter, a brief discussion regarding development of women rights in Bangladesh will be discussed in this chapter.

### **5.2 Rights against Domestic Violence under United Nation General Assembly**

Domestic violence is recognized in international law as a violation of human rights. Although early international treaties only provided protection against domestic violence implicitly, in the 1990's domestic violence began to receive more explicit attention with the passage of the General Comment No. 19 by the Committee on the Elimination of Discrimination against Women (1992) and the Declaration of Elimination of Violence against Women (1993).<sup>101</sup> The past two decades have also seen numerous resolutions from the UN General Assembly on violence against women, including one that specifically addressed domestic violence. This section will review the international treaties and resolutions impacting domestic violence, with a focus on three primary ways that domestic violence violates human rights: as a violation of basic freedoms such as the right to life and security of person, as a violation of the right to equality, and as a violation of the prohibition against torture.<sup>102</sup>

### **5.3 Rights against Domestic Violence under Universal Declaration of Human Rights**

Although early human rights law enacted by the United Nations did not specially mention violence against women, it is still relevant to domestic violence.

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<sup>101</sup>United Nation General Assemble 1993.

<sup>102</sup>*Ibid.*

### **5.3.1 The Right to Life, Liberty and Security of Person**

In 1948, the Universal Declaration of Human Rights (UDHR) was adopted by the United Nations General Assembly.<sup>103</sup> Although this document was not originally binding on member states, it has received such wide acceptance as an outline of foundational human rights principles that it has been recognized as a binding expression of customary law and an authoritative.

## **5.4 Rights against Domestic Violence under Elimination of All Forms of Discrimination against Women**

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), entered into force in 1981, did not explicitly include language on violence against women or domestic violence.<sup>104</sup> However, CEDAW's primary focus, in which State Parties agree to "condemn discrimination against women in all its forms," was interpreted as covering violence against women.<sup>105</sup>

### **5.4.1 The Right to Equality and Freedom from Discrimination**

As described by Rashida Manjoo, the current United Nation Special Rapporteur on Violence against Women, "States must acknowledge that violence against women is not the root problem, but that violence occurs because other forms of discrimination are allowed to flourish."<sup>106</sup> This view of violence against women as the most extreme manifestation on a continuum of discrimination led the Committee on the Elimination of All Forms of Discrimination against Women, the monitoring body of CEDAW, to adopt General Recommendation Number 19.<sup>107</sup> This recommendation explicitly included gender-based violence as a form of discrimination covered by CEDAW, saying:

The definition of discrimination includes gender-based violence, that is, violence that is directed against a woman because she is a woman or that affects women disproportionately. It includes acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty.<sup>108</sup>

Gender-based violence may breach specific provisions of the Convention, regardless of whether those provisions expressly mention violence.

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<sup>103</sup> *Universal Declaration of Human Rights.*

<sup>104</sup> *Convention on the Elimination of All Forms of Discrimination against Women.*

<sup>105</sup> *Ibid.*

<sup>106</sup> Ms. Rashida Manjoo, *Special Rapporteur on Violence against Women, its causes and consequences* (10 October, 2011) <[http://www.un.org/womenwatch/daw/documents/ga66/RAPPORT\\_on\\_VAW.PDF](http://www.un.org/womenwatch/daw/documents/ga66/RAPPORT_on_VAW.PDF)>.

<sup>107</sup> *Supra note 4* General recommendation no. 19.

<sup>108</sup> *Supra note 7.*

Recommendation 19 also specifically addressed domestic violence as a form of discrimination against women, stating:

“Family violence is one of the most insidious forms of violence against women. It is prevalent in all societies. Within family relationships women of all ages are subjected to violence of all kinds, including battering, rape, other forms of sexual assault, mental and other forms of violence, which are perpetuated by traditional attitudes. Lack of economic independence forces many women to stay in violent relationships. The abrogation of their family responsibilities by men can be a form of violence, and coercion. These forms of violence put women's health at risk and impair their ability to participate in family life and public life on a basis of equality”.<sup>109</sup>

In 1999, the General Assembly adopted the Optional Protocol to the Convention on the Elimination of all Forms of Discrimination against Women.<sup>110</sup> The Optional Protocol created two procedures to monitor compliance with CEDAW.<sup>111</sup> First, it established a communications procedure for individual women, or groups of women, to submit claims of violations of CEDAW after exhausting domestic remedies. Second, the Optional Protocol created an inquiry procedure which enables the Committee to investigate situations of “grave or systematic violations” of women’s rights. The decisions for such communications and inquiries are published on the United Nation Women website. Both procedures can only be used in cases where the State is a party to the Convention and the Optional Protocol. Currently 104 countries are parties to the Optional Protocol.<sup>112</sup>

## **5.5 Rights against Domestic Violence under Convention against Torture**

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) Recommendation 19 also states that violence against women is a violation of the right not to be subject to torture or to cruel, inhuman or degrading treatment or punishment, as protected by Universal Declaration of Human Rights (UDHR) Article 5 and International Covenant on Civil and Political Rights (ICCPR) Article 7.<sup>113</sup> The view has been affirmed by the Committee against Torture, which is the monitoring body of the Convention against Torture (CAT).

### **5.5.1 The Right to be Free from Torture**

The Convention against Torture, which has been ratified by 151 states, strictly prohibits torture of any kind, with torture defined as any act by which severe pain or suffering, whether physical or mental, is

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<sup>109</sup>*Ibid.*

<sup>110</sup>*Convention on the Elimination of all Forms of Discrimination against Women* (21 December, 2000) <<http://www.un.org/womenwatch/daw/cedaw/protocol/>>.

<sup>111</sup>*Ibid.*

<sup>112</sup>*Ibid.*

<sup>113</sup>*Supra note 7.*

intentionally inflicted” for purposes such as obtaining information, punishment, intimidation or coercion, or any reason based on discrimination.<sup>114</sup> Although such acts must be inflicted by a public official, the State can also be responsible if it acquiesces to the act. In clarifying State responsibility for torture by non-state actors, the Committee specifically cited “States parties” failure to prevent and protect victims from gender-based violence, such as rape, domestic violence, female genital mutilation, and trafficking” as a violation of Convention against Torture (CAT).

Although Stop Violence against Women endeavors to provide useful and accurate information, Stop Violence against Women does not warrant the accuracy of the materials provided.

## 5.6 Development of Women Rights in Bangladesh

On September 25, 2015, at the end of the deadline for the Millennium Development Goals (MDGs), the UN General Council drew up Sustainable Development Goals (SDGs) in their place achieving gender equality by removing all forms of violence and discrimination against women and girl children as the top priority.<sup>115</sup> The fifth goal is to achieve gender equality and to empower women and girl children. Under this goal, the objectives to remove all forms of discrimination against women and girl children, to stop all forms of personal violence including trafficking and sexual harassment, and to eliminate harmful social practices such as child marriage and forced marriage, have been set.<sup>116</sup> To achieve the SDGs related to women and girl children, Bangladesh government needs to consider some issues with importance. It is undeniable that Bangladesh has achieved some progress in improving the condition of women in the last few decades, especially in regards to increasing women's education rate, achieving gender equality in primary education, and reducing the rate of maternal and infant mortality and birth. In spite of this, equal opportunities for men and women in educational and professional sectors have not been created.<sup>117</sup> Women must be empowered in public life. Women are grossly discriminated against men in male-dominated society. They are discriminated in every sphere of public and private life by men.<sup>118</sup> So Women need to be aware of their rights protected by the law. Many might blame the legal system, but it is mostly our attitude that requires change.<sup>119</sup>

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<sup>114</sup> *Convention against Torture* Article 27(1).

<sup>115</sup> MdNur Khan and TamannaHoqRiti, 'Rights of our girls and women', *The Daily Star* (online), 27 February, 2017, <<http://www.thedailystar.net/towards-just-and-inclusive-society/rights-our-girls-and-women-1367620>>.

<sup>116</sup> *Supra* note 15.

<sup>117</sup> *Ibid*.

<sup>118</sup> Harunur Rashid, *Women's Rights: Bangladesh Perspective* (January, 2009) <[http://www.biliabd.org/article%20intl/Vol-13\(1\)/Harun%20ur%20Rashid.pdf](http://www.biliabd.org/article%20intl/Vol-13(1)/Harun%20ur%20Rashid.pdf)>.

<sup>119</sup> AnamHossain, 'Redress against domestic violence', *The Daily Star* (online), 21 March, 2017, <<http://www.thedailystar.net/law-our-rights/redress-against-domestic-violence-1378954>>.

## **5.7 Conclusion**

The foregoing discussion of this chapter provides a clear concept about rights against domestic violence regarding the international instruments such as United Nation General Assemble, Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), Universal Declaration of Human Rights (UDHR), and Convention against Torture (CAT). Then this chapter has been focused on development of women's rights in the perspective of Bangladesh which basically deals about how to do effective women's right against domestic violence. Lastly, this chapter evaluates the importance of the rights against domestic violence. This is ensuring that without proper implementation of existing law it is impossible to establish women's rights.

# **Chapter Six**

## **General Conclusion**

### **6.1 Introduction**

This chapter deals about the ultimate findings of my research. Here the answer of my research question will be provided by mentioning my ultimate findings and logical reasoning's will be discussed in this chapter. Beside of answering research question some recommendations will be provided in this chapter regarding solution of the problem.

### **6.2 Findings**

If violence against women is caused by unequal power relations between men and women an important point to remember that unequal power relations between men and women are constantly adapting and responding to social, economic and political factors. There was long movement by civil society to enact a specific legislation on domestic violence. But, there is no enforcement in our society. We have some existing laws against this domestic violence but those are not properly implemented and there also lack of awareness of our women, for this reason it will not possible to remove this kinds of violence. All violence against women should be treated as offence and oppressed women will get legal protection. The women who are victims of domestic violence were frightened to take legal action. The state has to ensure legal protection those who take legal action. Then this domestic violence will be reduced from our country.

### **6.3 Recommendations**

Rights against domestic violence are an important indicator of a society and development. If women's rights are prevailing in a country or society, other rights will automatically be ensured. Recommendation at legal level domestic violence against Women:

1. Social awareness should be conducted for both women and men.
2. There should be enough educational programs in all societies and cultures for women, men and children.
3. Governments should ratify the relevant human rights, treaties and conventions and translate these into national laws so that there is an appropriate framework to support actions.
4. Law enforcement and prosecution should take necessary steps in order for the judicial system to combat violence against women.

5. Legal procedure should be simplified to make them accessible for illiterate women and changing the attitude of male towards female.
6. Training is needed at all levels of the judicial system that the state should ensure to provide free legal aid for poor women.
7. There are should be enough opportunities of employments and participation in political parties along with security and safety for women. More funds should be allocated to women's development in the country.
8. The health care department of government or ministry of health should develop a policy on the role of health care sector tacking violence against women.
9. Implement effective measures to guarantee to all Bangladeshis, without distinction based on race, color, descent, or national or ethnic origin, the right to security of person and protection by the state against violence or bodily harm.

## **6.4 Conclusion**

The above discussion on violence against women in Bangladesh, particularly domestic violence, gives us a brief understanding of the problem. It is found that different types of violence against women are increasing. Recently domestic violence has become a serious social problem in our country. In order to arrest this increasing trend of violence against women, proper intervention strategies need to be undertaken. Existing laws regarding protection of women's rights should be enforced effectively. Law enforcing agencies need to handle the situation with sincerity, honesty and with strong commitment without any hesitation and biasness. Awareness and capacity building among the women are also important. Under the existing social values and norms, male's attitude and behavior towards females need to be changed as well. In this regard relevant agencies of the Government, NGOs, researchers, lawyers, activists and media need to come forward and work together for advocacy and campaign against violence on women in Bangladesh. We know the term "*ubi jus ibiremedium*" that means where there is a right there is a remedy. So, we can say that every woman has a specific right under specific law of the state. In order to implement this law we had to more conscious. Empowerment must be coupled with social transformation to address the systemic and structural causes of inequity and discrimination, which most often lead to violence against women.

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