

## Chapter 1

### INTRODUCTION

Violence against women is amongst the most serious threats to overall development and progress in Bangladesh. Widespread violence and repression in numerous forms puts women's lives at risk in almost all parts of the country. Violence against women in Bangladesh is a common occurrence whether the violence is physical or mental. Violence against Women of Bangladesh are both public and domestic - rape, dowry deaths, sexual harassment, suicide, forced marriage, trafficking and other psychological and financial oppression. Violence against women has become one of the most visible social issues in this region. Social reasons and legal loopholes are sources of violence against women in Bangladesh.

Bangladeshi women face different forms of violence by men on a daily basis. One research report<sup>1</sup> published in 2000 by a reputed women's non-governmental organization in Bangladesh shows that 30% of the women in the cities are battered by their husbands, 37% are victims of verbal insults and harassment, and 33% are victims of other forms of domestic violence. Another survey reveals that among the victims of physical violence, 23% are rape victims, 22% acid-throwing victims, 10% burn-victims, 5% are victims of poisoning, forced abortion and other kinds of violence.

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<sup>1</sup> *Violence on Women in Bangladesh*, Nari Pakha Report, (Dhaka: 2000).

## **1.1 Definition of Violence**

The Declaration on the Elimination of Violence Against Women, UN Resolution 48/104 defines violence against women as any act of gender based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether in public or private life.

The Beijing Platform for Action retakes the above definition and stresses that “in all societies, to a greater or lesser degree, women and girls are subjected to physical, sexual and psychological abuse that cuts across lines of income, class and culture” (PFA, 1995). Violence has multi-dimensional forms starting from verbal abuse to trafficking of women.

UN Definition on violence against Women In 1993, the United Nations General Assembly adopted the Declaration on the Elimination of Violence against Women, the first collaborative international human rights declaration exclusively addressing the issue. The UN declaration emphasizes that the global problem of violence against women crosses national boundaries into the realm of basic human rights. As such, the declaration states that violence against women violates a woman's fundamental human rights and freedoms and that the international community has an obligation to protect and promote those rights. Article 2 of the declaration takes on the difficult task of defining violence against women. The definition of violence against women in the declaration is the internationally accepted definition and states violence against women shall be understood to encompass, but not limited to, physical, sexual, and psychological violence perpetrated by family members, the community, or the state. The forms of violence specifically mentioned in the document include battery, dowry related violence, sexual abuse of children, marital rape, rape, female genital mutilation, sexual harassment, trafficking, forced prostitution, and others.

Violence against women has been clearly defined as a form of discrimination in numerous documents. The World Human Rights Conference in Vienna, first recognized gender- based violence as a human rights violation in 1993. The 1993 Declaration on the Elimination of Violence against Women noted that this violence could be perpetrated by assailants of either gender, family

members and even the "State" itself.<sup>2</sup> Worldwide governments and organizations actively work to combat violence against women through a variety of programs. A UN resolution designated November 25th as International Day for the Elimination of Violence against Women.<sup>3</sup>

The Fourth Conference of Women, 1995 has defined violence against women as a physical act of aggression of one individual or group against another or others. *Violence against women* is any act of gender-based violence which results in, physical, sexual or arbitrary deprivation of liberty in public or private life and violation of human rights of women in violation of human rights of women in situations of armed conflicts.<sup>4</sup>

Violence is an act carried out with the intention or perceived intention of physically hurting another person<sup>5</sup>. *Gender Violence* is defined as “any act involving use of force or coercion with intent of perpetuating promoting hierarchical gender relations”.<sup>6</sup>

Liz Kelly (1998), *Surviving Sexual Polity* has defined violence as “any physical, visual, verbal or sexual act that is experienced by the woman or girl at the time or later as a threat, invasion or assault, that has the effect of hurting her or degrading her and/or takes away her ability to contest an intimate contact”.

Dr Joanne Liddle modified this definition as “any physical, visual, verbal or sexual act that is experienced by the person at the time or later as a threat, invasion or assault, that has the effect of hurting or disregarding or removing the ability to control one’s own behaviour or an interaction, whether this be within the workplace, the home, on the streets or in any other area of the community”.

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<sup>2</sup> United Nations General Assembly *Declaration on the Elimination of Violence against Women* (1993).

<sup>3</sup> UN Resolution 54/134-*International Day for the Elimination of Violence against Women*.

<sup>4</sup> Conference on Women, Beijing, 1995.

<sup>5</sup> Gelles and Straus, 1979.

<sup>6</sup> APWLD, 1990, Schuler, 1992.

## **1.2 Situation of Women in Bangladesh**

The Bangladesh Constitution and the general laws of the country entitle women to equal rights and status to those of men in public life, but non-discrimination in the private sphere is not guaranteed. Consequently there are significant disparities between men and women in all realms of life. Lack of equal access to economic opportunities, education, health services and their lesser role in decision making perpetuate women's subordination to men and susceptibility to violence. All sources of information be it news reports, records from State institutions or research show that there is an increasing trend of violence against women.

Following the declaration of UN Decade of Women (1976-85), the Government of Bangladesh and some NGOs have undertaken several programmes for the advancement of women. Simultaneously the women's movement has played an important role in enhancing women's participation in every sphere of life in order to achieve equality. As a result, over the last two decades, women in Bangladesh have gradually become more visible in the labour force, in development programmes and local institutions such as Local government bodies.

Culturally and socially the family is still seen as the rightful place for women and yet it is within this arena where power relations are often played out. It is on the one hand, a source for positive nurturing and caring where individuals bond through mutual respect and love. But on the other hand, in many cases, it becomes the site for discrimination, deprivation and exploitation. It is where discriminatory socializations processes occur, which in turn result in promoting and justifying violence against women.

News of rape, assault, trafficking, death due to dowry, etc., are common features of Bangladeshi society. The four broad categories of violence against women in Bangladesh are domestic violence, violence at the workplace, trafficking in women and forced prostitution, and sexual abuse.<sup>7</sup> 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.

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<sup>7</sup> *Country Briefing Paper—Women in Bangladesh*

Recently, violence against women has reached another dimension with the rise in the number of trials through the “*fatwa*” (religious judgments) in rural areas. Village elders usually form a “*shalish*” or tribunal to settle some local disputes. This traditional custom of excluding women in the rural *shalish* can be manipulated by the local *mullahs* (religious leaders) and the social elite to find women guilty of extramarital sexual affairs and other acts. Punishments are meted out (in accordance with religious laws as interpreted locally) in contravention to the existing penal code. Some women were flogged publicly and a few among them have committed suicide. Prompt protest and local actions by women's organizations, NGOs, and human rights groups forced local administrators to take legal measures against the perpetrators.<sup>8</sup>

Since the Beijing Platform for Action (1995), the Government of Bangladesh has also identified violence against women as a priority issue. Given this recognition, incidences of violence against women today receive greater attention than they did a decade ago. All State records show an increased incidence of violence – but this may be due to the fact that special legal provisions ensure that such cases are now recorded more precisely than they were two decades ago. Some argue that there is a rising trend of all forms of violence but until more reliable longitudinal data is available, one cannot confidently conclude that in general violence against women is increasing.

Bangladesh has several laws specifically protecting women's rights to life and safety and severely punishing offenders. The Penal Code, Criminal Procedure Code, Dowry Prohibition Act, Repression of Violence Against Women and Children Act 2000, among others, all contain provisions punishing those who dare commit any sort of crime against women. There is no separate legislation for domestic violence. The implementation of these laws is getting weaker in the past few years. No measure has been taken to strictly implement laws protecting women. As a result, crimes perpetrated against women have increased.

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<sup>8</sup> Country Briefing Paper—Women in Bangladesh

### **1.3 Position of woman as a human being**

#### **1.3.1 Women in constitution**

Under constitution of Bangladesh the Proclaims equal opportunity to all citizens and it is a fundamental policy statement to do so. Under the 1972 Constitution of Bangladesh, women's rights are protected under the broad and universal principles of equality and participation. These principles are found in the following Articles in the Constitution:

- Article 10 of the Constitution provides that steps shall be taken to ensure participation of women in all spheres of national life.<sup>9</sup>
- Article 19 (1) provides that the State shall endeavor to ensure equality of opportunity to all citizens.<sup>10</sup> Article 27 specifies that all citizens are equal before the law and are entitled to equal protection of the law.<sup>11</sup> Moreover, Article 28 (1) provides that the State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, or place of birth.<sup>12</sup> Article 28 (2) more directly and categorically says that women shall have equal rights with men in all spheres of the State and of public life.<sup>13</sup> This latter provision means that all rights mentioned in the Constitution, such as right to life, right to personal liberty, right to property, freedom of movement, freedom of speech, freedom to exercise a profession or occupation are equally applicable to women in Bangladesh.

But in reality basic socio-economic indicators show that women certainly do not enjoy equal rights, nor do they have equal access to the basic opportunities of life. Indicators like literacy, health, education, nutrition, employment and other basic amenities show that women are subject to lower status due to deprivation and discrimination and are excluded from the development efforts of the country

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<sup>9</sup> *The Constitution Law of People Republic of Bangladesh 1972, Article 10*

<sup>10</sup> *Ibid, Article 19 (1)*

<sup>11</sup> *Ibid, Article 27*

<sup>12</sup> *Ibid, Article 28 (1)*

<sup>13</sup> *Ibid, Article 28 (2)*

### **1.3.2 Human Rights and women**

Universal Declaration of Human Rights recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world.<sup>14</sup> Under the Article 1 of the universal Declaration of Human Rights and women stats that: “All human being are born free and equal and dignity and rights. They are endowed with reason and conscience and should act towards one another in a sprit of brotherhood”.

The 1993 UN Vienna Declaration and Program of Action affirms that women’s rights are human rights. Women, therefore, are entitled to the guarantees and protections provided by the international legal of human rights.

The human rights of women and of the girl child are an inalienable, integral and indivisible part of universal human rights. The full and equal participation of women in political, civil, economic, social and cultural life at the national, regional and international levels, and the eradication of all forms of discrimination on the grounds of sex are priority objectives of the international community.

According to a report of the United Nations published in 1980- “Women constitute half of the world population, perform nearly two-thirds of words hours, receive one tenth of the world income and own less then one hundred percent of world’s property.”

In 1995, at the United Nations World conference on women in Beijing, China, 189 Governments pledged to tight violence against women in all its forms, to protect women at risk of violence; arid to build ways for women to win justice and redress when they are targeted for violence.

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<sup>14</sup> Preamble of Universal Declaration of Human Rights.

## Chapter 2

### **CRIME AGAINST WOMEN IN BANGLADESH**

#### **2.1 Acid throwing**

Acid throwing is a form of violent assault.<sup>15</sup> Perpetrators of these attacks throw acid at victims (usually at their faces), burning them, and damaging skin tissue, often exposing and sometimes dissolving the bones.<sup>16</sup> The consequences of these attacks include blindness and permanent scarring of the face and body<sup>17</sup>. It inflicts lifelong suffering on them. It has a catastrophic impact on the lives of the victims psychologically, socially and financially. According to Taru Bahl and M.H. Syed 80% of victims of these acid attack are female and almost 40% are under 18 years of age.<sup>18</sup>

Acid-throwing is one of the most alarming and horrific forms of violence especially targeted at women. Unfortunately, Bangladesh has the highest incidence of such attacks in the world. Generally acid victims are women particularly girl related with emotional love and spurned the sexual advances of a male or has rejected a proposal of marriage. Recently acid attacks periphery expanded into other conflict affairs mostly related with family or land disputes, dowry demands or a desire for revenge. It is distinct, acid violence commonly happen in lower-class and lower middle class realms where prominently have lacking consciousness and education. However main attackers and victims are youth and a ferocious form of violence against women in Bangladesh. My

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<sup>15</sup> R.N. Karmakar, *Forensic Medicine and Toxicology*, (Academic Publishers 2003).

<sup>16</sup> Jordan Swanson, "Acid attacks: Bangladesh's efforts to stop the violence.", *Harvard Health Policy Review* **3** (Spring 2002)

<sup>17</sup> Bandyopadhyay, Mridula and Mahmuda Rahman Khan, 'Loss of face: violence against women in South Asia' in Lenore Manderson, Linda Rae Bennett (eds), *Violence Against Women in Asian Societies* (Routledge, 2003).

<sup>18</sup> Taru Bahl, & M.H. Syed *Encyclopaedia of the Muslim World*, (Anmol Publications PVT. LTD 2004).



understanding it happen because of poverty related resentment, moral degradation, immature emotional practices as well as a result of class conflict that could be consider as community sin.

In one case, for example, a 16-year-old girl from a poor family, Dolly Akhter, was attacked by a young man because she refused to marry him. Her father had to spend all his money on her treatment. She underwent several intensive surgeries. Still, she has lost an eye, and permanent scars remain on her face. She does not go to her village and has stopped attending school since the attack. Fortunately, she has received assistance from UNICEF and the Acid Survivors Foundation (ASF); she now works as a tailor with the ASF. Although Akhter is courageous enough to start a new life after having such a devastating experience at a young age, her lifestyle has changed completely.

A recent study reveals that land disputes account for 27% of acid attacks, followed by 18% for family disputes, 10% for refusal of sex, 8% for refusal of romantic relationship, 5% for dowry conflicts, 4% for marital disputes, 3% for refusal of marriage proposal, 2% for political enmity, and the remaining 23% for unknown reasons. Despite new harsh laws, acid violence has been increasing over the last few years.

The Jagrata Jubo Sangha (JJS) Vice President Zakia Akhter in a written statement at the press conference said a total of 1347 women and 653 children became victims of acid attack across the country from 2000 to 2008.<sup>19</sup>

#### **Numbers of Cases of Acid violence Reported..... 2000-2004 <sup>20</sup>**

Year	No. of incidents	Female victim	Male victim	Children less than 18	year
2000	172	114	39	73	226
2001	250	138	94	111	383
2002	366	221	139	124	484
2003	335	204	117	89	410
2004	266	183	63	76	322

<sup>19</sup> *The Daily Star*, published on Sunday, March 8, 2009.

<sup>20</sup> Resource Center, BNWLA

As per Odhikar's data, in 2005 total 104 women were the victims of acid attack, in 2006 total 105 women were the victimized of acid. During last year, 2008, at least 133 persons were the victims of acid attacks. Among them, 73 were women, 26 children and 34 men. On the other hand, during January and February, 2009, at least 11 persons were reported as victims of acid attacks. Among them, 7 were women and 4 men.<sup>21</sup>

In addition, survivors need highly sophisticated and prolonged medical care, which is not easily available in Bangladesh, and the cost of treatment is very high. Just a one-hour operation costs several hundred U.S. dollars, and victims usually have to undergo more than one surgical treatment. Most of the victims are from poor families and cannot afford this expense. Their families have to spend all their money and even need to borrow money to pay for the treatment.

## **Related law**

### **2.1.1 The Acid Crime Control Act, 2002**

The Act which was enacted to strongly suppress the offences committed by acid<sup>22</sup> has made certain acts and attempts punishable offences.

- Crimes punishable under the Act with death sentence or life imprisonment and fine:
  - (a) Causing death by acid [section 4]
  - (b) Causing hurt by acid in such a way which totally or partially destroys eye-sight, bearing capacity or defacing or destroying face, breasts or reproductive organ [section 5{ka}]
- Crimes punishable under the Act with rigorous imprisonment and fine:
  - (a) Causing hurt by acid in any part of body other than those mentioned in section 5(ka) [section 5{kha)].
  - (a) Throwing acid on anybody although no physical, mental or any other harm has been caused [section 6]
- Attempts to commit crimes:

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<sup>21</sup> Odhiker report, published on 8 March, 2009.

<sup>22</sup> Preamble of the *Acid Crime Control Act, 2002*

Attempt to throw acid on anybody although no physical, mental or any other harm has been caused for which punishment is maximum 7 years and minimum 3 years of rigorous imprisonment and fine [section 7].

Tills Act also provides for punishment for abetment and the law relating to abetment is similar to that of Nari O Shishu Ain of 2000 [section7].

### **2.1.2 The Acid Control Act, 2002**

Acid violence has been escalating during the last few decades for acid is cheap and easily available and at the same time, it can be used to cause irreparable damage to person. This Act was enacted to control the import, production, transportation, hoarding, sale and use of acid to prevent the misuse of acid as a corrosive substance and for the purpose of treatment and rehabilitation of acid victims and to provide legal support to them.<sup>23</sup>

## **2.2 Dowry**

### ***2.2.1 Dowry-related violence***

Dowry-related violence is a common feature in Bangladesh, affecting the lives of many women. Other than specific acts of violence such as killings, torture, the throwing of acid and the like, dowry demands affect the lives of women socially and culturally in a much deeper manner. Fundamentally, they undermine the equality of women and create culturally accepted forms of discrimination against them. They can affect the life of a girl from the very start. Preference for boys often begins with the parental realisation that the burden of finding dowries falls on them as soon as the child is born. Thus, the devaluation of a child takes place in culturally subtle forms from the very beginning. This continues throughout their early years and up to the time of marriage.

Dowry related violence has proved to be a highly complicated violence in Bangladesh. Due to dowry related violence many women have been killed and the rest victimized by physical and mental abuses. Sometimes husbands alone or in collaboration with in-laws or with the help of other family members torture and

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<sup>23</sup> *Preamble of the Acid Control Act, 2002.*

kill wives for failing to fulfill dowry demands. Dowry completely demolishes the dignity of women and makes them very helpless in their so called homes.

According to Odhikar, in 2008 a total of 269 women were victims of dowry<sup>24</sup> violence. In 2002 to 2006 total 1683 women were the victims of dowry related violence and during this time total 1088 women had been killed and other 440 women had gone through severe physical torture. In the year 2006, a total 323 women had been victimized of the dowry related violence and among them, 243 women had been killed by their husbands or in laws. In 2005 total dowry related victims were 382 women and among them 227 were killed due to that violence. In 2004 total 166 women had been killed and total 270 were the victims of such violence. Besides, in 2003 total 261 women were killed of 384 victims. Whereas in 2002 total 191 had been killed when 324 were victimized of dowry related violence.<sup>25</sup>

On 10 January 2004 the Daily Star, The Bangladesh Human Rights Organisation, and Bangladesh Women Lawyers Association revealed that in 2001, there were 12,500 cases of women repression, in 2002 the figure rose to 18,455 and in the year in 2003 the figure climbed to 22,450. So, regularly increase the dowry related violence.

## **Related law**

### **2.2.2 The Dowry Prohibition Act, 1980**

The Dowry Prohibition Act was enacted and passed in 1980.<sup>26</sup> The provisions of the Act are very concise in form having only 9 sections. (Later section 6 was repealed by Ordinance LXIV of 1984). Section 1 of the Act describes the commencement and application of the Act. The Act prohibits giving or taking dowry,<sup>27</sup> the offence being punishment<sup>28</sup> under sections 3 and 4 of the Act. It deals with the offence of giving, taking or abetment thereof or demanding of dowry in

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<sup>24</sup> Giving and taking dowry are both prohibited under the Dowry Prohibition Act.

<sup>25</sup> Odhiker report, published on 8 March, 2009.

<sup>26</sup> Published in Bangladesh Extraordinary Gazette dated 26<sup>th</sup> December, 1980.

<sup>27</sup> *The Dowry Prohibition Act, 1980. Section 2*

<sup>28</sup> Maximum five years and minimum one year.

marriage by either parties at or before or after the marriage as consideration for such marriage.

The judge in the Appellate Division of the Supreme court have now ensured in the case of *Abul Basher Howlader v. State and Another*,<sup>29</sup> that, not only the taking or giving of dowry or abetment thereof before or at the time of marriage is made an offence but also the demand thereof after the marriage. Thereafter, in a recent case of *Salma Mollick Md. v. State*,<sup>30</sup> it was “...settled that if dowry is demanded after the marriage then also the offence under section 4 will be committed....” despite the fact that plea was taken that no offence was committed in the light of the said section. In this case the couple was married on 24.10.87 and dowry of taka 50,000 was demanded on 25.01.91. The wife was abused and was sent to her parents along with her minor daughter and was refused to be taken back unless the demand was met. It was held that the demand amounted to dowry demand and thereafter the accused were found guilty accordingly.

## **2.3 SEXUAL HARASSMENT**

### ***2.3.1 Sexual Harassment***

Sexual harassment includes such unwelcome sexually determined behaviors (whether directly or by implication) as:

- (a) Physical contact and advances;
- (b) A demand or request for sexual favours;
- (c) Sexually coloured remarks;
- (d) Showing pornography;
- (e) Any other unwelcome physical, verbal or non-verbal conduct of sexual nature.

An analysis of the above definition shows that sexual harassment is a form of sex discrimination projected through unwelcome sexual advance, request for sexual favours and other verbal or physical conduct with

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<sup>29</sup> 46 (1994) DLR (AD) 169.

<sup>30</sup> 48 (1996) DLR 329.

sexual overtones whether directly or by implication, particularly when submission to or rejection of such a conduct by the female on going to the office, school, college, market etc. IN these cases the women are really helpless.

## **2.4 Rape**

Rape, also referred to as sexual assault, is an assault by a person involving sexual intercourse with or sexual penetration of another person without that person's consent. Rape is generally considered a serious sex crime, as well as a civil assault.

Rape is one of the most brutal forms of violence against women in Bangladesh. In a culture that holds a woman's chastity sacred, rape crimes are particularly injurious to a woman's self-identity and social future as well as her physical and psychological well-being. The ever-increasing rate of rape crimes is an alarming phenomenon and depicts the diminishing value of women in society.

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. Rape, in this Section, is narrowly defined to mean forced penetration of the male sexual organ in the female vagina. In this study rape was selected as a form of violence to be investigated because it is a prevalent crime more commonly targeted against women, and moreover, in recent times, reports of rape has been on the rise, especially among children and infants. Many instances of gang rape are also reported as well as rape followed by murder. However it is commonly assumed that a very low percentage of the rape cases are reported to the police.

### **Reported Cases of Rape in 9 Daily Newspapers 200-2004<sup>31</sup>**

Year of Reporting	2000	2001	2002	2003	2004
Number of Cases of Rape Reported	564	605	1434	1550	1043

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<sup>31</sup> Resource Center, BNWLA

As per Odhikar's data, During 2008, a total of 454 women and girl children were raped of which 202 were women and 252 were girls (under 17 year of age). During 1 January 2001 to 28 February 2007 a total of 5816 women and children were reportedly raped across the country. Among these numbers, 636 women were killed after being raped and 69 committed suicide after the incident. Odhikar reports that a total of 639 women and children were raped in 2006 in 2005 total 907 women and children were raped.<sup>32</sup>

Rape incidents are a continuous form of violence but the number of incidents in January and February 2009 is less than the number covering the same period in 2008. During January and February in 2009, a total of 42 women and girl children were raped of which 20 were women and 22 were girls (under 17 year of age).<sup>33</sup>

## **2.5 Prostitution and Trafficking**

Trafficking of women and children is a significant problem in developing countries around the globe, and particularly in South Asia. In the absence of social protection, economic security and legal support, an alarming number of women and children from the poor, marginalized and disenfranchised sections of the community (an overwhelming majority of the population of South Asia) become easy victims of trafficking. The demand and supply factors that push women into trafficking are numerous and complex. As trafficking and sexual exploitation is a crosscutting issue in this subcontinent, it has become a growing concern especially across borders. The problem is more acute for a country like Bangladesh that shares a porous border with India. Bangladeshi women and children are trafficked both within the country and internationally.

Bangladesh is considered a zone where many children and women are trafficked and there is little government control. Due to their low socio-economic status women and children are particularly vulnerable to trafficking and sexual exploitation. Religious and cultural taboos perpetuate conditions that make

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<sup>32</sup> Odhiker report, published on 8 March, 2009.

<sup>33</sup> Odhiker report, published on 8 March, 2009.

women and children vulnerable to exploitation. Lured by promises of good jobs or marriage, trafficked victims are mainly forced into prostitution. Traffickers arrive in a village and convince a child's family to let the child leave with the trafficker.

According to an Indian Researcher Dr. K.K Mukherjee, 20 percent of sex slaves in Indian brothels were trafficked from Bangladesh and Nepal. A review of UNICEF indicated that 200,000 women and children were trafficked to Pakistan from Bangladesh. The report further said that the figure might be below the real number, as all trafficking cases were not duly reported.<sup>34</sup> According to Center for Women and Children Studies (CWCS) about 100 children and 50 women are being trafficked to foreign countries every month from Bangladesh. Since independence at least 1,000,000 women and children have been trafficked from Bangladesh and of them about 400,000 were young women forced into the sex business in India.

## **Related law**

### **Nari O Shishu Nirjaton (Bishesh Bidhan) Ain, 1995**

This Law was enacted to provide for special provisions for certain heinous offences against women and children.<sup>35</sup> For the convenience of building arguments in the latter part of this article, I have divided the offences punishable under this Act into two categories: crimes and attempt to commit crimes.<sup>36</sup>

- Crimes punishable under the Act with mandatory death penalty:
  - (a) Causing death by burning, corrosive and poisonous substances [section 4]

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<sup>34</sup> Anti-trafficking Programs and Promoting Human Rights – A Grassroots Initiative by Rights Jessore 2002.

<sup>35</sup> *Preamble of the Nari O Shishu Nirjaton (Bishesh Bidhan) Ain, 2004.*

<sup>36</sup> Unlike the Penal Code, special laws of 1995, 2000 and 2002 do not make all attempts to commit crimes under these laws punishable offence. Therefore, except the attempts which has been specifically mentioned as offences under these laws, other attempts will be punishable under the Penal Code. For instance, it was held in *Younus Ali & others v. The State 7 (1999) BLT (HCD) 46* that mere attempt to kidnap is not an offence under Nari O Shishu Ain of 1995. In order to bring out a case of kidnapping under section 9 of the Act, one of the purposes mentioned in the Act has to be proved.



- (b) Murder after rape or by rape [section 6(2)]
- (c) Murder after or by gang rape [section 6(4)]
- (d) Causing death tor dowry [section 10(1)]<sup>37</sup>
- Crimes punishable under the Act with death sentence or life imprisonment:
  - (b) Causing grievous hurt by burning, corrosive and poisonous substances if the sights of both eyes are permanently damaged or if head or face is permanently damaged or deformed [Section 5].<sup>38</sup>
  - (b) Rape [section 6(1)]
  - (c) Gang rape [section 6(3)]
  - (d) Trafficking of children (buying, selling or taking in possession for buying and selling of children) [section 12]
- Crimes punishable under the Act with life imprisonment or other rigorous imprisonment and fine:
  - (a) Causing grievous hurt by burning, corrosive and poisonous substances in case of any damage mentioned in section 5
  - (b) Trafficking of women and children for prostitution, illegal cohabitation, engaging in illegal or immoral activities [section 8(1)]
  - (c) Taking possession or having custody of women and children for above purposes [section 8(2)]
  - (d) Abduction for prostitution, illegal or immoral activities [section 9]
  - (e) Causing grievous hurt for dowry [section 11]
  - (f) Kidnapping or confining any children for taking ransoms [section 13]

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<sup>37</sup> Among 511 sections of the Penal Code, only 2 sections provided for compulsory death sentence. These are section 303 (murder by life convicts) and section 307 (attempt to murder by life convict, if hurt is caused thereby).

<sup>38</sup> Section 5 of the 1995 Act compartmentalized human body for the purpose of variation in punishment: such as losing sight of one eye, both eyes, one year, both ears, face, reproductive organs etc.

This Act provides punishment for abetment for committing any of the above offences with die same punishment for the offence if the crime is committed thereby [section 14].

- Attempt to commit crimes:
  - (a) Death sentence or life imprisonment for attempt to cause death or hurt by rape [Section 7]<sup>39</sup>
  - (c) Life imprisonment for attempt to cause death for dowry [Section10(2)]

### **Nari O Shishu Nirjaton Daman Ain: 2000 (as amended in 2003)**

Following the previous Nari O Shishu Nirjaton (Bishesh Bidhan) Ain, 1995, this Act was also enacted to provide for necessary provisions for strictly suppressing the oppression against women and children.<sup>40</sup> This Act is applicable in respect of all women and children.<sup>41</sup> Here also I have divided the offences under two heads: crimes and attempt to commit crimes.

- Crimes punishable under the Act with mandatory death sentence and fine:
  - Causing death for dowry [section 11 (ka)]
- Crimes punishable under the Act with death sentence or life imprisonment and fine:
  - (a) Causing death by burning, corrosive and poisonous substances<sup>42</sup> [section 4(1)]
  - (b) Causing grievous hurt by the above substances if eyesight or

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<sup>39</sup> No distinction has been made between simple or grievous hurt. From the section which reads 'if any person attempts to cause death of or hurt any women or children by rape....' it is not clear whether it requires rape to be committed or not. If not, then a person can be punished with death sentence only for attempting to commit rape. If rape is required, then the section is unneeded since section 6 provides for the punishment for the same offence.

<sup>40</sup> Preamble of the Nari O Shishu Nirjaton Daman Ain, 2000 or which is known in English as 'The LAW relating to Suppression of Oppression against Women and Children, 2000'.

<sup>41</sup> Child has been defined in Section 2(ta) as 'a person who is below 16 years of age'

<sup>42</sup> See supra note 15. The report recommended to include the words 'or any other burning substance or materials' after 'corrosive or poisonous substance' taking into account the fact of torture on the domestic help with hot water, utensils etc.

- hearing capacity or face or breast or reproductive organs are damaged thereby [section 4(2)(ka)]
- (c) Trafficking of women for prostitution or illegal or immoral acts [Section 5]
  - (d) Trafficking of children for illegal or immoral acts<sup>43</sup> [section 6(1 )]
  - (c) Stealing of newborn baby from hospital, nursing home etc<sup>44</sup> [section 6(2)]
  - (f) Confinement of any woman or child for taking ransom [section 8]
  - (g) Causing death of any woman or child due to rape or any activities of the offender after rape [section 9(2)]
  - (h) Causing death or hurt by gang rape [section 9(3)]
  - (i) Mutilation of any Limbs of child for the purpose of begging or selling limbs [section 12].
- Crimes punishable under the Act with life imprisonment or lesser terms of rigorous imprisonment and fine:
    - (a) Causing grievous hurt by burning, corrosive and poisonous substances in case of any damage to any part of the body other than those mentioned in section 4(2)(ka) [Section 4(2)(kha)]
    - (b) Throwing any burning, corrosive and poisonous substance even though the concerned woman or child does not suffer from any physical, mental or other harm [section 4(3)].
    - (c) Kidnapping or abduction of any woman or child for any purpose other than those mentioned in section 5 [section 7]
    - (d) Rape [section 9(1)]
    - (e) Failing to provide safety to any woman who has been raped in police custody.<sup>45</sup> [Section 9(5)]

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<sup>43</sup> . Trafficking of children for prostitution is not included in section 5 or 6. Is it deemed to be included in 'immoral and illegal acts'?

<sup>44</sup> Newborn baby has been defined in section 2 (Cha) as a baby of not more than 40 days.

- (f) Abetting any woman to commit suicide.<sup>46</sup> [Section 9(ka)]
  - (g) Sexual harassment.<sup>47</sup> [Section 10]<sup>48</sup>
  - (h) Causing grievous hurt for dowry [section 11 (kha)]
  - (i) Causing simple hurt for dowry [section 11 (ga)]
  - (j) Publicity of the identity of any woman or child victim in newspapers[Section 14]
- Attempt to commit crimes punishable under the Act:
    - (a) Attempt to cause death by burning, corrosive and poisonous substances for which punishment is death sentence or life imprisonment and fine [section 4(1)]
    - (b) Attempt to throw burning, corrosive and poisonous substance even though the concerned woman or child does not suffer from any physical or mental harm for which maximum 7 years of imprisonment and fine have been imposed [section 4(3)]
    - (c) Attempt to cause death for down- [section 11 (ka)]
    - (d) Attempt to cause death or hurt by rape [section 9 (4)(ka)J]. Life imprisonment and fine have been imposed in case of both (c) and (d).
    - (e) Attempt to rape for which punishment is maximum 10 years Imprisonment [section 9(4) (Kha)]

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<sup>45</sup> Child' is not included here.

<sup>46</sup> Again the term 'child' is omitted here. This provision was included by the Amendment Act of 2003.

This provision was inserted due to several incidents of suicide committed by some women and children in fear of losing chastity.

<sup>47</sup> Second part of the section omits the word 'child'. The Law Commission 2007 report recommended including the word 'child' after 'woman'. In fact this is not the only provision where [his omission occurred. Hence, a careful scrutiny of the Act is needed to prevent amendment again and again.

<sup>48</sup> Section 10 was amended by the Amendment Act of 2003 which omitted the second part of section 10 providing for maximum 7 and minimum 2 years of imprisonment for making indecent gesture towards any woman for satisfying sexual desire.

- (f) Attempt to cause simple hurt for dowry [section 11(kha)]
- (g) Attempt to cause grievous hurt for dowry [section 11 (ga)]

It is very interesting to note that in the chapeau of section 11 'attempt to cause hurt for dowry' has been declared as an offence and, accordingly, the section is divided into three parts: (ka) causing death or attempt to cause death, (kha) to cause grievous hurt, and (ga) to cause simple hurt. But, the words 'attempt to cause grievous hurt' and 'attempt to cause simple hurt' are totally missing from clause (kha) and (ga).

Abetment to commit any offence is punishable under the Act. It provides for the punishment of offence, if offence is committed and the punishment of attempt, if attempt is made due to abetment [section 30].

## **2.6 Others Crimes**

### ***2.6.1 Eve Teasing***

Eve teasing is an act of terror that violates a woman's body, space and self-respect. It is one of the many ways through which a woman is systematically made to feel inferior, weak and afraid. Whether it is an obscene word whispered into a woman's ear; offensive remarks on her appearance; an intrusive way of touching any part of a woman's body; a gesture which is perceived and intended to be vulgar: all these acts represent a violation of a woman's person, her bodily integrity. Eve teasing denies a woman's fundamental right to move freely and carry herself with dignity, solely on the basis of her sex. Some acts of eve-teasing mentioned by girl students interviewed are; indecent remarks, singing obscene songs, hitting, touching or pinching in crowded places.

### ***2.6.2 Victimization By Fatwa***

According to Islamic teaching, *fatwa* is a religious edict based on Islamic principles pronounced by a religious scholar. In Bangladesh, however, this notion has been totally misconceived and is used by half educated village *mullahs* (clerics) who actually are not scholars in Islam. These *Mullahs* through the informal village justice system (*shalish*) punish women for so-called anti-social or

immoral activities. In almost all the cases women are brought before the *shalish* simply for their involvement in extra marital affairs, marrying a man from different religion, giving birth to a child before marriage, complications due to oral divorce pronounced to a woman by her husband and so on. Although these punishments are not legal per se, because the *Mullah's* exert considerable autonomy and power in the rural areas, the punishments are generally carried out against the helpless women. People's lack of knowledge about the law and religion, poor education and absence of social awareness are the key factors, which allow *fatwa* to be issues. Punishment awarded by a *fatwa* is variable but include awarding *hilla* (intervening marriage) to another man punishing with lashes, social boycott, stoning, divorce, and physical violence.

### **2.6.3 Murder and Suicide**

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, after rape, 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. Both of these forms of violence violate the first clause of the Universal Declaration of Human Rights – the human right to life.

During January and February in 2009, total of 5 women and 3 girls were killed after being raped.<sup>49</sup> In 2008, 172 women were killed over dowry disputes and 246 through domestic violence, while 83 were killed after being raped.<sup>50</sup>

### **2.6.4 Domestic Violence**

“Domestic Violence against women” means any act or conduct which has potential to injure or hurt women physically, mentally, emotionally, socially and

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<sup>49</sup> Odhikar report, published in 8 March 2009.

<sup>50</sup> Ain O Salish Kendra report in 2008.

also spiritually within the four walls of house, however, such an act or conduct is done usually not by strangers.

Domestic violence, or violence perpetuated 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. Available data suggests that the number of cases of domestic violence is increasingly being reported in the newspaper. In 2008 a total of 246 women were victims in domestic violence.<sup>51</sup>

Despite the severe consequences to women's physical and emotional health, domestic violence is not recognized as a serious social problem and society does not perceive domestic violence to be a serious crime. Rather, it is viewed as a personal matter that should be resolved privately within the family. As a result, law enforcement agencies are reluctant to get involved in cases of domestic violence and women are often victimized with no recourse. The implicit indifference of society in matters of domestic violence perpetuates the notion that domestic violence is legitimate and male domination in the family is acceptable. While men take advantage of this right to exert authority, women's tolerance of domestic violence further entrenches domestic violence into the fabric of daily life in Bangladesh.

ASK and Odhikar reveal that family violence commonly includes dowry related violence, battering and other forms of physical torture, murders and abandonment by husbands, their family members as well as women's own kith and kin. It is obvious that women are more vulnerable than men to different forms of family violence, especially dowry related violence. Dowry is the payment of a settlement for the family of the bride to the groom. This practice has grown in recent past despite the fact that it is not part of the Muslim marriage contract. Traditionally Muslims voluntarily give gifts to their daughters during her wedding and there is also scope for their daughters inheriting property, albeit less than what their brothers can inherit.

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<sup>51</sup> Report of Ain O Salish Kendra.

## Chapter 3

### CAUSES AND CONSEQUENCES OF VIOLENCE

**“The low social and economic status of women can be both a cause and a consequence of violence against women”** (PFA, 1995). Gender violence represents an expression of human behaviors and attitudes and is deep rooted in the society. “Traditional attitudes by which women are regarded as subordinate to men or as having stereotyped roles perpetuate widespread practices involving violence or coercion, such as family violence and abuse, forced marriage, dowry deaths, acid attacks and female circumcision. Such prejudices and practices may justify gender-based violence as a form of protection or control of women. The effect of such violence on the physical and mental integrity of women is to deprive them of the equal enjoyment, exercise and knowledge of human rights and fundamental freedoms. While this comment addresses mainly actual or threatened violence the underlying consequences of these forms of gender-based violence help to maintain women in subordinate roles and contribute to their low level of political participation and to their lower level of education, skills and work opportunities”<sup>52</sup>

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 categorised 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.

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<sup>52</sup> Convention on Elimination of all forms of Discrimination Against Women. (CEDAW, GR19, para 11).



### **3.1 Immediate Causes of Violence**

#### ***3.1.1 Lack of Self-defence***

Women are not socialised to protect themselves and despite an active feminist movement in the country they are not physically trained to protect themselves.

#### ***3.1.2 Acid Assault***

Male ego and problems in dealing with rejection is another important cause of acid throwing. Refusal of love (44 cases), marriage proposals and family disputes (33) are three major causes of this type of violence. After marriage when dowry demands are not met, brides may become victims of acid throwing. In 88 cases reasons for acid attack are unknown.

Other causes of acid throwing include family dispute, protest of husband's second marriage, failure to misappropriate of wife's wealth, sterility, and getting divorce from wife, refusal of sexual relationship, failure to kidnap, the woman not being agreeable to prostitution and the woman's refusal to agree with husband's second marriage. From case studies and interviews with experts (in Naripokkho's work with acid violence) in the area of redress it can be surmised that illegal sale, cheap and easy availability of acid in any roadside shop is considered an important factor contributing to the practice of acid throwing. Impunity, protection of criminals by the politically powerful, and the information about the possibility of assaulting others with acid are probably the chief reasons behind the increase in the incidences of acid assaults. Lack of proper infrastructure and transport facilities is a factor that makes acid violence all the more harmful. Many cases of acid violence occur within the woman's own home and at night. In rural areas or even in urban slums, houses are mainly made of bamboo and thus they can easily be broken into. Such insecurity in the place of residence makes women more vulnerable to attacks by men in their area. It has been mentioned that in many cases the acid is aimed at women's vaginas. This is achieved because shared toilets are located at a distance from the houses. Either they are attacked in toilets or acid is placed in the water they use to clean themselves with.<sup>53</sup>

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<sup>53</sup> *Compiled from data of Ain-o-Shalish Kendra Documentation Unit*

### ***3.1.3 Community Violence***

There are diversified reasons for community violence. Existing trends from paper cutting shows that there is no fixed reason for the community violence. It depends on the attitude of the local elites and other so called “Maulavis”. Pre-marital pregnancy and pre-marital and extra-marital sexual relationship (20 cases) was found as the major cause of community violence during 1995-97. Besides these, other causes include verbal divorce, love affairs, movement outside home without husband’s permission; husband pronounced divorce for dowry.

### ***3.1.4 Murder***

Enmity, political differences and land disputes were the main causes for male murder case followed by dacoity and family feuds. Other causes included dispute on uprooting a bean tree, toll collecting, dispute over lending money, cheating while distributing goods, dispute on a sugar cane field and quarrels. On the other hand, dowry demand, family feud and rape and failure to rape were the major causes of female murder case.

### ***3.1.5 Abuse by Law Enforcement Agencies***

The important institutional cause of custodial violence is that the law enforcing agencies misuse Section 54, the Vagrancy Act, DMP 861 and arrest people and bring them into police custody where the police stations do not have any facilities for women. Other institutional causes of custodial violence include (i) weak and corrupt law enforcement agencies, (ii) lack of women personnel, (iii) lack of support staff, (iv) lack of commitment from both State and non state institutions for monitoring, (iv) misuse of power through misuse of remand provision and (v) lack of institutional accountability.<sup>1</sup> DMP 86. Penalty for being found under suspicious circumstances between sunset and sunrise – Whoever is found between sunset and sunrise; (a) armed without any satisfactory excuse with any dangerous instrument; or (b) having without any satisfactory excuse his face covered or otherwise disguised; or (c) in any dwelling house or other building, or on board any vessel or boat or in any vehicle without being able satisfactory to account for

his presence there; or (d) lying or loitering in any street, yard or other place without being able to give satisfactory account of himself; or (e) having in his possession without satisfactory excuse any implement of house-breaking; shall be punishable with imprisonment for a term which may extend to year, or with fine which may extend to two thousand taka, or with both.

## **3.2 Intermediary Causes**

### **3.2.1 Dowry**

Despite the Dowry Prohibition Act (1980) dowry transactions continue to increase and have become a socially legitimate part of marriage negotiations. Maleka Begum (1994) in her book “Jowtuk” (“Dowry”) suggests that dowry is a major factor in violence against women, starting from verbal abuse, battering, torture and ending in death for many. Incidents documented by the ASK Documentation Unit reveal that unfulfilled dowry demands cause brides to be physically tortured, divorced, abandoned and also burned with acid, kidnapped and trafficking. During 1995-97, two hundred and seven (207) brides were murdered by either husbands or in-laws over dowry related disputes. Many were burned to death after being doused with petrol or kerosene. Although reports from the Ministry of Women’s and Children’s Affairs explains this as a lack of knowledge about women’s rights in general and the lack of implementation and enforcement by the judiciary and law enforcement agencies (MWCA-GOB, 1997) the women’s movement contends that it is more a reflection of the total devaluation of women in society whereby she is considered a burden on the man and his family upon whom she is considered foisted through marriage.

### **3.2.2 Lack of Education**

Women in our society are not only economically dependent on male but they do not have much control over their lives. Lack of education makes women more vulnerable. Though studies show that years of schooling is inversely associated with prevalence of violence, however, no statement could be made how and why education or years of schooling has a role in reducing violence (Hadi,1997, Roy,

1996, Khan et al, 1998). It could be assumed that greater years of schooling may provide women with an opportunity to gain knowledge and information which they often lack and as a result become more vulnerable. When Chowdhury (1992) was trying to assess the impact of education, independent of labor force participation on women's power autonomy in Bangladesh, he found that although education and work did not give these women the power to change the traditional division of labor within household, the most educated women had more equal power relationships with their husbands, was less dependent upon husband's approval for self-esteem and discussed family matters openly with their spouse. Though it appears that education does have a role on women's power and autonomy, he argues that education alone can not overcome the power of patriarchy.

### ***3.2.3 Lack of Economic Independence and Income***

Lack of independent income forces many women to stay in violent relationships. The labour force statistics show that not as many women as men are employed (or even self-employed).

Their ownership of assets or property is generally much lower. Their inheritance rights to family assets are discriminatory. Their access to bank loans, for example, is discriminatory. As a result most women do not have an independent or significant income.

### ***3.2.4 Lack of Security for Women***

Although cultural barriers for women entering the public arena and joining the workforce are being challenged (in garments factories, small businesses through micro credit schemes and positive discrimination in State agencies) very few institutions are letting "private" or women friendly issues enter into the public arena. There is lack of security for women travelling to and from their workplaces, no transport facilities are provided for women travelling at night, no housing facilities for migrant workers from rural areas and no institutionalized codes of conduct to help enable the workplace overcome some of the negative cultural perceptions of women. In Naripokkho's Pilot Study on Violence against Women

(Azim, 2001) seventy-one percent (71%) of the working women interviewed said they were scared of ill lit spaces in their work places. Yet it is found that even in places like the University of Dhaka the street lights, the lights in the stairwells and corridors of the buildings are frequently out of order. In many areas of work women workers are preferred (e.g., in garments industries, the informal labour force etc.) because they are reputedly are more reliable, less likely to be part of unions, generally cheaper and more law abiding than men. However, very few institutions are consciously women friendly very few provide childcare, flexible hours for working mothers, adequate toilet facilities, or maternity/paternity leave for new parents.

### **3.3 Underlying Causes**

#### ***3.3.1 Poverty:***

General or overall economic causes of family violence are considered to be increasing landlessness, pauperisation, unemployment which have increased the stress and tension in male-female relations in the poor households and give rise to desertion, divorce and violence (Jahan, 1994). Kabeer (1989) also stated “Violence both systematic and random, is part of the condition of poverty in as much as poverty is associated with relative powerlessness, and the poor are least able to defend themselves or to remove themselves from threatening situations”. Her paper shows that lack of resource especially food in poor rural households and women’s failure to efficiently accomplish their traditional gender roles lead to gender violence. For instance, a mother was beaten by her son when his food ran short at mealtime; wives were beaten by husbands because there was too much or too little salt in the food; a young orphaned girl was beaten by her uncle when she asked for her share of fruits from family owned trees. A bi-variate analysis in recent study (Khan et al, 1998) on violence reiterated the strong relationship between family violence and poverty. There exists a debate on whether participation in credit based development intervention may reduce violence against women. However, existing literature shows that getting involved in credit programme and bringing cash home may create tensions within the household and precipitate domestic violence (Goetz and Gupta 1996). Similarly, Schuler et al

(1996) suggest that expanding women's access to economic opportunities and resources does not always make them less vulnerable to domestic violence, at least not right away. Rather, in some cases, credit creates a new arena of hostility and conflict.

### **3.3.2 Culture and Tradition**

#### ***Child Marriage***

This practice continues to be widespread despite the existence of the Child Marriage Restraint Act since 1983. A girl child is deemed as a burden to poor parents. In the marriage market the younger the bride, lesser the dowry demand. Parents' fear for their daughters' security, especially when she is an adolescent and capable of conceiving a child out of wedlock, becomes a reason for marrying them off early. When a young single girl becomes pregnant not only does she stand to be condemned by her community (in some cases she becomes the subject of fatwas), her parents and family are also punished with social isolation and shaming. Cultural stigmatisation of sex outside of marriage actually puts the family honour at stake. All these reasons make it impracticable to enforce the legal provision against child marriage. Although the State has enacted the law it has taken no other steps to counter the valuation of young girls as sexual objects and thus the practice of overvaluing younger women as brides continues. Naripokkho's Pilot Study (Azim, 2001) found that the age of first marriage is associated with violence in marital life. The study found that marriage at twenty-five or more years is a protective factor. Women activists believe that early marriage of girls, usually between the ages of 12-19 years, along with a wide age gap between spouses results in unequal relationship and invites marital disharmony. Lack of knowledge about sexual health often aggravates the situation of violence against women within spousal relationships also.

#### ***Socialisation Processes***

Girls and boys are brought up through discriminatory socialisation processes that result in an unequal power relationship in their adulthood. This socialisation process also makes women helpless, deprived and disfranchised as a group. On

the other hand abuse of wives was not really considered as crimes as appeared from discussion with men during Rapid Assessment Study on violence (Naripokkho, 1998a). They are considered to be the decision makers in the house and have the right to beat women when they behave unacceptably." Many believe that this right to be grounded in religious doctrine and some had heard that, according to Islamic texts, the parts of their bodies beaten by their husbands would go to heaven" (Schuler, Hashemi and Riley, 1997). Other causes of marital violence or more specifically wife beating include non-fulfillment of traditional gender role of women, sexual maladjustment or non communication about sex, interference of in-laws as perceived by couples (ibid). Moreover women's lives are perceived to be less valuable and they are disempowered in family relationships. Therefore, they commit suicide as an ultimate resort. Male aggression is explained using the Social Learning Theory paradigm. On the one hand, men are socialised such that a strong sense of a male identity develops. Dominance, pride, aggression in the face of threat or assault and protection of self is part of that identity. Social and cultural mechanisms through customs, rites, literature and art promote male dominance and gender role segregation. Society also protects and even encourages men to establish their dominance through violence against women.

### ***Religious Conservatism***

Community violence occurs when community members collectively perpetrate violence on individuals of the same community. It is the outcome of a "community" decision to punish a member of the community. The violence is directed to women for "sexually inappropriate behaviour" in the name of fatwa or so-called religious edicts. Strictly speaking only religiously recognised persons have the authority to give fatwas which are pronouncements of opinions based on religious texts. However, the practice of fatwa, disguised as religious edicts, is often abused as a tool for torturing and suppressing women. It is worth mentioning here that it is not always 'fundamentalist' religious leaders but also influential people of the community who often issue fatwas. Commonly they spell out punishments against women for adultery, marriage of their own choice, divorce,

remarriage and pregnancies outside of wedlock. Thus fatwas are generally used to control and subordinate women's self determination, sexuality and bodies. Even when both a man and woman are involved in a case of sex outside of wedlock, the woman and her family are punished more heavily than their male counterparts (case of Nurjahan, Bangladesh Mahila Parishad, 1997). Because it is disguised as a religious edict and involves the complicity of the community in which the woman belongs, it becomes a powerful tool for suppressing and oppressing women. Misinterpretation and misuse of religious principles by fanatic religious leaders, people ignorance about religious principles, illiteracy, women's economic dependence, vulnerability, and insecurity are main causes of community violence. While fanatic religious leader misinterpret and misuse religious principles, the community do not dare protest against such misuse of religion. The traditional cultural practices of divorce still prevail in spite of changes in the legal procedures. Lack of information on the legal procedures regarding divorce leads to many women ending up homeless and abandoned by their husbands. Verbal declarations of divorce or "talaq" is not acceptable in the eyes of the law, yet in rural areas many women are considered divorced from their husbands, not only by the couple themselves but also by other members of their community, when the word "talaq" is mentioned thrice by the man.

### ***Commodity***

Women /girls are often viewed as commodities and they are judged by their physical appearances, a woman's appearance is most valued. Therefore perpetrators of acid assaults often take revenge for family enmity by harming women and destroying her marriage possibility. This is enough to destroy her life – by destroying her marriage prospects, her confidence and her acceptability in society.

### ***3.3.3 Women's subordination***

The basic cause of violence against women, reinforced by other factors such as religion and culture, is their subordination compared to men. Violence is a means of reinforcing this subordination. The General Assembly Resolution 48/104 states



“violence against women is a manifestation of historically unequal power relations between men and women, which have lead 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”

### **3.4 Consequences of Violence against Women**

As mentioned above the consequences of gender based violence “on the physical and mental integrity of women is to deprive them of the equal enjoyment, exercise and knowledge of human rights and fundamental freedoms. While this comment addresses mainly actual or threatened violence the underlying consequences of these forms of gender-based violence help to maintain women in subordinate roles and contribute to their low level of political participation and to their lower level of education, skills and work opportunities” (CEDAW, GR19, para 11). Violence against women has several types of consequences which include physical or health, psychological, social and economic. The different types of effects are almost similar for all kinds of violence. Some existing literature deals with consequences of violence against women (Sultan1997, Sutherland et al, 1998; Azim 2001). Violence has long term consequences for both the physical and psychological well being of women (Sutherland et al, 1998) with fear being the most pronounced effect. Fear of violence prevents many women from living independent lives. It curtails their movement, makes them seek male protection and encourages vulnerability and dependence. Furthermore it reduces their self-esteem that further reinforces dependency (Sultan, 1997). In Naripokkho’s Pilot Study on Violence Against Women (Azim, 2001) case studies of women survivors of violence showed that depression, trauma related symptoms (such as sensory associations, sleep disorders) and suicide ideation were common effects of violence.

#### **3.4.1 Health Consequences**

Several types of injury and death are the most important health consequences of family violence. In a study it was found that in suicide and homicide were

frequent consequences of illegitimate pregnancy (Naripokkho, 1998a). Though maternal mortality in Bangladesh is one of the highest in the world, however, when Rahman, Rahman and Hossain (1993) studied the deaths of women of reproductive age 15-44 years from 1982- 90, it shows that out of 265 deaths, 25.1% of all deaths were due to violence. They also found that 12.3% of maternal deaths were due to violence. Hossain (1991) found that in data collected from verbal autopsies that 13.8% of maternal deaths during 1982-90 in Matlab were due to injuries and violence as cited in Rapid Assessment Study (Siddiqui,1998). This directly violates the right to life. A number of different physical and psychological symptoms and severe illness is related to violence: pelvic infections, abortions, sterility, chronic pains, gastrointestinal diseases and symptoms characterised as post traumatic stress syndrome, including depression and suicide attempts. Most often these symptoms are not regarded as being related to violence. Suicide because of occurrence of rape among young girls is very common as mentioned in an earlier section of this report. Apart from suicide, other serious health consequences in case of rape victims are the following: being affected by STDs, pregnancy, abortion, permanent damage to the reproductive tracts and other organs, childbirth, forced motherhood. This directly violates the right to the highest attainable standards of physical and mental health. Acid throwing causes disfiguration, long term disability and pain. Severe disfiguration forces women to isolation. Some times due to the threat from the perpetrators the victims might also loose their homes and shelter. Physical injury, pregnancy, disability and death are most common health consequences of custodial and community violence. Trauma, depression, anxiety, isolation and disturbed conjugal life are the most common psychological effect for all kinds of violence. Having negative reaction to men or sexual relations is also likely in the case rape victims. States parties are required by article 12 of CEDAW to take measures to ensure equal access to health care. Violence against women puts their health and lives at risk.

### ***3.4.2 Social consequences***

There are some general social effects for the victims of acid burn, rape, custodial violence, community violence which include social condemnation (shame and dishonour), rejection from family/society and deprivation from education. However, it is worth mentioning here that the intensity of shame and dishonour are different for different types of violence. Often young girls commit suicide due to the shame of sexual attack as mentioned earlier. Similarly, shame and dishonour of acid victims depends on what parts of their body are affected by acid. For instance, Naripokkho's experience with acid burn girls shows that girls whose appearance are affected by acid are more likely to overcome their hesitation in the public sphere than those whose reproductive organs are seriously injured by acid throwing (Personal communication with Naripokkho). These are the immediate social effects which isolated the victims from normal social life in the long run. Besides these there are some specific social consequences/effects for particular types of violence, for instance, embarrassment or harassment of rape victims by asking shameful questions, "sensationalisation" by media. In case of family violence, battered people may batter others in a weaker position, for example children, domestic help etc. One of the most difficult things for the middle class victims of family violence is that they are forced to keep up a social front because of social prestige. Apart from other social effects, the acid burn and victims of custodial violence have to pay a very high social cost. For instance, they can not continue a normal life as due to disfiguration and sexual harassment in the custody, they are rejected from family and their marriage breaks down. For unmarried girls, chances of marriage decline, engagements break down. Often the victims of rape and custodial violence are forced into prostitution and migration. Due to community violence victims are often deprived of employment, health services, voting rights and freedom of movement and are susceptible, or more vulnerable, to being trafficked. Family violence not only puts women's health at risk, it also impairs their ability to participate in family life and public life on as basis of equality.<sup>54</sup>

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<sup>54</sup> *Convention on Elimination of all forms of Discrimination Against Women. Article 5 and 16*

### ***3.4.3 Economic Consequences***

Besides medical expenses for all types of violence, victims of acid burn, rape, custodial and community violence may lose their employment or source of livelihood or can not get jobs, are denied shelter or economic support by their families. “Equality in employment can be seriously impaired when women are subjected to gender-specific violence, such as sexual harassment in the workplace. Sexual harassment includes such unwelcome sexually determined behaviour as physical contact and advances, sexually coloured remarks, showing pornography and sexual demands, whether by words or actions. Such conduct can be humiliating and may constitute a health and safety problem; it is discriminatory when the woman has reasonable ground to believe that her objection would disadvantage her in connection with her employment, including recruitment or promotion, or when it creates a hostile working environment”<sup>55</sup>. This violates article 11 of CEDAW.

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<sup>55</sup> *Convention on Elimination of all forms of Discrimination Against Women( GR 19 para 17,18)*

## Chapter 4

### SOME CASE STUDIES ON VIOLENCE AGAINST WOMEN

#### Case Reference-1

*Salam Mollick (Md) v. State*<sup>56</sup>

#### Fact of the case

The case started on the basis of a petition of complement filed by opposite party no 2 alleging that she was married to accused No 1 Md. Badruzzaman on 24-10-87. But after marriage the accused No 1 at the instance of other accused persons demanded dowry of Taka 50,000.00 on 25-1-91. The accused persons started beating her and subsequently she along with her minor daughter, Liza Akhtar were sent to her father's house. Subsequently on 26-7-91 the accused person refused to take back the complainant and her daughter to their house if the demand of dowry was not met.

#### Observation of the Court

The rule is discharged and order of stay stands vacated. the ground taken in this Rule is that no offence was committed by the petitioner in view of the definition of the word Dowry given in section 2 of the Dowry Prohibition Act, 1980. It has now been settled that if dowry is demanded after the marriage then also the offence under section 4 will be attracted. It has been specifically stated in the petition of complaint that the accused persons refused to take back the complainant and her daughter to their house if the demand of dowry was not met.

Court considers that it would be hardship on the part of the two female accused to appear regularly in the court at Nalchiti, Jhalakati. And in view of this, the magistrate may consider any prayer on their part for appearance in the court through a lawyer.

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<sup>56</sup> 48 (1996)DLR, P.329

## Case Reference 2

### *Mofizuddin mandal v. State.*<sup>57</sup>

#### **Fact of the case**

In the village Jamura under Khetlal Police Station in the district of Bogra there lived a poor family of one Safiruddin consisting of himself, his young wife Ayna Bibi aged 19, his mother and brother. It is alleged that at dusk on Sunday (21-11-59) the exact time not given, the appellant carried away by force the prosecutrix, namely Ayna Bibi, the young wife of Safiruddin when she had resorted to a ditch to the south of their homestead for easing herself. The story is that thereafter appellant detained and raped the prosecutrix for two consecutive nights in his south facing hut. The appellant is a man of 35 years of age having wife of his own and two little children already by her to his credit and his hut is only 50 yards away from that of the prosecutrix. It is alleged that at the relevant time the wife and children of the appellant were away. Safiruddin, husband of the prosecutrix was also away from home at the time the appellant seized upon the prosecutrix by wrapping a gamcha around her neck so as to still her voice. It is alleged that the actual wrapping having been perpetrated at the point of dagger she had to bear in silence.

#### **Observation of the Court**

The appeal is allowed and the conviction and sentences are set aside and the appellant is acquitted. the appellant is directed to be set at liberty forthwith unless wanted in any other connection.

The incriminating circumstances and the criterion of the guilt, namely, that the appellant was seen to bring the prosecutrix out of his house to the gate at the last part of Monday night was not put to the accused for explanation, considering all the circumstances stated above, the conviction and sentences of the appellant can not be upheld.

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<sup>57</sup> 14 (1962) DLR, 821

## Chapter 5

### CONCLUSION

#### 5.1 Recommendation

To eliminate violence against women in Bangladesh, one needs to challenge the vested 'rights' and 'roles' of men and the social control mechanisms that reinforce the superiority of men and subordination of women. The unequal power relations often result in the dominance exercised through violence. In such countries, feminization of poverty is a key factor that is not just a state of deprivation but also a process of vulnerability, physical weakness, isolation and powerlessness. Consequential unemployment, wage discrimination and structural adjustment policies exacerbate violence against women and children both by increasing its incidence and by making women and children more vulnerable. Greater public awareness to change gender-biased attitude is the most important precondition to enable solutions to materialize. Along with a more gender-sensitive socialization process, legal remedies have to be in place. Training of police, judicial and law enforcement officers on gender sensitivity and domestic violence is crucial.

#### 5.2 Concluding Remarks

Gender-specific violence against women and girls is now internationally recognized as an impediment to the holistic social, economic, civil, political and cultural advancement of women. The seriousness and endemic nature of the issue has placed it as a priority agenda in all international conferences and work plan of UN development agencies. The issue of violence against women and girls was reviewed extensively in the Fourth World Conference and was highlighted in the Beijing Declaration and Platform for Action (1995). In the light of the international commitments, the government of Bangladesh has adopted its

National Plan of Action for the empowerment of women including elimination of violence against women.

Effective solutions to comprehensively address violence must recognize certain established and underlying dynamics based on the complex social, cultural, religious and economic ideologies that serve to maintain the unequal relationships between men and women.

Although violence is a part of every society and has existed since time immemorial in various degrees, some countries like Bangladesh have conditions which are more favorable to a culture of violence that include poverty, avarice and patriarchy. Female subjugation and inequality are related conditions that propagate violence.



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