

Domestic Violence against Women in the Time of Pandemic in Bangladesh

Subrina Reza

School of Law, BRAC University, Bangladesh

ABSTRACT:

Domestic Violence is one of the most prevalent forms of violence in Bangladesh but it is also one of the least discussed area because of the social norms and rules that conceals and stereotypes this serious issue. The Coronavirus pandemic has affected every spheres of our life and has isolated us inside our own home while the safety of women is increasingly at risk. This violation of human rights should be immediately addressed as well as the solutions and remedies should be adequately reflected in national legislations and legal mechanisms. Analyzing the social, economic and legal factors that provide scope of such violence shows whether the laws are enough to tackle and provide protection against domestic violence. Furthermore, the analysis of current legal mechanisms show that Bangladesh need to consider people of all levels and communities when constructing rules to provide protection to women against violence. This research paper upon analysis of contemporary laws which are in force in Bangladesh for the protection of women in cases of domestic violence and similar instances determines that the said laws are not adequately reflecting the areas that need to be identified to give protection to women in pandemic. Along with focusing on the core factors behind the causes of increasing domestic violence in Bangladesh, the country needs to consider that the pandemic situation adds more barriers in the way of getting assistance in case of domestic violence. Hence it is also significant to implement policies that sufficiently reaches women in both rural and urban areas of the country. Not only the victims, the laws lack adequacy in engaging the larger community in joining to give collaborated assistance during the pandemic crisis.

Background:

The whole world has found a common purpose - trying to find ways to fight off the frightening coronavirus, and while we are united in a positive cause, the same cannot be said for the miscreants and perpetrators who are not on the same page. While the intensity of violence against women has grown, we must understand that this act of violence is not new rather it has been developing over time immemorial. In Bangladesh, domestic violence has always been associated with stereotypical gender roles, social stigma, socially accepting behavior and patriarchal attitude.

Although Bangladesh have developed legislations for the protection of women such as the Domestic Violence Act, 2010, the Acid Control Act, 2002, Dowry Prohibition Act,1980, Women and Children Repression Prevention Act, 2000, The Penal Code,1860, certain questions remain to answered as to the implementation and adequacy of these laws in the time of pandemic in our country.

Materials and Methods:

The research is conducted by collecting relevant information from primary and secondary materials and resources. All the collected information is analyzed and interpreted in a manner which reflects the research paper in terms of relevance. Hence, the research method is doctrinal and it is a desk-based research since primary and secondary literature are collected and analyzed and data collection is not conducted by any primary investigation or interview.

Literature Review:

It has been opined by Dr. Zakia Parvin (2017) that while it is commendable to have legislations such as The Domestic Violence (Prevention and Protection) Act, 2010 in place, there are certain shortcomings as to the interpretation and subjective nature of specific terms mentioned in this law. Moreover, in her opinion, domestic violence is not to be taken as women's issue rather it is to be considered as a social problem. A certain gap was also pointed out stating that international laws where the obligation to address domestic violence rests solely on a nation's will and so domestic violence should be addressed in a more rigid and mandatory manner.

Abbas Bhuiya, Tamanna Sharmin and S.M.A. Hanifi (2003) are of opinion that the legal provisions of up-to-death penalty for violence against women in Bangladesh are one of the most significant measures to discourage domestic violence against women. However, the accessibility of legal services to women, especially for rural women from poor economic backgrounds, is questionable and cannot be easily done. It was also stated that fear of child protection, having no place to go, social stigma of broken marriage and so on work as factors for not making complaints of domestic violence.

According to Sana Malik and Khansa Naeem (2020), quarantine measures such as social isolation and distancing practices have actually put women at heightened risk of violence at home where they are cut off from essential protection services and networks. Furthermore, policies should be developed by which government will ensure a plan of action to counter these effects of the coronavirus. Even though there are helpline numbers available for victims of abuse, there is a need to address the legal issues of women, in the present day of crisis. There is a clear demand for gender-based policy to overcome the vulnerabilities and to protect women economically, psychologically and physically during and post-pandemic period because the vulnerabilities in terms of health, domestic violence and livelihoods are often overlooked.

In the opinion of Andrew M. Campbell (2020), there are several reasons behind the victims not receiving proper help in case of domestic violence. Domestic violence abuser tends to isolate the victims as an act of control and so these perpetrator-imposed restrictions limit the ability of victims to reach out for help. He also indicated how victims do not have access to internet and cellphone to ask for help due to continuance surveillance and restrictions imposed by the abusers. It is mentioned that even before the pandemic, family violence was a complex and difficult issue constituting an outstanding problem to be resolved. The pandemic situation has imposed greater barriers as relevant actors willing to provide help and services struggle to find ways to reach the families who have been cut-off from the rest of the community and likely at greater risk of harm. Not only the victims are being unable to find help but also the concerned authorities find it difficult to truly ascertain the situation revolving domestic violence.

Scope of the Research:

This research paper will be focusing on the contemporary laws which are in force in Bangladesh for the protection of women in cases of domestic violence and similar instances. Moreover, the core factors behind the causes of increasing domestic violence in Bangladesh will be concentrated on in order to determine the adequacy of such laws as well as the nature and outcome of implementing such laws.

Research Question:

Whether women in Bangladesh are ensured adequate protection against domestic violence during pandemic through implementation of the existing laws in force.

Results:

The legal mechanisms that are in place against domestic violence does not sufficiently protect women in Bangladesh both in rural and urban settings. Both lack of proper implementation and inadequacy in considering all factors of domestic violence render the laws ineffective.

KEY WORD:

Domestic Violence, Dowry, Early Marriage, Factors behind domestic violence in Pandemic, Socio-economic and cultural factors behind domestic violence, Laws of Bangladesh on domestic violence.

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List of Abbreviations:

ASK	Ain o Salish Kendra
COVID-19	Coronavirus Disease 2019
DMCH	Dhaka Medical College and Hospital
DMP	Dhaka Metropolitan Police
DNA	Deoxyribonucleic Acid
FIR	First Information Report
GBV	Gender-based Violence
NGOs	Non-Governmental Organizations
OCC	One Stop Crisis Center

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I. INTRODUCTION

The increase in Domestic abuse has been declared to be a 'shadow pandemic' alongside COVID- 19 in the words of United Nations.¹ Many changes are being made to everyday life to fight the coronavirus and while the precautionary measures are preventing the spread of the virus, some negative consequences are also being brought with these measures. 'Domestic violence' has not been introduced to the world during the pandemic, it has existed since time immemorial but the increasing violence have been fueled by the pandemic and the

¹'COVID-19 and Ending Violence against Women and Girls' (*UN Women*, 2020) <https://www.unwomen.org/-/media/headquarters/attachments/sections/library/publications/2020/issue-brief-covid-19-and-ending-violence-against-women-and-girls-en.pdf?la=en&vs=5006> accessed 18 September 2020.

country is overwhelmed in deciding its priorities in terms of providing protection to its people. Domestic violence takes place within domestic space and so staying home during pandemic becomes an addition to the sufferings of the victims who are in most cases, women and children. Bangladesh has made progressive laws in combating violence against women but the adequacy of these laws in terms of implementation and today's reality is a matter of question. Since the victims are more isolated during the pandemic and they are compelled to stay under surveillance and restrictions, the laws are to be scrutinized to determine whether it truly reflects the solutions of the new problems along with the old ones that occurs in domestic setting across the entire country. The measures taken during lockdown have been taken as an opportunity for the perpetrators to freely act without consequence. The stereotypical social rules are also preventing people from seeking help because still it is considered to be a private matter and a topic of embarrassment in the country. The identification of the core causes behind increasing domestic abuse can help in determining the solutions that will not only protect the victims but also diminish the deeply rooted stereotypical concepts of gender roles in society. This violence against women is not a new phenomenon, women were always considered to be easily exploited where financial and social factors are significant to be identified. The national legislations might be progressive and there might be mechanism at place, but the increasing violence during pandemic need to be taken into considering while making rules because the situation is not as same as before. The severe consequences on women due to domestic abuse should also be an urgent matter to take on and the protection and prevention lie in thorough analysis of laws and the factors that influences such violent behavior of the perpetrators.

Chapter 2

Factors Behind Causes of Domestic Violence During Pandemic and Pre-Pandemic Period

In Bangladesh, domestic violence is very much a prevalent form of act of violence against women and the societal setting and mindset in the country play a significant role in providing the platform for such violence. In order to eradicate the problem, to take preventive measures and to provide legal remedies to the victims in an efficient manner, the reasons and factors behind the issue must be recognized and discussed. This problem of domestic violence was gradually increasing even before the pandemic that hit the globe, and now isolated and quarantined life has become a key reason for increasing but unreported act of violence at home against women. It does not only affect the women physically and psychologically; it has devastating effects on children as well. It is to be mentioned that very little studies have been conducted in the country to explore the factors behind domestic violence which is much needed to resolve the issue.

Chapter 2.1

Social-economic and Cultural Factors: Early Marriage and Dowry System

In most situations in Bangladesh, domestic violence is closely linked to marriage.² The role a woman plays in marriage and the expected stereotypical gender roles are also the cultural factors behind domestic violence. Even though there are laws prohibiting marriage for females under the age 18 years, rural women in the country aged 20-49 years are reported to get married off at the age of 15 years according to a 1999-2000 national survey.³ Even though the law has fixed the minimum legal age for females is 18 years and males are 21 year, the Child Marriage Restraint Act, 2017 shows a loophole where a Court child marriage will be allowed when it comes to special cases.⁴ However, the act does not elaboratively define what will be considered as special cases. If a legal loophole like this exists, preventing early marriages becomes a serious challenge. At such young age, a female usually knows little or nothing about her role and her rights or how spousal relationship should be and so goes through traumatic experiences and dominance. In order to establish and enforce stereotypical gender roles and superiority in marriage domestic violence is often used as a ground and since young women know very little of their legal rights particularly fall victim to it and they are unable to resist.⁵

The dowry system has become a declaration of women's dependence on men rather than just a tradition. Lack of understanding of the concept of dower is also a reason for it being abused to impose

²Lisa M. Bates, Sidney Ruth Schuler, Farzana Islam, Md. Khairul Islam, 'Socioeconomic Factors and Processes Associated with Domestic Violence in Rural Bangladesh' (2004) 30 (4) Guttmacher Institute <<http://www.jstor.com/stable/1566493>> accessed 25 August 2020.

³Mitra SN et al., 'Bangladesh Demographic and Health Survey 1999-2000' [2001] National Institute of Population Research and Training (NIPORT), Mitra and Associates (MA), ORC Macro (ORCM) <<https://dhsprogram.com/pubs/pdf/FR119/FR119.pdf>> accessed 26 August 2020.

⁴The Child Marriage Restraint Act, 2017.

⁵Lisa M. Bates, Sidney Ruth Schuler, Farzana Islam, Md. Khairul Islam, 'Socioeconomic Factors and Processes Associated with Domestic Violence in Rural Bangladesh' [2004] 30 (4) Guttmacher Institute <<http://www.jstor.com/stable/1566493>> accessed 25 August 2020.

dominance over women. In terms of Muslim law, dower is religiously sanctioned and is paid by the husband out of honor and respect but dowry is not supported by personal laws, it refers to when the bride's family makes transmission to the groom's family or gives large sums of money, jewelry, cash, and other goods or makes monetary payment.⁶ According to the statistics by Ain o Salish Kendra (ASK), between January 2020 – July 2020, a total number of 334 acts of domestic violence took place in the country, out of which only 174 cases were filed.⁷ In the case of Nure Alam and State it has been made punishable to demand dowry under section 4 of the Dowry Prohibition Act and it was held mere demand of dowry subject to proof, would bring the conduct within the mischief of section 4 of the act.⁸

Other economic and cultural factors include – discrimination in employment and wages, restricted access to education for women, patriarchally defined roles and responsibilities of men and women at home, stereotypical expectation of gender roles, acceptance of dominance and superiority of males or even in-laws in marriage as well as discriminatory laws regarding inheritance, property rights, the notion of the family as the private sphere and so violence should be kept as a private matter and also the social expectations that women should make personal sacrifice and be more submissive for the sake of saving the name of the family and society.⁹

Chapter 2.2

Factors Behind Domestic Violence in Pandemic Period

The Coronavirus in the year 2020 has infected the entire world and the consequences are not just physical or medical, there are social and legal consequences as well, violence and offences has increased at a concerning rate and domestic violence is one of those offences needing immediate attention to be paid at. It is not possible to legally assist victims without identifying the reasons and factors behind such increase of domestic violence, so that these components can be eradicated via enforcement of legal mechanism and rules.

- Since social distancing or isolation has been key precautionary measurement in the pandemic period, the victims of domestic violence are trapped in the same house with the perpetrators.
- Due to quarantine measures, there are less and limited contact created with the outside world adversely affecting the victims or people vulnerable to violence at home.
- It is very common for abusers to isolate their victims from using any means of communications as an act of control¹⁰ and in pandemic period, these perpetrator-imposed restrictions and surveillance of internet or cellphones have made it close to impossible for the victims to seek for help.
- Mental health is also being severely affected due to unemployment, reduced income, stress, financial crisis and so on which is eventually affecting family relationships which is leading to violence in domestic settings where women are coerced to play subordinate roles.

There are a few commonalities between the factors causing domestic violence in both the pandemic and pre pandemic period which include- the unequal and subordinate role of women because of financial dependence due to lack of property and inheritance rights, the stereotypical social norms deciding roles of the members of the household, lack of access to legal assistance and most importantly, lack of rules made in accordance with the needs of both rural and urban community.

Chapter 3

Analysis of Contemporary Legal Mechanisms and Implementation

Bangladesh have developed a number of legislations for the protection of women out of which the notable ones are named-

- The Domestic Violence (Prevention & Protection) Act, 2010
- Section 36, 41 and 42 of The Acid Control Act, 2002

⁶Farah Chowdhury, 'Dowry, Women, and Law in Bangladesh' [2010] International Journal of Law, Policy, and the

Family <https://www.researchgate.net/publication/228279152_Dowry_Women_and_Law_in_Bangladesh/citation/download> accessed 24 August 2020.

⁷Ain o Salish Kendra, 'Violence Against Women- Domestic Violence Survey' (2020) <<http://www.askbd.org/ask/2020/08/08/violence-against-women-domestic-violence-jan-july-2020/>> accessed 20 August 2020.

⁸65 DLR (2013) 396.

⁹Dr. Kaniz Siddique, 'Domestic Violence Against Women- Cost to the Nation' (2011) <https://www.carebangladesh.org/publication/Publication_5421518.pdf> accessed 22 August 2020.

¹⁰Andrew M. Campbell, 'An Increasing Risk of Family Violence during the Covid-19 Pandemic: Strengthening Community Collaborations to Save Lives' [2020] *Forensic Science International: Reports* <<https://doi.org/10.1016/j.fsir.2020.100089>> accessed 22 August 2020.

- The Dowry Prohibition Act, 1980
- The Women and Children Repression Prevention Act, 2000
- Sections 286, 312-338, 359-374, 493-498 and 509 of The Penal Code, 1860

However, there are loopholes and shortcomings as to the efficient implementation and adequacy of these laws in the time of pandemic in our country. It was already difficult to ascertain the real status of domestic violence in the country during pre-pandemic period and now we should be very much concerned about the unreported acts of violence taking place at home against women both in rural and urban areas. The core point should be identifying the defects to the preventive laws and to other laws that have put women in an unequal position in family and society. Moreover, it also has to be recognized that the laws do not adhere and reflect the needs of the entire country in terms of protecting women from domestic violence.

Chapter 3.1

Existing Legal and Other Mechanisms During the Pandemic Period

Enactment and implementation of laws should take into consideration the situation of accessibility for women in order to seek for help. In many domestic violence cases, victims are unable to get help since they are kept isolated at home.

There is a legal aid helpline- 16430 and also National Helpline Centre for Violence against Women and Children provides services such as legal advices, police assistance, telephone counseling, information regarding violence issues and so on which can be accessed via hotline number 109. In case of legal help, a FIR (First Information Report) can be filed with the police station through email which can be referred by the police to the One Stop Crisis Center (OCC) at Dhaka Medical College Hospital (DMCH) and/or the Victim Support Centre under Dhaka Metropolitan Police (DMP). However, this step depends on the nature of the victim's injuries if any. Police may also send the victim to obtain a medical report if the OCC does not provide one. The One Stop Crisis Center provides medical care, police and legal assistance, DNA test, social and shelter services, psychological counseling and so on to the women victim of violence.

Now that we have help and legal assistance in place, we must address the fact that not only the current day to day court activities have been stalled due to the pandemic but also it is unlikely that the victims of domestic violence will have access to technology let alone a phone to call for help. The solution may lie in bringing people and voluntary organizations at local level together to participate in reporting violence, awareness raising, informing oneself and others as to how to get help and what constitutes as domestic violence. It is high time that all corners of Bangladesh were made aware that domestic violence is certainly not a private matter, it should not be normalized anymore. Starting from being a concerned neighbor who does not hesitate to report about violence to ensuring women are to be involved in long term livelihood skill development and included in the planning process for protecting women, we may see some changes in future.

Chapter 3.2

Analysis of Current Scenario in the Country and its Relevance with Laws

The Constitution of People's Republic of Bangladesh in its article 28 has pledged that the State shall not discriminate against any citizen, women shall have equal rights as men as well as special provisions are to be ensured for the protection of women.¹¹

The laws that are not directly associated with domestic violence but gives unequal rights to women, has made women financially dependence and curbed them in terms of security. For instance, in case of inheritance and property rights of women in the country, women still are restricted and limited due to the customs, rules, social norms, legislations and so on. Equal inheritance rights are not only to be granted as fundamental human rights but also are central to women's financial and economic security and advancement. Property provides a way for women to establish autonomy and independence as well as a source for having equal social and legal status in the society.

The Prevention of Oppression against Women and Children Act 2000 as well as the Domestic Violence (Prevention and Protection) Act of 2010 provide exemplary provisions against domestic violence. Punishments for act of domestic violence is also dealt with by the Penal Code, 1860. However, in the Domestic Violence Act, 2010, the police have been given pivotal role and ultimate authority in terms of both first contact with the victim and following up through the completion of the process under section 47 of the act, not only this, there is no

¹¹The Constitution of People's Republic of Bangladesh.

mention about training and education on domestic violence issues that will be given to either the police or the enforcement officer fixed by the act.¹²

In most cases, domestic violence is more severe in rural areas in Bangladesh and the laws are not efficient enough to reflect their needs specifically. According to a survey conducted on 2002 in six rural villages in Bangladesh it was found that a significantly high percentage of women believe or even accepts that husbands' use of violence against their wives is not any offence and the range of approval was between 75 and 100 percent, which suggests that acceptance of domestic violence by wives is widespread across those six villages surveyed.¹³ Hence, it is very much evident that the laws have not been communicated or enacted in any manner that will reach all corners of the country. There are legal mechanisms in place but they are not enough since it is not easy to get access of legal mechanisms for women from rural or poor economic background.¹⁴

In order to truly enact provisions that can be properly implemented in the period of pandemic to combat domestic violence, the laws and policies need to recognize and implement-

- equal status of women in terms of property and inheritance rights has to be ensured to provide financial security in the family;
- policies have to be implemented by NGOs and local organizations in raising awareness and education on issues of domestic violence;
- social stigma and accepting attitude towards domestic violence need to be eradicated at all levels;
- the abuse of loopholes of laws should be scrutinized;
- initiatives of other countries may be followed such as, upon the realization that reaching out for help might not always be feasible counselling centers in Germany have advised citizens to be aware and keep an eye out for their neighbors in order to assist in need;
- there must be easier ways to contact and alert the police for getting urgent help such as text messages offline and online, and the use of code or predetermined words with doctors or pharmacists or even neighbors who can alert the police on it.¹⁵
- Means of communication are limited to men or kept restricted from victims of violence specially in the rural areas of the country, in that case there are other ways such as less regular community meetings, and checking up on families will curb the abusive behavior since they have to be careful of their actions as well as they would believe that they will get caught if they are abusive.

The country has to enact legal rules from a gender perspective to the pandemic situation which means enacting laws based on understanding of all genders so that legal mechanisms are made adequately available to everyone but in fundamentally different ways. Particularly for women, the ability of governments and policy-makers to apply a gender lens to this crisis which is significant for enforcement of laws which are adequate enough for people of all backgrounds, diversity and genders.¹⁶

Chapter 4

Conclusion

Secretary General of the United Nations, António Guterres has urged all governments to ensure women's safety first while responding to the pandemic.¹⁷ It is clear that the laws despite being progressive lack adequacy in taking into consideration the domestic situation across the country at all levels. Moreover, the

¹²Dr. Zakia Parvin, 'Combating Domestic Violence in Bangladesh: Law, Policy and Other Relevant Considerations', (2017) 22(1) Annual Survey of International and Comparative Law <<https://digitalcommons.law.ggu.edu/annlsurvey/vol22/iss1/9>> accessed 14 July 2020.

¹³Sidney Ruth Schuler and Farzana Islam, 'Women's Acceptance of Intimate Partner Violence within Marriage in Rural Bangladesh' [2008] 39 (1) Population Council < <http://www.jstor.com/stable/20454436>> accessed 26 August 2020.

¹⁴Abbas Bhuiya, Tamanna Sharmin, S.M.A. Hanifi, 'Nature of Domestic Violence against Women in a Rural Area of Bangladesh: Implication for Preventive Interventions' [2003] 21 (1) Journal of Health, Population and Nutrition < <http://www.jstor.com/stable/2349883>> accessed 26 August 2020.

¹⁵Pragyna Mahpara, 'Quarantine in Home or Prison? Domestic Violence in the time of COVID-19 and what it holds for Bangladesh' (*Brac Institute of Governance and Development*, 7 April 2007) <<https://bigd.bracu.ac.bd/quarantine-in-home-or-prison-domestic-violence-in-the-time-of-covid-19-and-what-it-holds-for-bangladesh/>> accessed 22 August 2020.

¹⁶Sharon Gouveia Feist, Monica S. Herrera, 'How to Improve Security Outcomes During a Pandemic? Start with a Gender Lens' [2020] Daniel K. Inouye Asia-Pacific Center for Security Studies < <https://www.jstor.org/stable/resrep24874>> accessed 14 August 2020.

¹⁷Amanda Taub, 'A New Covid-19 Crisis: Domestic Abuse Rises Worldwide' *The New York Times* (New York, 14 April 2020) <<https://www.nytimes.com/2020/04/06/world/coronavirus-domestic-violence.html>> accessed 18 September 2020.

pandemic has introduced more obstacles in providing access to women in cases of violence. Even though the legislations commands people to act in a certain way, it does not succeed if the community is not engaged in bringing changes and combating violence. Factors like, child marriage, dowry, patriarchal norms that determines gender roles, financial dependence have not been strictly tackled in the country. The death toll in domestic space keeps rising and the pandemic has given free platforms for it. A change in the mindset of the community need to be brought alongside laws that address the pandemic situation in combating domestic abuse. Proper representation of the victims should not just take place in the Court, but also when it comes to reporting, awareness and surveillance. The development of virtual reporting mechanisms and revised legislations could strengthen the security measures for women. We were not exactly combating domestic violence to full extent even before the pandemic and so the greater barriers that it has imposed on the globe call for combined efforts from both legal and social perspectives. The power structures and national legislations should be constructed from gender perspective since the country still has a long way to go before establishment of equality in all sectors. It was necessary before but more necessary now to ensure an alteration to social behaviors and for the country to enforce its protection even if it takes intervention to private life. Domestic violence stays hidden and now it has taken a more concerning shape than before, so all individual should play a part in both combating the COVID- 19 and this shadow pandemic, domestic violence. The government need to strengthen legal services based on accurate data analysis and risk assessment and the safety measures are to be constructed in a way that adapts to the current crisis. The concerned authorities including the law enforcement agencies, helpline workers even court officials need proper training on responding to victims. In terms of forming legislations for combating gender-based violence (GBV), it is of significance that more women are included in policy change and decision-making process. A country cannot progress without inclusion of all people into its proper construction, and women still are lagging behind. Domestic violence is one of the core problems that need to be addressed from a perspective that efficiently identifies the shortcomings and suggests policies and solutions that can truly combat such heinous act of offence.

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