

Violence against women in Bangladesh

Written by Caroline Wiegand

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CAROLINE WIEGAND, APR 30 2012

Bangladesh is one of the poorest countries in the world and its estimated prevalence rate of violence against women is extremely high which, in turn, is 'an obstacle to the achievement of equality, development and peace' (Johnson et al., 2008, p. 16) Due to a lack of reliable base-line surveys, the exact number of women affected by violence is unknown (CEDAW/C/BGD/Q/7). However, non-governmental organisation (NGO) reports indicate that Bangladesh has one of the highest rate globally despite advancements of Women`s Rights and a strong history of women`s movements. Deeply embedded in cultural and socio-economic practices, violence against women is sanctioned by both society and the state, in the name of culture, tradition and Islamic religion.

Recognising violence against women as a violation of Human Rights is a significant turning-point in the struggle to end violence against women globally (UNIFEM, 2003). A human rights perspective broadens the definition of violence against women and "focuses attention on discrimination and inequalities that are maintained or tolerated by the state and that increase women`s vulnerability to violence" (Johnson et al., 2008, p. 4) Violence against women has been recognised as an Human Rights issue since the 1993 World Conference on Human Rights in Vienna, which established that "human rights of women and of the girl-child are an inalienable, integral and indivisible part of universal human rights" (VDPA, Part I, para. 18).

The Vienna Declaration and Programme of Action (VDPA) was adopted by 171 States in 1993 (including Bangladesh), and obliges them to work towards the "elimination of violence against women in public and private life" as well as "the elimination of all forms of sexual harassment, exploitation and trafficking in women". It establishes the importance of access to "adequate health care and the widest range of family planning services" (VDPA; Part II, para. 38 - 41). Since the Vienna Conference, international law offers considerable guarantees to women through binding treaties supplemented by international soft law and supported by specialist institutions (Chinkin, 2010).

Nevertheless, considering these Women`s Human Rights (WHR) enforcements internationally, multiple forms of violence against women remain high with considerably slow progress (Reilly 2009). Therefore, violence against women is an issue that requires continuous redressing to guarantee women`s full enjoyments of their rights. To promote equal status for women, such violence must be recognised as a Human rights violation requiring immediate actions (Desai et al, 2002, p. 30).

Violence against Women (VAW) is the most obvious gender-specific violation of Human Rights, and is a form of discrimination against women[1]. It enforces women`s subordination and patriarchal structures throughout all levels of society, leading to issues such as the undervaluation of women`s economic contributions. VAW is not only embedded in gender norms; gender norms are also constructed through VAW, and "the low status of women - economically, socially, culturally and politically both constitutes and enables the further denial of human rights in gender-specific ways, often at the hands of family members, male and female" (Reilly, 2009, p.78). Thus, VAW both reflects and determines gendered social structures (McMillan, 2007). That is why framing VAW as a Human Rights violation requiring immediate action is crucial to challenge the economic, social and cultural marginalisation of women in Bangladesh.

The paper is divided into three parts. The first part will provide an overview of the international human rights commitments regarding violence against women; the second part will offer a discussion of the specific rights of

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women affected by violence in Bangladesh that are commonly being violated; and part three will explore steps that have been taken by the Bangladeshi Government in recent times to improve the situation for women. The conclusion will provide some of the general recommendations that exist in the literature on violence against women.

Overview of the international human rights commitments

The international law apparatus can be used as a functioning tool offering ways of enforcement of Women's Human Rights in multiple ways. In the context of violence against women, the Special Rapporteur on Violence against women (SRVAW)[2], which reports to the Commission on Human Rights annually on causes and consequences, has to be mentioned as well as the Beijing Declaration and Platform for Action (BPA) that arose out of the Fourth Conference on Women (FWCW) in 1995. The BPA established Human Rights discourse as the language for demanding Women's Human Rights (WHR).[3] States are required to prevent and combat multiple forms of violence against women, trafficking in women, and undertake research into the phenomenon. The failure of states to assist victims constitutes a Human Rights violation[4], according to the BPA.

The UN General Assembly has adopted numerous resolutions both on violence against women in general and on violence against women in specific contexts. For example, the Security Council Resolution 1325 (SCR 1325) calls for the protection of Women in conflict situations, and their full inclusion in peace-building and post-conflict reconstruction (2000). It has also adopted resolutions on violence against vulnerable and disadvantaged groups of women (e.g. migrant women), and with respect to particular forms of violence (e.g. UN General Assembly Resolution Working towards the Eliminations of Crimes Against Women Committed in the Name of Honour (2004)) (Chinkin, 2010). The World Health Organisation (WHO) further reports and highlights a connection between the UN Millennium Development Goals (MDGs) and the prevention of VAW, claiming that working towards the MDG's will reduce violence against women and preventing VAW will contribute to achieving the MDG's (WHO 2005).

There are numerous international Human Rights commitments which Bangladesh is obliged to respect, protect and fulfil, in relations to VAW. However, simply ratifying international conventions, covenants and treaties is not sufficient; they must be incorporated into domestic law in order to be effective. To offer an example, Bangladesh ratified the South Asian Association for Regional Cooperation (SAARC) Convention on Preventing and Combating Trafficking in Women and Children for Prostitution in 2002, but has failed to incorporate its provisions into domestic law (CEDAW/C/BGD/Q/7/21).

Due to word constraints, this paper will provide a brief overview of two selected international Human Rights commitments, and will briefly evaluate the strength and weaknesses of each: the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the UN Declaration on the Elimination of Violence against Women (DEVAW).

UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)

The Convention for the Elimination of All Forms of Discrimination against Women (CEDAW) was adopted by the United Nations on December 18, 1979. Bangladesh signed and ratified CEDAW with reservations on Articles 2, 13.1[a], 16.1[c] and [f] on the basis of religious sentiments conflicting with religious Islamic Shariah laws. In 1996, the government withdrew its reservation on articles 13.1 [a] and 16.1 [f], still retaining reservations on article 2 and 16.1[c]. Article 2 commits states to 'agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women'. Since articles 2 is therefore critical to its fulfilment, the reservation of the Bangladeshi government is a considerable obstacle to achieve CEDAW's objectives. Bangladesh is obliged to report annually to the CEDAW committee on steps taken to combat forms of violence against women. The latter then makes further recommendations. (Chinkin, 2010)

UN Declaration on the Elimination of Violence against Women (DEVAW)

Although the United Nations Declaration on the Elimination of Violence against Women (DEVAW) has no binding legal authority, its definition of VAW was the first that states agreed to work towards eliminating 'any act of gender-

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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' (DEVAW, 1993, Article 1)[5]. It further details the responsibility of states "to eliminate such violence at the national level as a matter of human rights policy by ensuring that women who are subjected to violence have access to the mechanisms of justice" (DEVAW, article 4). However, with no enforcement means, its broad definition of VAW acts merely as a guideline for states, including Bangladesh.

A discussion of the specific rights that are violated

Despite the existing legislation prohibiting violence and discrimination against women, several police and newspaper reports and hospital statistics indicated the widespread increase in violence against women in Bangladesh (States News Service, January 25, 2011), including domestic violence, rape, acid-throwing, dowry-related violence, fatwa-instigated violence and sexual harassment in the workplace (CEDAW/C/BGD/Q/7). These all contribute to the exploitation, deprivation and oppression of women in Bangladesh, and are violations of the fundamental Human Rights.

Violence against women conflicts with the basic Human Rights established in the Universal Declaration of Human Rights (UDHR) in 1948 and other documents like the International Covenant on Civil and Political Rights. Such violence denies women the right to life (ICCPR Article 6); right to be free from discrimination; right to health; right to bodily integrity; right to privacy; the right not to be subjected to torture or cruel, inhuman or degrading treatment (ICCPR article 7); the right to liberty and security of person (ICCPR article 9); and the right to be free from all kinds of violence's including sexual violence. Early marriage and pregnancy are also violations of the rights of the girl child to equal opportunities in education and training. Boy preference, further constitutes a Human Rights violation, the disparity in the population indicated by the presence of 60 percent men and 40 percent women in Bangladesh today (States News Service, January 25, 2011).

The contexts, motivations, intentions and outcomes of these violations of Women's Human Rights are all vitally important (Dobash, Emerson R.; Dobash, Russell P., 1998, p. 15). Although changes have been made, discrimination remains rife.

Ratification and enforcement of international conventions on the elimination of violence against women (which includes withdrawing reservations) commits countries to promote Gender Equality, improve service delivery, hold offenders accountable, to prevent, monitor and constantly evaluate (Johnson et al., 2008).

The first step of the Bangladeshi government must take in respecting the rights of women is to recognise the full presence of violations to their rights. They must then take appropriate measures to "prevent all forms of violence against women, prosecute and punish perpetrators, ensure access to justice and services for victims" (Brautigam, Christine in Johnson et al., 2008, p. v.). However, as criticised by many women's groups and NGO's, the state of Bangladesh harbours a very narrow definition of violence against women, which brings fatal implications for its policies. Only gross violence such as rape and murder are paid attention to. Violence at the domestic level, within the limits of the family, is ignored, and thus the root cause of violence against women is overlooked, ultimately leading to limited intervention. Not all forms of violence against women are recognised as such, which results in the failure to prosecute perpetrators and a lack of access for women to "immediate means of redress, rehabilitation and protection" (CEDAW/C/BGD/Q/7).

The government of Bangladesh is failing to respect the rights of women as it does not consider all forms of violence against women, including sexual harassment at the workplace or religious induced violence sanctioning immoral behaviour and fatwas (an arbitrary religious decree) which remain outside the circumference of the law (States News Service, January 25, 2011). The failure to prosecute perpetrators domestic violence[6] is a failure to implement women's civil and political Human Rights, and is also an indicator of the prevalent gender bias present in legal and judicial systems (Reilly, 2009, p. 78). The CEDAW committee further notes that there is a continuing high prevalence of trafficking for the sexual exploitation of women and girls in Bangladesh. Only a small number of traffickers have been arrested and convicted (CEDAW/C/BGD/Q/7/21). Prostitution is another issue to which the government has provided insufficient attention; it is neither banned nor recognised in Bangladeshi law, yet there is a high occurrence of it throughout the country (CEDAW/C/BGD/Q/7). Little has been done to uphold and protect the rights of

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commercial sex workers, according to the comments of the CEDAW committee on the combined sixth and seventh periodic report of Bangladesh (States News Service, January 25, 2011).

There is a general shortage of free legal support in Bangladesh, one-stop crisis centres, facilities of DNA testing and measures to counteract fatwas (Right Vision News October 8, 2009). The shelters and crisis-centres that are present are limited and inadequate in responding to the needs of the victims of VAW (CEDAW/C/BGD/Q/7). There are six one-stop crisis centres throughout the country, which provide medical treatment and legal support to victims of violence against women. The committee on CEDAW reports notes a lack of counselling services and an insufficient number of shelters in all parts of the country, including rural areas (CEDAW/C/BGD/Q/7). However, the paucity of adequate resources and funding for programmes to address VAW is not an excuse to deny preventative action, as it is a Human Rights violation requiring immediate action. Bangladesh further receives huge amounts of international foreign aid specifically to address violence against women. The United Nations Fund for Population Activities (UNFPA) recently raised its support to Bangladesh to approximately US\$ 70 million to tackle the problems of maternal health, reproductive health and violence against women (United News of Bangladesh August 19, 2011 Friday).

Due to a lack of government services and support, Bangladeshi women's organisations, including the Bangladesh Women Lawyers Association (BNWLA) and Mahila Porshod, a leading women's organisation in Bangladesh, remain very active in providing different forms of assistance to women, including shelters and rescue centres. Some of the most active women's groups and NGO's working on violence against women include We Can Stop Violence against Women, We Can Alliance to End Domestic Violence and the Gender and Development Alliance. Other Women's Groups and networks include National Girl Child Advocacy Forum, Karmajibi Nari, Durjoy Nari Shangha, Sexworkers Network of Bangladesh, Bangladesh Society for the Enforcement of Rights and Women for Women. The founding member of Women for Women, Rowshan Jahan, said that "though there are some strict laws, violence against women is still high compared to other countries of the world as the laws are not being enforced strictly and dowry and early marriage continue to afflict the people" (Right Vision News October 8, 2009).

While all these women's organisations and NGO's work independently and on different areas, they are capable of cooperating with one another and incorporating regional and transnational women's forums, such as the Asian Pacific Forum on Women, Law and Development (ADWLD), Women Living under Muslim Laws (WLUML) and International Women's Rights Action Watch (IWRAP). Women's Groups have also formed a Bangladesh Citizens' Initiatives CEDAW, a platform of 38 NGOs working on Human Rights and development issues which focused on the withdrawal of reservations, gender mainstreaming, women's political participation, violence against women and women's livelihood issues (States News Service, January 24, 2011; Right Vision News October 8, 2009).

Steps that have been taken

The Ministry of Women and Children's Affairs (MOWCA) has a VAW Unit, which monitors incidents of violence and submits reports to the National Committee on Violence against Women (E/CN.4/2001/73/Add.2). It claims that in the past year, and with the new government of 2008, positive changes in Bangladesh have led to victims of violence receiving medical treatment, police assistance, legal support and psychosocial rehabilitation at one of the six One Stop Crisis Centres in the country (States News Service, January 25, 2011). The Bangladeshi Government is aware of its commitments to prevent VAW (according to the CEDAW Committee Report)[7], and has taken multiple steps to ensure that the human rights of women are respected, protected and fulfilled. Governmental structures have been gradually adopted through legislative reform to ensure the inclusion of violence against women on the agendas. Legislation has been enacted to prevent violence and discrimination against women "with a special emphasis to break away from the tradition of treating women as property" (States News Service, January 25, 2011). The Bangladeshi government further enacted the Citizens Act, which allows women to transfer citizenship to their children; the Prevention of Cruelty to Women and Children Act; the Acid Crime Control Act, Child Marriage Restraint Act, Dowry Prohibition Act (1980), National Human Rights Act (2009); the Domestic Violence Act (2010); while the Suppression of Violence against Women and Children Act came into force in 2000. However, since the main focus of this act is the enhancement of punishment, rather than prevention strategies (E/CN.4/2001/73/Add.2), the SRVAW expressed concern about "the introduction of the new draconian laws and the application of the death penalty for a

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whole range of crimes against women including trafficking, rape, acid throwing/burning and dowry violence” (E/CN.4/2001/73/Add.2).

The CEDAW committee advised the Bangladeshi Government to ensure for the implementation of the existing legal framework including enactment of legislation on sexual harassment (CEDAW/C/BGD/Q/7/20c). “The Committee also notes with concern that despite the High Court’s decision that the extra-judicial punishments fatwas are illegal, there are reports of illegal penalties being enforced through shalish rulings to punish ‘anti-social and immoral behaviour”’(CEDAW/C/BGD/Q/7).

Withdrawal of CEDAW reservations on article 13 [a] and 16.1 [f]

The committee that is monitoring the implementation of CEDAW, following periodic reports submitted by Bangladesh (A/52/38/Rev.1, para. 409-464), repeatedly expressed its concern about the government’s reservation to article 2 and article 16.1[c]. While Article 2 is a core provision, as it concerns the implementation of the convention, article 16.1[c] is critical in terms of securing women’s full enjoyment of their rights in all aspects of their life (including family life) (E/CN.4/2001/73/Add.2).

Women’s organisations, groups and NGO’s in Bangladesh, and indeed internationally, are very active in demanding the withdrawal of Bangladesh’s reservations to CEDAW, because it allows the government to shirk its obligation to ensure equality and non-discrimination against women through lobbying and advocacy activities. For example, International Women’s Rights Action Watch (IWRAP) raised awareness on how to incorporate CEDAW with emphasis on Articles 2, 13.1 [a], 16.1[c] & [f] into domestic law. These efforts lead to a withdrawal of reservations on articles 13.1[a] and 16.1 [f]; and to the adoption of the Optional Protocol. While the government consults with women’s groups and activists for the preparation of the CEDAW periodic reports on Bangladesh, these groups also come together to issue so-called shadow reports to advise the CEDAW committee of their concerns (Chinkin, 2010). The most recent report is the combined sixth and seventh periodic report of Bangladesh, which was considered by the committee on CEDAW in January 2011 (States News Service, January 25, 2011).

Conclusion

To conclude, violence against women remains a pervasive, yet under-acknowledged Human Rights violation in all countries of the world, being especially prevalent in Bangladesh (UNFRA 2000). “Violence against women is a deeply entrenched problem in most societies because attitudes and practices that support violence are institutionalized in custom and law at all levels of society – marriage and the family, home, community and state” (Johnson et al., 2008, p. 3). The Bangladeshi government commits itself to respect, protect and fulfil the rights of women and to work towards the elimination of violence against women through international conventions, covenants and treaties. Withdrawing its reservations to article 2 and article 16.1[c] of CEDAW will allow the full implementation of the convention and for the promotion of women’s full enjoyment of their rights including those related to family life. To promote Women’s Human Rights and prevent any form of violence against women, the Bangladeshi government must commit to ensuring a number of prerequisites. These include gender equality; improvement of service delivery (ensuring access to justice and services for victims, e.g. women’s refuges and shelters); the allocation of adequate resources and funding; ensuring that “victims of violence have access to immediate means of redress, rehabilitation and protection” (CEDAW/C/BGD/Q/7/20a); and they must hold offenders accountable for their actions, establishing transparency and accountability in order to enforce positive regulations and legislation (Johnson et al., 2008).[8]

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[1] CEDAW –second general recommendation (No. 19) on VAW in 1992 defined gender-based violence as a form of discrimination

[2] The United Nations Commission on Human Rights appointed SRVAW with resolution 1994/45 in 1994

[3] The now famous slogan “Human rights are Women’s Rights and Women’s Rights are Human Rights” was popularised by Hillary Clinton at Beijing.

[4] Beijing + 5, Special Session of the General Assembly of the UN, 2000 added: honour crimes, dowry-related violence, violence against widows and indigenous women; racially motivated violence, marital rape and forced and early marriage.

[5] Including violence in the family (battery, sexual abuse of female children, marital rape, dowry-related violence and FGM) violence in the community (rape, sexual abuse & sexual harassment at places of work; in education e.t.c)

[6] Family violence – physical torture, (murder for dowry or other reasons, assault, battering, female feticide, murder of girl-child, food deprivation, absence of health services, mal-nutrition, control over reproductive rights) sexual violence by rape and other sexual transgressions and mental torture by obstructing women’s mobility, forced marriage, threats of eviction from the family

[7] “The combined sixth and seventh periodic report of Bangladesh (CEDAW/C/BGD/6-7) notes that the Bangladesh Government has been actively engaged in formulating proactive policies and taking affirmative actions for accelerating the implementation process in achieving the goal of holistic empowerment of women.” (States News Service, January 25, 2011)

[8] WHO recommendations: focus on strengthening commitment and action against violence at the national level; promoting primary prevention involvement the education sector; strengthening the response of the health sector; strengthening formal and informal support for victims; sensitising legal and criminal justice systems; supporting research and collaboration and enhancing capacity for data-collection (Garcia-Moreno et al. 2005)

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