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# Evaluating the Social, Political and Economic Reasons Behind Gender-Based Violence in South Asia: A Case Study of Bangladesh

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## ABSTRACT

*Since time immemorial, the South Asian Region has had a striving culture of violence towards women. It frequently caused more deaths than actual war and other kinds of violent conflicts, which are generally granted higher attention by governments and humanitarian organizations. For instance, from 2011 to 2015, India documented more than 40,000 dowry-related homicides, which is far more than ten times the total number of casualties in the Kashmir conflict, the Naxalite struggle, and the Northeast India sectarian violence during that time period, including both genders. Recent statistics from The Asia Foundation-supported violence monitoring programs in Nepal and Bangladesh show that gender-based violence is the primary or second leading cause of premeditated killings in both nations, far ahead of sociopolitical or ethnic and religious violence. Therefore, this paper tries to reflect and analyze the core reasons behind the unfettered occurrence of this violence against a particular gender in the South Asian region. Bangladesh will be the primary focus of this study due to its recent amendments in the laws against VAW, improvement of the socio-political status of women, participation of women in the workforce with the steady GDP growth rate, nevertheless, including the increase in the number of crimes committed against women.*

**Keywords:** *Violence Against Women in South Asia, Women Rights in Bangladesh, Misinterpretation of Religion, Culture of Impunity, Victim Blaming, VAW, Gender-Based Violence.*

## I. INTRODUCTION

Nature divided almost every species of the animal kingdom into two preliminary genders, mainly for facilitating the procreation process. Contrarily, the human race, being the most intelligent creature on the planet, started to exercise undue power by the comparatively potent

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sex, over the other one, unlike any other animal species. The main reason for gender-based discrimination against women is the notion of inferiority and subordination to men. However, this discrimination based on sex had not been a pre-historic phenomenon. According to a recent study published in 2019, gender inequality first arose 8000 years ago, with the advent of the agricultural society.<sup>3</sup> Mark Dyble, an anthropologist who led another study on the same research topic stated that “there is still this wider perception that hunter-gatherers were more macho or male-dominated. We would argue it was only with the emergence of agriculture when people could start to accumulate resources, that inequality emerged.”<sup>4</sup>

The concept of inequality that arose thousands of years ago in archaic human society, unfortunately, is still prevalent in the present times. Moreover, the discrimination against women has taken a frivolous aptitude and turned into “violence” to many deadly levels. Women are constantly being subjugated by their male counterparts and had been denied basic human rights, i.e. right to education, right to life, and right to liberty, etc. all over the world. However, it is an undeniable fact that the situation is worst in undeveloped third-world countries. An unprecedented UN study of 10,000 men in Asia and the Pacific found that “on average, half of those interviewed reported using physical and/or sexual violence against a female partner, ranging from 26 percent to 80 percent across nine sites studied in six countries (Bangladesh, Cambodia, China, Indonesia, Sri Lanka, and Papua New Guinea)”.<sup>5</sup>

To start with the reasons behind this gender inequality, the difference in the physical structure of men and women has to be mentioned first. It is a stereotypical belief of the society that men are physically more able than women, they can use force if needed and play the role of the protectors of the society. On the other hand, women are considered to be palpably weaker than men and unsound to rule and protect the other members of the family. Therefore, according to such superficial beliefs, customs of the stereotypical gender roles of women staying home and men working outside have developed and ever been since normalized over centuries. Due to the above-mentioned two reasons, women start facing discrimination in their right to food and nutrition right after birth. The male children enjoy the privilege of getting more food than they need to become healthier and stronger for their future contribution to the family than the female

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<sup>3</sup> Gender Inequalities in Neolithic Iberia: A Multi-Proxy Approach, *European Journal of Archaeology*, Marta Cintas-Peña and Leonardo García Sanjuán, 1 Access Volume 22, 4 November 2019, pp. 499-522

<sup>4</sup> Sex equality can explain the unique social structure of hunter-gatherer bands, M. Dyble, *Science*: 15 May 2015: Vol. 348, Issue 6236, pp. 796-798

<sup>5</sup> [Asiapacific.unwomen.org](https://asiapacific.unwomen.org/en/news-and-events/stories/2013/9/un-survey-of-10000-men-in-asia-and-the-pacific), Why Do Some Men Use Violence against Women and How Can We Prevent It? Quantitative Findings from the UN Multi-country Study on Men and Violence in Asia and the Pacific, [online] Available here: <<https://asiapacific.unwomen.org/en/news-and-events/stories/2013/9/un-survey-of-10000-men-in-asia-and-the-pacific>> [Accessed 4 May 2021]

children. According to Salma Khan, the Chairperson of NGO Coalition on Beijing Plus Five, “the Health Ministry sources estimate that iron-deficiency anemia among women alone causes losses in agricultural production to the tune of 5 billion US dollars over 10 years, which is the result of social practices based on the lower value placed on a girl's life, discriminatory food distribution, and systematic violence against women.”<sup>6</sup> On the third point, the existing social structure and religious beliefs are obligating women to give up their fundamental right to liberty and the right to make personal life choices. Most of the women in the rural and urban areas of Bangladesh are unable to enjoy any sexual and reproductive right to make decisions regarding their fertility without coercion and violence. Social insecurity, misinterpretation of religious values, vulnerable position of women in the family lead to early marriage of female children before reaching the age of puberty. Underaged girls are forced to have repeated pregnancies, and often to have unsafe abortions, even risking their health.

As a consequence of early marriage, women are deprived of their basic right to education. In 2008, a documentary made by the Government of Bangladesh showed, about 57% of female children entering Grade 1 are likely to drop out without completing primary school.<sup>7</sup> Being deprived of education, the women folk easily fall victim to social injustice, violence, and prejudice. They are unaware of their rights and do not know where to seek justice for the crimes and offenses committed against them. Women who are uneducated easily become subject to prejudice in their family and society from an economic point of view. They are unable to earn and contribute to the family and therefore, are forced to become dependent on their spouse or other male counterparts. Most young women end up being downtrodden and oppressed due to the unlimited dowry demand of their in-laws. Even when the women are getting educated, the misogynist society is not lagging to try and keep them under control through violence. Participation of women in the labor market and economy has ensured economic empowerment for them but it has also exposed them to sexual harassment in the streets and workplace.<sup>8</sup>

## **II. SOCIAL AND FAMILY BARRIERS IMPEDING THE DEVELOPMENT OF WOMEN**

A saying goes by, “Behind every successful man, there is a supporting woman.” No doubt giving credit to the success of a man to his woman sounds very nice. However, if it is carefully observed, no such opposite proverb could be found about successful women. Who gets the

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<sup>6</sup> Violence Against Women: Bangladesh Context, Asia- Pacific Human Rights Information Centre, Salma Khan, Volume 40, FOCUS, June 2005

<sup>7</sup> School Drop Out in Bangladesh: New Insights from Longitudinal Evidence, Ricardo Sabates, Altaf Hossain & Keith M Lewin, Research Monograph No. 49 October 2010

<sup>8</sup> ‘Understanding Sexual Harassment in Bangladesh: Dynamics of Male Control and Female Subordination’, Khair, S, (1998) IX (1) Journal of Faculty of Law 87, at p.87.

credit for supporting them from behind? The answer to this question can take aback any reasonable person. The support behind a successful woman is, in most cases, none but herself. The sufferings of most of the women start right from their home sweet home! As the majority of South Asian societies are patriarchal, every family is male-dominated. All the major decisions of a family are taken or have to be permitted by the head of the family, either the father or the husband. The position of women as such is highly vulnerable. Many women are even forced to lead their life at the mercy of men as they have no say in the matters of marriage, education, pregnancy, jobs, and other personal life choices. The socio-cultural norms mainly influence the position of women in the family and society. Women are the natural child bearers, so they are thought to be playing the prime role of being the biological reproducers and nurturers in the family. Moreover, the culture emphasizes that women ought to do all the domestic and household chores, childbearing and so on but they ought not to enjoy any controlling power within the household because of the patriarchal social structure.<sup>9</sup>

Women opting for primary to higher education face the first opposition from their family members. The social norms and cultures have deeply inhibited the notion in our minds that women do not need to be educated. Highly educated women are conscious of their rights, they are more vocal and therefore, difficult to control. This fear of losing subordination and control over women are making the patriarchal society more and more violent day by day. In connection with this topic, reference can be made to the power-control theory. According to this theory, “husbands in patriarchal families translate the authority they gain in the workplace into the domination of their households, while mothers are assigned primary socialization roles as instrumental agents of social control.”<sup>10</sup> In this endless game of power control, women face obstacles while trying to become self-dependent and getting a job. Although there are constitutional guarantees of employment equity, in practice women have limited job opportunities.<sup>11</sup> Bangladesh’s women’s participation in the labor force can highly be influenced by creating favorable access in rural agricultural areas as well as industrial sectors such as garment industries.<sup>12</sup> But they face unlimited mental and sexual harassment from their male bosses and colleagues, which results in dropping out of their jobs and decreasing female participation in the workplace. According to World Bank President Jim Yong Kim, “Countries

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<sup>9</sup> Socio-Economic Barriers against Women’s Equal Right in the Society (A Case of Bangladesh), Masuma Akter, p.7

<sup>10</sup> Risk Preferences and Patriarchy: Extending Power-Control Theory, Harold G. Grasmick, *Social Forces*, Volume 75, Issue 1, September 1996, Pages 177–199

<sup>11</sup> Gender Equality and Women’s Empowerment: Suggested Strategies for the 7th Five Year Plan, Sultana Begum Ferdousi, December 2014.

<sup>12</sup> Ilo.org, Bangladesh Labor Force Survey 2010, [online] Available here: <<http://www.ilo.org/surveydata/index.php/catalog/1125>> [Accessed on 7 May 2021]

such as Bangladesh are encouraging female participation in the workforce. If they [Bangladesh] stay on track, their female workforce will grow from 34 to 82 percent over the next decade, adding 1.8 percentage points to their GDP”.<sup>13</sup>

### III. IDOLIZING THE VICTIM-BLAMING CULTURE

Victim-blaming can be defined as holding the belief or expressing one’s opinion that the person who is alleging that s/he was sexually harassed, sexually assaulted, or victimized in an intimate relationship, was in some way responsible for what happened.<sup>14</sup> When the victim of a crime or any wrongful act is held entirely or partially responsible for the harm that befell them it is called victim-blaming.<sup>15</sup> Victim-blaming can be both obvious and subtle. Examples of obvious victim-blaming are expressing one’s opinion that a woman would not have been sexually harassed or assaulted had she not been wearing the clothes she was wearing and drinking alcohol.<sup>16</sup> Subtle victim-blaming can occur in the way questions are asked of a person who has been sexually harassed, sexually assaulted, or victimized.<sup>17</sup>

Only a few researchers have investigated subtle, negative appraisals of innocent victims.<sup>18</sup> For example, although not assessing victim-blame per se, Aguiar, Vala, Correia, and Pereira<sup>19</sup>, and Dawtry<sup>20</sup> examined subtle victim character derogation. Victim character derogation can be defined as assigning negative traits to a victim or reporting an overall negative opinion of a victim (as opposed to claiming the victim is to blame for his or her fate)<sup>21</sup>. These authors found evidence of subtle character derogation under conditions that should heighten the motivation to negatively appraise the victim; specifically, when the victim posed a threat to the need to believe in a just world.<sup>22</sup> The findings support the justice motive theory.<sup>23</sup> According to

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<sup>13</sup> Women Workforce Growing Fast, Rahman, F. and Byron, K.R., [online] Available here: <<https://www.thedailystar.net/frontpage/women-workforce-growing-fast-155149>> [Accessed on 7 May 2021]

<sup>14</sup> Rape Culture: Blaming Rape Victims in Bangladesh Perspective, Fahima Durrat, page 61

<sup>15</sup> *ibid*

<sup>16</sup> Attribution of blame in cases of rape: An analysis of participant gender, type of rape and perceived similarity to the victim. *Aggression and Violent Behaviour*, Grubb, A.R., & Harrower, J. (2008), 396-405.

<sup>17</sup> *ibid*

<sup>18</sup> Experimental Evidence Of Subtle Victim Blame In The Absence Of Explicit Blame, Carolyn L. HaferID, Alicia N. Rubela, Caroline E. Drolet, page 2

<sup>19</sup> Justice in our world and in that of others: Belief in a just world and reactions to victims, Aguiar P, Vala J, Correia I, Pereira C, *Soc Justice Res.* 2008; 21:50–68.

<sup>20</sup> Derogating innocent victims: The effects of relative versus absolute character judgments, Dawtry RJ, Callan MJ, Harvey AJ, Olson JM, *Personal Soc Psychol Bull.* 2018; 44:186–99.

<sup>21</sup> Preserving the belief in a just world: When and for whom are different strategies preferred? Hafer CL, Gosse L. In: Bobocel DR, Kay AC, Zanna MP, Olson JM, editors. *The psychology of justice and legitimacy: The Ontario symposium.* Vol. 11. New York: Psychology Press; 2010. pp. 79–102.

<sup>22</sup> The justice motive: Where social psychologists found it, how they lost it, and why they may not find it again. Lerner MJ. *Personal Soc Psychol Rev.* 2003; 7:38899.

<sup>23</sup> The justice motive: Some hypotheses as to its origins and forms. Lerner MJ. *J Pers.* 1977; 45:1–52.

Lerner<sup>24</sup>, people can respond to innocent victims in a deliberative and rational manner, leading to normative reactions (e.g., sympathy). Alternatively, innocent victims can threaten a basic need to believe in a just world where people get what they deserve.<sup>25</sup> In these cases, responses are more intuitive, motivated by a desire to defend a “belief in a just world,” such as by negatively appraising the victim.<sup>26</sup> Character derogation, for example, defends a belief in a just world by portraying victims as undesirable and, thus, deserving of their suffering.<sup>27</sup> Given that negative appraisals of innocent victims are often counter normative, this type of intuitive and defensive response should be more likely when assessed with measures of subtle negative appraisals.<sup>28</sup>

In a study conducted by Carolyn L. HaferID, Alicia N. Rubela, and Caroline E. Drolet in their research paper on *“Justice in our world and in that of others: Belief in a just world and reactions to victims”*, it was found that “when the motivation to engage in victim blame is heightened, people will subtly blame victims by attributing the victims’ suffering to a cause that is perceived to be under their control”.<sup>29</sup> They also succeeded in proving evidence for a subtle blame effect in the absence of a similar effect on explicit blame by interpreting that perceivers will often resort to subtle blame when compelled to engage in victim blame because explicit blame is counter normative and thus inhibited; whereas subtle blame, not being viewed as an expression of victim blame, is not inhibited.<sup>30</sup> The individual difference analyses were proven to be consistent with that argument, as well as with research on the relationship between subtle (e.g., implicit) and explicit constructs.<sup>31</sup> Specifically, in the high threat condition, explicit blame was less strongly associated with subtle blame for participants high in self-deceptive enhancement, a form of socially desirable responding.<sup>32</sup> Within an underdeveloped and biased socio-cultural structure of Bangladesh where the victim women have to bear the stigma of the crimes, they have to justify first that they were not somehow responsible for the

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<sup>24</sup> The justice motive: Where social psychologists found it, how they lost it, and why they may not find it again. Lerner MJ. *Personal Soc Psychol Rev.* 2003; 7:388-99.

<sup>25</sup> Experimental evidence of subtle victim blame in the absence of explicit blame, Carolyn L. HaferID, Alicia N. Rubela, Caroline E. Drolet, page 2

<sup>26</sup> The why and how of defending belief in a just world: Advances in experimental social psychology. Hafer CL, Rubel AN. Vol. 51. London, UK; 2015. pp. 41–96.

<sup>27</sup> *ibid*

<sup>28</sup> Derogating innocent victims: The effects of relative versus absolute character judgments. Dawtry RJ, Callan MJ, Harvey AJ, Olson JM. *Personal Soc Psychol Bull.* 2018; 44:186–99.

<sup>29</sup> Experimental evidence of subtle victim blame in the absence of explicit blame, Carolyn L. HaferID, Alicia N. Rubela, Caroline E. Drolet, page 10

<sup>30</sup> *ibid*

<sup>31</sup> Moderators of the relationship between implicit and explicit evaluation. Nosek BA. *J Exp Psychol Gen.* 2005; 143:565–84.

<sup>32</sup> Experimental evidence of subtle victim blame in the absence of explicit blame, Carolyn L. HaferID, Alicia N. Rubela, Caroline E. Drolet, page 10

crime that happened to them. Because the first question that people raise here is about the presence of any fault of the woman who has been raped. People question the dress code of the victim woman, why she was alone, what she was doing outside at night etc. which clearly stands with the study result found by Carolyn L. HaferID, Alicia N. Rubela, and Caroline E. Drolet on the consequence of explicit blame theory. The victim gets blamed by her friends, family, police, and the whole society. Thus, such victim-blaming culture creates and encourages the culture of violence against women to an extensive level.

#### **IV. MISINTERPRETATION AND MISUSE OF THE RELIGIONS**

Religion has always been given the topmost priority over every other issue in the South Asian regions. The religious followers can kill and get killed in the name of religion in this region. Descending from the history of riots and violence, women have been subjected to oppression for the sake of religion for ages. Violence against women in the then East Pakistan can be found in the wake of the independence war against the then West Pakistan. "The Pakistani elite believed that Hindus were behind the revolt and that as soon as there was a solution to the 'Hindu problem' the conflict would resolve. For Pakistanis, the violence against Hindus was a strategic policy."<sup>33</sup> During the war for independence in 1971, between 200,000 and 400,000 Bangladeshi women and girls were victimized in a systematic campaign of genocidal rape.<sup>34</sup> Anecdotal and circumstantial evidence suggests that the Muslim religious clerics from West Pakistan supported the rapes by the Pakistani Army and issued fatwas declaring the women of East Pakistan (mainly the Hindus) as war booty.<sup>35</sup> Even after the independence, the situation in Bangladesh and Pakistan has not improved rather deteriorated from time to time. The Fatwa culture is still prevalent in rural society in the form of Salish. It is an archaic form of mediation process carried on with the help of the elderly persons of a particular village. It is not a legally recognized form of the dispute resolution process and not a part of the judicial system of Bangladesh.

Although, these village ruling councils named Salish are formed with a view to providing justice to the victims and perpetrators, the women who do not fully conform to socially accepted behavior patterns are most likely to be tried and sentenced by these groups. The role

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<sup>33</sup> Nation building, Gender and War Crimes in South Asia. D'Costa, Bina (2011). Routledge. ISBN 978-0-415-56566-0.

<sup>34</sup> "The Post-Genocidal Period and its Impact on Women". Sajjad, Tazreena (2012). In Samuel Totten (ed.). *Plight and Fate of Women During and Following Genocide* (Reprint ed.). Transaction. pp. 219–248. ISBN 978-1-4128-4759-9

<sup>35</sup> "Taslina Nasreen and Others: The Contest over Gender in Bangladesh". Siddiqi, Dina M. (1998). In Herbert L. Bodman; Nayereh Esfahlani Tohid (eds.). *Women in Muslim Societies: Diversity Within Unity*. Lynne Rienner. ISBN 978-1-55587-578-7.



of the judge is played by the local clerics and the judgment and the punishments imposed by them appear to be reflecting an Islamic approach. They try to apply the rulings of the Shariah Law which contravenes the Judicial System of Bangladesh. The punishments inflicted upon the Salish groups are often seen as extremely inhuman and in contravention of basic human rights. Twenty-seven years ago, in 1993, a peasant woman named Nurjahan Begum was publicly stoned after such a 'salish' found her guilty of committing adultery. Immediately after the stoning, she fled to her father's house and took poison to kill herself.<sup>36</sup> In another case, a 13-year-old girl named Sapnaha was raped by a villager and had become pregnant. The alleged rapist was acquitted by the Salish and Sapnaha was pronounced guilty of illicit sexual intercourse. She was sentenced to be public whipped 101 times right after 40 days of her delivery. Such punishment of the Salish Heads was based on the Shariah law which provided that the requirement of the testimony of four adult male Muslim witnesses of good repute to establish rape that was not available in the instant case.<sup>37</sup> Apart from the Salish issue, religious fanatics have also played an influential role in promoting the misogynist culture. The patriarchal interpretation of the rules of religions has been showing women as the burdens of society and the main reason for prejudice and crime. Therefore, the free movement of women has been put under restriction and men have been given an absolute indemnity to do whatever they like with women in the name of religion.

Imams of the mosques, Aalims, and some other religious teachers are considered as the leaders of the Muslim society. Many of them have reportedly been alleged to propagandize hateful speech towards women through the Khutbas and Fatwas. For instance, women were prevented from exercising their right to vote in the union council elections in March 1994, in Feni and Noakhali districts, as the local clerics gave fatwa directing women to stay indoors, observe purdah or seclusion in women's quarters and refrain from un-Islamic activities like voting.<sup>38</sup> Using the religious values against women is not only done by the Muslims but also by other religious believers too. In Hinduism, women are ordained to be 'respected and honored by men. However, the religious texts are silent about the specific rights of Hindu women. Originally, Hindu women had no right to any property before the Hindu Women's Right to Property Act was enacted. Although this Act established certain rights of women to property, these rights were subject to some restrictions. For example, if the widow remarries or could be proved of having an unchaste character, she will be disentitled from her right.

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<sup>36</sup> Refworld.org, IRIN, Bangladesh: Killing women in the name of religion, 13 August 2010, [online] Available at: <<https://www.refworld.org/docid/4c6a34e3ce.html>> [Accessed 8 June 2021]

<sup>37</sup> God Willing: The Politics of Islamism in Bangladesh, Ali Riaz, p.79

<sup>38</sup> CCHRB, Focal Point, 2 August 1994; Dainik Bangla, 10 May; Janakantha, 17 May 1994

## **V. THE EXISTENCE OF DISCRIMINATORY SOCIAL NORMS AND CULTURES AGAINST WOMEN**

The United Nations Educational, Scientific and Cultural Organization (UNESCO) defines culture as the distinctive traits, including the total spiritual, material, intellectual, and emotional traits that characterize a society or social group, and that includes, in addition to arts and literature, their traditions and beliefs.<sup>39</sup> On the other hand, “social norms are represented as equilibria of games of strategy, and as such, they are supported by a cluster of self-fulfilling expectations, beliefs, expectations, group knowledge, and common knowledge have thus become central concepts in the development of a philosophical view of social norms.”<sup>40</sup>

Stereotypical roles for men and women seem to be a universal phenomenon across cultures and historical eras.<sup>41</sup> In some instances, these stereotyped roles lead to prejudices and customary practices that are premised on the inferiority of women, many cultures regard women as moral standard-bearers, upon whom the family’s honor rests, still today women “are considered a part of a man’s property.”<sup>42</sup> For instance, in Arab cultures, a distinct honor code, known as “purdah”, calls for females to comply with social norms, under which they are required to be safeguarded from contact with unauthorized persons.<sup>43</sup> A man’s honor depends in large part on whether the female members of his family are vigilant in adhering to these norms.<sup>44</sup> In other cultures some of these norms may seem extremely antiquated: Women out in public should not be heard; they must not speak or glance at other men; if a kinsman passes by he can address her only by such terms as “O Mother” or “O Daughter” or “O Aunt,” terms that imply sexual distance.<sup>45</sup> Women must not leave home without good reason.<sup>46</sup> Women do not enter shops but remain at the entrance communicating their requests and passing on their money from the outside and in public places they must walk a few paces behind their husbands.<sup>47</sup>

In accordance with the traditional Muslim practice of purdah, the seclusion or veiling of

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<sup>39</sup> UNESCO Universal Declaration on Cultural Diversity, at pmb1.,5, UNESCO 31st Sess. (Nov. 2, 2001).

<sup>40</sup> Social Norms, Stanford Encyclopedia of Philosophy, First published Tue Mar 1, 2011; substantive revision Mon Sep 24, 2018 [online] Available at: <<https://plato.stanford.edu/entries/social-norms>> [Accessed 9 June 2021]

<sup>41</sup> Honor Killings and The Cultural Defense, John Alan Cohan, 102 California Western International Law Journal [Vol. 40]

<sup>42</sup> Brutality by Acid: Utilizing Bangladesh as a Model to Fight Acid Violence in Pakistan, Hooma Shah, Comment, 26 WIS. INT’L L.J. 1172, 1181 (2009).

<sup>43</sup> Taking Law into Their Own Hands: Unofficial and Illegal Sanctions by the Pakistani Tribal Councils, Marie D. Castetter, Note, 13 IND. INT’L & COMP. L. REV. 543, 550-51 (2003)

<sup>44</sup> “Honor” Murders—Why the Perps Get off Easy, Yotam Feldner, MIDDLE E. Q., Dec. 2000, at 41, 42-43.

<sup>45</sup> Anti-Criminogenic Impacts of Culture on Female Gang Formation: The Case of Islam, Hamid R. Kusha, 19 J. HUM. BEHAV. SOC. ENV. 242, 247-48 (2009).

<sup>46</sup> On the Modesty of Women in Arab Muslim Villages: A Study in the Accommodation of Traditions, Richard T. Antoun, 70 AM. ANTHROPOLOGIST 671, 687-88 (1968).

<sup>47</sup> *ibid*

women, a woman was expected to stay within her “house” or homestead and was discouraged from contact with anyone outside her close family.<sup>48</sup> This practice limited the social and educational development of most Bangladeshi women and restricted their access to employment opportunities.<sup>49</sup> Although the institution of seclusion is being challenged as poverty forces more and more women to seek employment outside the home<sup>50</sup>, the ideals of purdah--modesty, humility, domesticity, and noninvolvement in public life--are still strong, even if physical seclusion is not as commonly practiced. A woman's status is defined not only by gender but also by the occupation and income level of her nearest male relative.<sup>51</sup> In general, Bangladeshi women are valued less than both children and property.<sup>52</sup> For example, men are generally fed first and most while women usually eat last and least.<sup>53</sup> Early marriage is the most common social and cultural practice in Bangladesh, encouraged by religious beliefs. According to the UN, 73 percent of women are married and 21 percent have had at least one child by age 15.<sup>54</sup> Whereas the birth of a son is celebrated, the birth of a daughter is reportedly viewed as a “disappointment”.<sup>55</sup> Baby girls are given less food than are their male siblings and are therefore at greater risk of malnutrition and disease.<sup>56</sup> As well, parents may be less likely to seek expert medical care for a sick girl.<sup>57</sup>

## **VI. NORMALIZING OF THE HONOR KILLING AND CRIMES COMMITTED AGAINST THE WOMEN**

In the Oxford English Dictionary, there are a number of definitions for the noun, “honor”: “High respect, esteem, or reverence, accorded to exalted worth or rank; deferential admiration or approbation; . . . (of a woman) chastity, purity, as a virtue of the highest consideration; reputation for this virtue, good name.”<sup>58</sup> Honor is a measure of one’s social prestige in the community and depends upon the community’s collective “view” of the person.<sup>59</sup> The idea of “honor” in reference to any particular person, family or society varies from culture to culture. Colonial authorities often have acted out a sort of ethnocentrism—the idea that one’s own way

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<sup>48</sup> New Left Review Mar.-Apr. 1988, Wilson-Smillie Feb. 1990, 2; Huq 1989, 203-04; 102

<sup>49</sup> *ibid.*

<sup>50</sup> World Bank 1990, 7-8; Huq 1989, 203-04; White 1992, 23

<sup>51</sup> Canada 1992, 7; Khan 1988, 1; Wilson-Smillie Feb. 1990, 1-3

<sup>52</sup> Nessa Feb. 1988, 9

<sup>53</sup> Canada 1992, 7; World Bank 1990, 13-14

<sup>54</sup> The Washington Post 14 Feb. 1993

<sup>55</sup> Naripokkho Oct. 1992, 13

<sup>56</sup> Naripokkho Oct. 1992, Huq 1989, 204; 14; UNICEF 1992, 3; St. Petersburg Times 27 Oct. 1993

<sup>57</sup> New Left Review Mar.-Apr. 1988, 103; Naripokkho Oct. 1992, 14

<sup>58</sup> The Oxford English Dictionary 357, 358 (John Simpson & Edmund Weiner eds., 2d ed. 1989).

<sup>59</sup> The End of the Affair? Anti-Dueling Laws and Social Norms in Antebellum America, C. A. Harwell Wells, Note, 54 VAND. L. REV. 1805, 1809 (2001).

of life is to be preferred over all others.<sup>60</sup> A “social demoralization” develops when the dominant group “actively deprecates the things [others] hold to be of value.”<sup>61</sup> An increasing number of criminal defendants have sought to defend themselves—to mitigate or exculpate criminal charges, or to argue for a more lenient sentence—by asserting what has come to be called the cultural defense.<sup>62</sup>

Under this defense, not yet codified by any state, the defendant seeks to introduce evidence that his or her charged behavior was a customary way of dealing with a similar situation in his or her homeland—in other words, the behavior was reasonable in light of the defendant’s cultural background.<sup>63</sup> “The rationale behind the cultural defense thus rests essentially on the fundamental criminal law principle that a defendant should not be held responsible for acts s/he committed without the requisite *actus reus* or *mens rea*.”<sup>64</sup> In the Arabian cultures, “the ideal of masculinity is underpinned by a notion of ‘honor’—of an individual man, or a family or a community—and is fundamentally connected to policing female behavior and sexuality.”<sup>65</sup> One commentator states the importance of women to honor: “The woman holds all of the honor for the family and the social order depends upon her maintaining this honor. In addition, the woman’s honor or shame strongly affects the general standing of the tribe within the community.”<sup>66</sup> Such kind of cultural norms are also prevalent in our society too. As a consequence, when the women being the flagbearers of “family honor” do something that they are forbidden to do, such acts are regarded as extreme crimes against morality which diminishes the family honor. The “perpetrators” then are punished by their family members. The level of such punishment can range from forfeiting all kinds of relationship with her to murder, which is called “honor killing”. Honor killings are a longstanding cultural practice in which family members will attack a female relative—by stoning, stabbing, beating, or shooting, in order to kill her for bringing dishonor to her family or clan.<sup>67</sup> This practice is thought to be “rooted in

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<sup>60</sup> Victims of Progress, in *GENOCIDE: AN ANTHROPOLOGICAL READER* 137, JOHN H. BODLEY, 145-48 (Alexander Labon Hinton ed., 2002); see also Agnes Heller, Can Cultural Patterns be Compared? 8 *DIALECTICAL ANTHROPOLOGY* 269, 271 (1984).

<sup>61</sup> Cultural Relativism: Perspectives in Cultural Pluralism 103 Melville J. Herskovits, (Frances Herskovitz ed., 1972).

<sup>62</sup> The Cultural Defense in the Criminal Law, 99 *HARV. L. REV.* 1293 (1986).

<sup>63</sup> Honor Killings And The Cultural Defense, John Alan Cohan, 102 *California Western International Law Journal* [Vol. 40]

<sup>64</sup> Culture as Sameness: Toward a Synthetic View of Provocation and Culture in the Criminal Law, James J. Sing, Note, 108 *YALE L.J.* 1845, 1849-50 (1999).

<sup>65</sup> Violence Against Women And ‘Crimes Of Honour’, Preface To ‘Honour’: Crimes, Paradigms, And Violence Against Women, Radhika Coomaraswamy, at xi, xi (Lynn Welchman & Sara Hossain eds., 2005) [hereinafter ‘HONOUR’].

<sup>66</sup> Taking Law Into Their Own Hands: Unofficial And Illegal Sanctions By The Pakistani Tribal Councils, Marie D. Castetter, Note, 13 *IND. INT’L & COMP. L. REV.* 543, 550-51 (2003)

<sup>67</sup> In the Name of Honor, Leyla Pervizat, *HUMAN RIGHTS DIALOGUE*, Fall 2003, at 30, 31.

patriarchal norms of male superiority and control and female inferiority and obedience, encased in familial and social and economic structures of inequality, terrorizing women and perpetuating gender conformity and oppression.”<sup>68</sup>

The dishonor is usually the result of violating sexual taboos such as: engaging in premarital sex or extramarital relations, elopement with a man not approved by her parents, or a romantic involvement with someone disapproved by the woman’s family.<sup>69</sup> “A man who feels such an act has dishonored the family will kill the woman in question as a means of restoring that honor. Motives for honor killing, however, have started to expand beyond female adultery, targeting women for enjoying basic freedoms.”<sup>70</sup> Honor killings are a worldwide phenomenon, concentrated in Middle Eastern and Asian nations, including Pakistan, Turkey, Afghanistan, India, and Jordan.<sup>71</sup> While honor killings may be concentrated in certain regions, the following illustrates the worldwide nature of honor killings: “Honor killings have been reported in Bangladesh, Great Britain, Brazil, Ecuador, Egypt, India, Israel, Italy, Jordan, Pakistan, Turkey, the United States, and Uganda according to reports submitted to the United Nations Commission on Human Rights.”<sup>72</sup> Currently, the United Nations Population Fund estimates that there are 5,000 honor killings per year,<sup>73</sup> although the number is likely greater given the fact that these crimes frequently go unreported.<sup>74</sup> The accuracy of statistics on the number of honor killings in given countries is further suspect because many murders are said to be hidden as suicide or accidents.<sup>75</sup>

## VII. UNFRIENDLY ATTITUDE OF THE LAW ENFORCEMENT AGENCIES

The police force of Bangladesh plays the main role in enforcing the laws by arresting the criminals, conducting an effective investigation, preparing inquiry reports, taking cognizance of certain cases, and referring cases to the Magistrate Court for further disposal. They are empowered by the Code of Criminal Procedure to record First Information Report in

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<sup>68</sup> International Human Rights Dimensions of Intimate Violence: Another Strand in the Dialectic of Feminist Lawmaking, Rhonda Copelon, 11 AM. U. J. GENDER SOC. POL’Y & L. 865, 872 (2003).

<sup>69</sup> “Take My Riches, Give Me Justice”: A Contextual Analysis of Pakistan’s Honor Crimes Legislation, Mazna Hussain, Note 29 HARV. J.L. & GENDER 223, 225-26 (2006).

<sup>70</sup> Honour Killing’ Cases Spark Debates Over Religion, Racism; Practice Dates Back Centuries to Rural Pakistan, Megan O’Toole, ‘NAT’L POST (Can.), July 24, 2009, at A6.

<sup>71</sup> Expert Group Meeting on Good Practices in Legislation to Address Harmful Practices Against Women, Addis Ababa, Eth., May 25-28, 2009, *Harmful Traditional Practices in Europe: Judicial Interventions*, p. 11-12, U.N. Doc. EGM/GPLHP/2009/EP.12 (May 21, 2009)

<sup>72</sup> Brutality by Acid: Utilizing Bangladesh as a Model to Fight Acid Violence in Pakistan, Hooma Shah, Comment, 26 WIS. INT’L L.J. 1172, 1181 (2009).

<sup>73</sup> Political Correctness is No Excuse to Ignore Honor Killings Colleen Carroll Campbell, Editorial., ST. LOUIS POST-DISPATCH, Feb. 19, 2009, at D7.

<sup>74</sup> Killing Dishonor: Effective Eradication of Honor Killing, Christina A. Madek, Note, 29 SUFFOLK TRANSNAT’L L. REV. 53, 56 (2005).

<sup>75</sup> “Honor” Murders—Why the Perps Get off Easy, Yotam Feldner, MIDDLE E. Q., Dec. 2000, at 41, 42-43.

cognizable offenses. It is a matter of regret that one of the main reasons for the non-enforcement of Gender-based Violence against women prohibition laws is the ineffective role played by the police. This ineffective role starts from filing the case and continues till the final settlement of the cases.<sup>76</sup> The reluctance to file cases, harsh behavior, and the deliberate indifference shown by the officers in a duty of the police station discourage the victims to take their help and consequently fail to get justice as per law. According to a report of a Bangla newspaper Abdul Hoque, the father of the dowry victim Khadiza went to the police station to file the case, but without recording the case police advised him to go to the Court and since the Court was closed in December, he came back without lodging the case.<sup>77</sup> Bribery is another reason why people are losing faith in law enforcement agencies. One of the respondents named Parul Akter (real name) shared during the interview that, she along with her father went to Pirgacha police station to file a case against her husband for torturing her for dowry, but the then duty officer demand TK10,000 (US\$128.53) as a bribe, due to which they came back home without filing the complaint.<sup>78</sup>

On a different note, one of the most important parts on which the decision of any criminal case and the ends of the justice depend is the police investigation followed by the police report. As per the Criminal Procedure Code, such investigation is conducted by police officers. In dowry violence cases, like other criminal cases, police enjoy unfettered power during an investigation where even the Court cannot interfere.<sup>79</sup> Likewise, the manipulation of the investigating process by the police effectively destroys the credibility of cases. Moreover, relevant witnesses' failures to accompany the police to the relevant spot at the relevant time further compound the difficulties.<sup>80</sup> The corruption and politicization of the police department resulted in the failure of properly made investigation and the submission of defective or wrong investigation report help many offenders to go legally unchallenged and outside the periphery of law. One of the tribunal judges of Dhaka expressed his opinion saying that *'from my experience I have seen that in most of the cases police submit final report by taking bribe from the accused parties and in other cases present weak charge sheet.'*<sup>81</sup> However, besides

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<sup>76</sup> Wife Abuse in Bangladesh: An Unrecognised Offence, Ameen Nusrat (2005), Dhaka: The University Press Limited, p.62

<sup>77</sup> Advise to go to the Court without taking the case, Khandakar Anis (2013), The Daily Prothom Alo on January 7, p.7.

<sup>78</sup> All about Criminal Law, Chowdhury Asad Hossain, (2011) BLD (Journal), 31, p.4.

<sup>79</sup> Dowry Prohibition Laws in Bangladesh: Problems of Implementation, Mohammad Abu Taher & Siti Zaharah Binti Jamaluddin, 41 (1) JMCL

<sup>80</sup> Violence Against Women: Ideologies in Law and Society, Khair Sumaiya (1999) Bangladesh Journal of Law, 3(2), p.154.

<sup>81</sup> Dowry Prohibition Laws in Bangladesh: Problems of Implementation, Mohammad Abu Taher & Siti Zaharah Binti Jamaluddin, 41 (1) JMCL

corruption and bribery, overpressure of cases forces the junior and inexperienced officers to take cases in hand and investigate. Their engagement with a lot of tasks at the same time makes it nearly impossible for them to concentrate on a particular case. The whole situation makes it expedient to appoint more police officers in the stations and provides the juniors with good training for taking up the extra pressure of innumerable cases and sharing the workload of the experienced and senior police officers.

### **VIII. LACK OF IMPLEMENTATION OF LAWS AND THE CULTURE OF IMPUNITY**

Bangladesh is a Common Law jurisdiction meaning most of the laws are based on British practices that have accumulated over the centuries. They may or may not have any validity in today's Bangladesh but there they are forming the core of the legal system for the country. The criminal justice system also runs ever so slowly because every step of the way someone is pulling the course of justice in some preferred direction. That is why most murderers and criminals are not punished promptly. We live with William Ewart Gladstone's "Justice delayed is justice denied" on a day-to-day basis.<sup>82</sup> Human Rights Defenders reported to Front Line Defenders that police routinely refuse or ignore requests for protection. Family members of murdered HRDs report that in the months before the killings, HRDs had requested police protection or action following a series of death threats and acts of intimidation. At least two were told by police to "just leave the country." HRDs still working in the country report routine mistreatment at police stations – including insults and sexist remarks – when they attempt to file official complaints of threats, intimidation and stalking. HRDs working on a variety of rights reported that police at their respective local stations have refused to allow them to file reports and refused to receive their statements regarding physical and verbal attacks. Many HRDs and the relatives of murdered HRDs reported to Front Line Defenders that their local precincts instructed them to visit police stations in other districts after refusing to accept their general diaries. Those who did visit other stations to request protection had their diaries refused at multiple locations. Front Line Defenders also spoke with HRDs who have been forced into exile since 2013, many of whom reported that after requesting police action on threats received online related to their human rights writings, police came to their homes, confiscated their books and printed writings, and took no action regarding the threats.

Sumaiya Islam is a migrant rights defender whose organization, Bangladesh Ovibashi Mohila Sramik Association (BOMSA), conducts pre-departure personal security training with

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<sup>82</sup> A culture of impunity: Kayes Ahmed, Defined - <https://opinion.bdnews24.com>, 12th Mar 2015

Bangladeshi women leaving to work in the Persian Gulf.<sup>83</sup> Islam also organizes advocacy meetings between returned migrant women and state officials and public performances dedicated to raising awareness of migrant rights violations in the Gulf. In her personal and professional capacity, Islam uses social media and broadcast television to fight for better state protection of Bangladeshi migrant women.<sup>84</sup> Islam reported that following the attacks and killings of secular activists and HRDs in Bangladesh, she and her colleagues feel less able to publicly speak, write, or post about issues related to gender equality, women's rights, and migrant rights in both Bangladesh and the Gulf. Islam told Front Line Defenders she has received an increased number of death threats and threats of physical violence via Facebook since 2013, which has caused her and her colleagues to stop posting content related to women's rights on social media platforms. She also reported an increased number of Facebook friend requests from accounts with blank, seemingly new profiles, which she refuses to accept because it follows the pattern of abuse received by other Bangladeshi HRDs before they were killed.

Supriti Dhar is a journalist, women's rights defender, and founder of the online platform Women Chapter. Dhar told Front Line Defenders that she receives threats, including death threats, via social media and blog comments almost every week. When the killings of HRDs became more frequent in 2014 and 2015, she stopped writing about certain women's rights topics, (including women's sexuality and Islamic fundamentalism in Bangladesh), but continued to receive violent threats on her blog and Facebook page. Dhar said she and her colleagues, particularly those with children, are reluctant to report threats because of the stigma associated with WHRDs "endangering" their children as a result of their work.<sup>85</sup>

Violence against women increased alarmingly in the post-1990s through dowry, rape, and acid terrorism. The Women and Children Special Provisions Act was passed with the provisions of inflicting severe punishment against those crimes. According to section 6 of the 1995 Act, rape was punishable by death or life imprisonment, death after rape or death by rape was punishable by the compulsory death penalty, death after gang rape or death by gang rape was also punishable by the compulsory death penalty. The law was made with the provision of harsher punishment ever based on public demand. However, while enforcing the law, a different scene was seen. The prosecution was failing miserably to prove with evidence beyond any reasonable doubt that the victim died as a consequence of rape. According to the Penal Code, rape and

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<sup>83</sup> Mozumder, F., 2021. *BOMSA*. [online] Bomsa.net. Available at: <<http://bomsa.net/>> [Accessed 9 August 2021].

<sup>84</sup> Express, T., 2021. *The Financial Express*. [online] The Financial Express. Available at: <<http://www.thefinancialexpress-bd.com/2016/10/21/50226/The-life-back-home-migrant-women-live>> [Accessed 9 August 2021].

<sup>85</sup> Victim Blaming: Bangladesh's Failure to Protect Human Rights Defenders, p.10



murder are two separate crimes. If the prosecutor could prove the accused guilty of any of the crimes of rape and murder, he was punishable according to the provisions of that crime.

However, the prosecution could not prove the death as a result of the rape even though it could prove the incident of rape under this Act. In case after case, the accused continued to be acquitted! Violence against women multiplied with time rather than being decreased. Although the Act provided provisions of the harshest punishment, due to the failure of the prosecutor and the police, the victims were far away from getting justice.

This Women and Children Special Provisions Act was in force for a total of 5 years from 1995-2000. Despite the existence of such a strict law, the most shocking incident of rape and murder of Yasmin Akter in Dinajpur took place in 1996. The rape and murder of the victim were caused by 3 police officers who were on patrol on the night of the incident taking place. At that time, a movement started across the country demanding justice for Yasmin. At the same time, the fact that the Women and Children Special Provisions Act did not provide any punishment against rape and death in police custody became clear to everyone. Then, in the face of public outcry (as is happening now), the government repealed the Women and Children Special Provisions Act and enacted a new Prevention of Violence against Women and Children Act in 2000, and included Section 9 on the punishment for rape and death in police custody. Now the burning question is, is it possible to suppress crime with the provision of severe/maximum punishment? Learning from history, the answer is "no".

If this were true, then the members of the police force would not have the courage to commit the crime of murder through this rape knowing that there is a provision of the compulsory death penalty. What if they and potential criminals like them are scared and refrain from committing crimes? The only answer to this question is to ensure that whatever the law is, it will be enforced! It will be possible to turn the proverb "When I go down into the water, I will catch fish" as the proverb "Since I have committed a crime, I will be punished" into reality, every person in the country will be forced to believe this in mind, only then will the crime decrease.

The incident of filing false cases is the main reason why real victims are unable to get justice. Therefore, the most severe punishment should be provided against false litigants. They are the savages who have kept the real victims away from the path of justice. The false litigants should be judged first and strict punishment should be ensured for them. True cases will see the light of justice only when false cases are stopped. Once the real perpetrators are brought to justice, other perpetrators will begin to fear. Whatever the punishment may be, the crime rate is bound to decrease once justice is ensured!

## **IX. RECOMMENDATIONS FOR IMPROVING THE EXISTING SCENERY**

The situation in Bangladesh regarding the position of women is changing with time. More girls are receiving primary education, higher education, and getting jobs competing with their male counterparts in every sector of the state. The participation of women in politics and lawmaking is also having revolutionary effects in the building of the nation. Nowadays, with the increase in the number of working women, husbands and their families are also respecting and valuing their wives more than ever.

However, still in many conservative families, the thinking and perception towards women had not developed to a considerable level. Greedy husbands are even considering their wives' incomes as a source of their wealth. This reality is prevalent in the rural as well as urban areas of our country in an equivalent number. This is why violence for the demand of dowry and domestic torture is increasing with time against the working women most. This situation must be acknowledged by the legislators when making new laws or amending the current laws to provide provisions against the crimes against women. The parameter of the definition of certain crimes should be made more exhaustive, for example, demanding the salary of the earning wife after marriage should also be considered as dowry, in addition to direct or indirect demands of dowry after marriage.

Besides the policymakers, the mass people of Bangladesh can play the biggest role in fighting against the VAW. The educated youth can preach and promote the rights of every citizen, equality before the law, and the importance of equal treatment everywhere. The use of the internet will be the most useful in this aspect. People can hold conversations in the form of posted messages in the internet forums and message boards and start online discussions against Gender-based Violence. These websites differ from chat rooms as these are public in nature and can reach out to mass people in the shortest possible time after getting viral.

A blog is a website that publishes and preserves the owner's or group of owners' own experiences, observations, opinions, etc. Sharing the real-life experiences of the victimized women in such blogs can have a great influence on the minds of the readers. The young generation can feel and start to sympathize with the victims of Gender-based Violence through this. Again, another great platform for creating a wide-ranged awareness against VAW is the social networking sites. Some websites using online technologies are designed in a way that helps people to communicate with others from any corner of the world and to share information, resources, etc.

A wiki is a Web site that is known as the online encyclopedia. It is an information box

containing knowledge about almost every topic and subject of this world. It allows anyone with proper authority to add, delete, or revise content by using a web browser. People can update and share their thoughts here about the current situation of Gender-based Violence in Bangladesh and the contribution of the youth in developing the situation. Another amazing option to be used for this purpose is the podcast. A podcast is a digital audio or video file or recording, about any topic that can be downloaded from a Web site to a media player or computer.

In addition to sharing writings, articles, and posts on the topic of Gender-based Violence, videos and images can play a vital role too. People are mostly affected by visual experiences, things that can be seen and heard have the deepest influence on human psychology. Making advertisements on various crimes and their consequential effects on the victims can be shown and recorded to the mass people for raising more awareness. Last but not least, electronic devices, such as smartphones and tablets, allow access to such social media websites, downloadable mobile applications, podcasts, Wikipedia, and “push notification” and texting campaigns. Creating mobile apps can be the most advanced and atypical medium for individuals using smartphones to access information about violence protectors.

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