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# Emerging Legal Response to Gender-Based Domestic Violence in Bangladesh: Analyzing the Scope and Limitations of Indigenous Legal Regime in light of International Treaties

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## ABSTRACT

*Gender-based domestic violence is a concerning global issue, causing significant physical and psychological harm to individuals. Family violence is increasingly recognized not only as a human rights concern but also as a matter of public welfare. Unfortunately, Bangladesh, being one of the world's poorest countries, experiences a high prevalence of domestic violence cases. While Bangladesh has been acknowledged by international frameworks like the UDHR, ICCPR, ICESCR, CEDAW, and DEVAW for protecting individuals, particularly women, from gender-based domestic violence, the implementation of these protections remains questionable. Although Bangladesh has enacted specific legislation to address domestic violence, there is a need to assess its effectiveness in safeguarding the rights of all victims, regardless of gender. This article aims to analyze the scope and limitations of the law in protecting individuals from domestic violence and ensuring their rights. Bangladesh faces challenges in ensuring gender-based rights, as domestic violence incidents involving men, children, and transgender individuals often go unreported. Through this research paper, the author focuses on the objectives of regulations, the enforcement of legal requirements, and the existing limitations within the law to prevent domestic violence and ensure justice for all affected individuals.*

**Keywords:** *Gender Neutrality, Gender-Based Equal Rights, Domestic Violence, And Gender Equality*



## INTRODUCTION

Human rights are inherent rights that come from birth. No one ever controls it naturally. It is a unique right that is present in every human being. There are three basic obligations: These are respected, protected, and fulfilled and it is a state's general Obligation. So, human rights are violated only when a person's human dignity is divided. We have seen that discrimination started in human civilization. Discrimination has not stopped in the modern generation but is going away. In Bangladesh, gender-based violence comes in numerous shapes: physical mishandling; spouses tossing spouses out of the domestic in residential debate; spouses requesting that their spouses get more share cash from their families, and child marriage, among others. Moreover, violence and badgering, counting “gender-based violence” and badgering (which incorporates sensual badgering), can constitute a genuine infringement of human rights.

Within the world of work, different shapes of savagery and badgering cause treacherous hurt to people, working environments, and society at expansive. They obstruct improvement extremely, especially by bringing down the aggregation of social and human capital and posturing a colossal boundary for ladies and men in getting to not-too-bad and profitable work. On the other hand, In Bangladesh, gender-based viciousness and harassment, especially sensual badgering, isn't a modern wonder for sexual orientations. Be that as it may, it has progressively been talked about in the open as a major challenge both in their private lives and within the open circle. With more ladies venturing out of the domestic and taking up openings for instruction and work, gender-based viciousness and badgering linger ever bigger.<sup>1</sup> This research paper is based on

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<sup>1</sup> “UNFPA Supplement, Gender Based Violence and Its Impact on Bangladesh’s Development,” *The Daily Stars*, 2016, <https://www.thedailystar.net/roundtables/gender-based-violence-and-its-impact-bangladeshs-development-1331872>.

quantitative and qualitative research, in which the legal protection against gender-based domestic violence in Bangladesh has been critically analyzed. This study is focused on primary and secondary sources regarding the gender's equal rights and applicability of the implemented Acts and established a new Act for gender neutrality rights. So, the primary sources such as observation, case study, interview session and discussion and interpretation of their rights in current situations in Bangladesh.

Domestic violence is the deliberateness utilized of physical drive or control, debilitated or legitimate to goodness, against oneself, another individual, or against a bunch or community, which either comes nearly in or highlights a tall probability of coming nearly in hurt, passing, mental hurt, mal-development, or hardship. Household savagery happens when one person tries to coerce or control another person in a family-like or private relationship. Residential viciousness incorporates misuse of control and can take the outline of physical misuse, sexual mistreatment, enthusiastic or mental abuse, verbal misuse, stalking and terrorizing, social and geographic separation, budgetary mishandling, brutality to pets, or harm to property or dangers to be savage in these ways. These all contribute to the abuse, hardship, and persecution of ladies in Bangladesh, and are infringements of essential Human Rights.<sup>2</sup>

Different types of domestic violence, first is physical violence. Physical violence happens when someone businesses a parcel of their body or an address to control a person's exercises. Furthermore, Physical viciousness implies any undesirable or antagonistic contact such as hitting, battling, pushing, pushing, slapping or tossing objects. Racial or ethnic slurs, irritating comments, dangers of savagery, and any other provocative comments, dialect, or activities moreover abuse this approach and will not be endured. A danger of viciousness implies a verbal or another expression of a deliberate to cause physical hurt. People who debilitate savagery or something else

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<sup>2</sup> UNFPA *nd*

lock-in in provocative conduct towards associates, clients, sellers, or other people customarily are held at slightest similarly at blame for following a physical quarrel, indeed on the off chance that they don't strike the primary blow or something else start a physical encounter<sup>3</sup>

Second types of domestic violence are sexual violence. Sexual violence when an individual is obliged to unwillingly take a divide in sexual action. So, Sexual savagery suggests any sexual act or endeavors initiate a sexual act, or undesirable sexual comments or acts to activity, that are encouraged against a person's sexuality utilizing basic by anybody, in any case of their relationship to the casualty, in any setting, checking at private and work. Assault is the term that's commonly utilized for the basic sort of sexual violence said over (forced/coerced interdepartmental).

Assault can be characterized as non-consensual sexual infiltration, in any case slight, of any divide of the body of the casualty with a sexual organ, or the butt-centric or genital opening of the casualty with any contradiction or any other allocation of the body. The attack is committed by oblige, or by the risk of drive or actuating, such as that caused by fear of savagery, prompting, detainment, mental abuse or abuse of control, against such person or another person, or by taking advantage of a coercive environment or committed against a person incapable of giving veritable consent. In the case of a matrimonial attack, sexual interdenominational obliged on a woman by her life partner, intentioned against her will.<sup>4</sup>

Third types of domestic violence are emotional violence. It has included confining a child's developments, denigration, mocking, dangers and terrorizing, separation, dismissal, and other non-physical shapes of antagonistic treatment. Seeing viciousness can

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<sup>3</sup> Noor Mohammad Sarker and Sultana Yesmin, "Domestic Violence in Bangladesh Analyzing from the Contemporary Peace & Conflict Perspectives Peace and Security," *Peace and Security Review* 5, no. 10 (n.d.): 77.

<sup>4</sup> *Ibid*

include constraining a child to watch an act of savagery or the accidental seeing of viciousness between two or more other people <sup>5</sup>

Last types of domestic violence are physiological violence. Physiological violence alludes to any act or exclusion that harms the self-esteem, character, or improvement of the person. It incorporates but isn't restricted to, mortification, debilitating misfortune of care of children, constrained separation from family or companions, undermining to hurt the person or somebody they care around, rehashed shouting or debasement, actuating fear through threatening words or signals, controlling behaviors, and the pulverization of belonging<sup>6</sup>

## LEGAL PROTECTION AGAINST GENDER-BASED DOMESTIC VIOLENCE UNDER THE DOMESTIC LAW OF BANGLADESH

The presence of Bangladeshi laws against gender-based violence and spurring in working circumstances stems from the Structure itself. 'Article 28'<sup>7</sup> cherishes the run the appeal of correspondence and non-segregation, with "Article 28(2)"<sup>8</sup> particularly communicating that & ladies might have risen to rights with men in all circles of the State and open life. In so doing, the drafter's structure was cautious that an immaterial affirmation of consistency isn't satisfactory. Hence, the Structure stipulates positive separation toward ladies. "Article 28(4)"<sup>9</sup> states that: Nothing in this

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<sup>5</sup> *Ibid*

<sup>6</sup> *Ibid*

<sup>7</sup> "The Constitution of the People's Republic of Bangladesh, Article 28," 1972, <https://www.bing.com/ck/a?!&&p=e93d063d3d26c7f7JmltdHM9MTY4NzgyNDAwMCZpZ3VpZD0wOWNiYWYwMS0wYTJiLTY1MGYtM2E5Mi1hMDAyMGlxMzY0MGEmW5zaWQ9NTI2NQ&ptn=3&hsh=3&fclid=09cbaf01-0a2b-650f-3a92-a0020b13640a&psq=bangladesh+constitution&u=a1aHR0cDovL2JkbGF3cy5taW5sYX>.

<sup>8</sup> *Ibid* Article 28(2)

<sup>9</sup> *Ibid* Article 28(4)

article got to anticipate the State from making extraordinary course of activity in favor of ladies or children or for the advance of any in switch locale of citizens “Article 19(3)”<sup>10</sup> as well gives that: The State might endeavor to guarantee correspondence of opportunity and support of ladies in all circles of national life, as an imperative run the show of state approach.

The Domestic Violence (Protection and Prevention) Act, 2010” is Bangladesh’s primary law to address residential violence. Sometime recently “2010, residential viciousness” offenses as they came inside the domain of the Ladies and Children Suppression Avoidance Act on the off chance that they were associated with endowment requests. Under “Section 3”<sup>11</sup> of the ‘Domestic Violence Protection and Prevention Act, of 2010’<sup>12</sup> characterizes residential violence as any Act of physical manhandling, mental manhandling, sexual manhandling, or financial hurt by an individual against a lady or child with whom he encompasses a family Relationship. But in this Act, there is no mention of male and transgender.

When acid assaults topped about 500 detailed cases in ‘2002’ the endless lion's share of which focused on ladies and associate endeavors and concerted activism by women’s rights organizations and survivors impelled the government to order two laws: ‘The Acid Offense Control Act, 2002’ and ‘The Acid Control Act, 2002.’<sup>13</sup>

Though Bangladesh has gotten to be a party to the Joined Together Countries “Convention on the Rights of the Child” and While it is convenient and fundamental to supply a modern law to

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<sup>10</sup> *Ibid* Article 19(3)

<sup>11</sup> “Section 3, The Domestic Violence Protection and Prevention Act,” 2010, [https://mowca.portal.gov.bd/sites/default/files/files/mowca.portal.gov.bd/page/203db6dc\\_7c82\\_4aa0\\_98a6\\_8672334b235c/Domestic Violence Act English.pdf](https://mowca.portal.gov.bd/sites/default/files/files/mowca.portal.gov.bd/page/203db6dc_7c82_4aa0_98a6_8672334b235c/Domestic%20Violence%20Act%20English.pdf).

<sup>12</sup> *Ibid*

<sup>13</sup> “Acid Control Act, 2002,” 2002, <https://www.bing.com/ck/a?!&&p=3d4780584c280ff7JmltdHM9MTY4NzgyNDAwMzZpZ3VpZD0wOWNiYWYwMS0wYTJiLTlTY1MGYtM2E5Mi1hMDAyMGlxMzY0MGEmW5zaWQ9NTI0NA&ptn=3&hsh=3&fclid=09cbaf01-0a2b-650f-3a92-a0020b13640a&psq=bangladesh+constitution&u=a1aHR0cHM6Ly9lbi53aWtpcGVkaW>.



solidify and reenact the existing Children Act, by revoking it, for the reason of executing the arrangements of the said convention.<sup>14</sup>

Dowry Prohibition Act, 2017' joins the prior Share 'Dowry Prohibition Act, 1980' and consequent alterations. The Act lays down '14 years' thorough detainment alongside fines for any person or people who incite any young lady to commit suicide over dowry. It includes an arrangement moreover for a life term of '12 years' for hurting a lady over dowry. That the government has taken cognizance of the truth that share could be a genuine social illness that must be handled.<sup>15</sup>

The present law in Bangladesh that addresses child marriage is 'The Child Marriage Restriction Act, 2017 (CMRA)' canceling the prior 'British law of 1929'. The Act sets the least age of marriage for a male as '21' a long time and for a female as '18' a long time. Segment 7 of this Act, 2017 gives penalties for children<sup>16</sup>

The Penal Code of 1860" is Bangladesh's key correctional statute, acquired from the colonial period - contains an arrangement on ensuring ladies from different shapes of physical and sexual viciousness. In any case, the utilization of the term sexual badgering may be a generally later wonder, which began showing up in scholarly and arrangement talks as examined below. The definition of assault in 'segment 375' of the Correctional Code remains in the drive. It is characterized as a sexual intercut committed by a man with a lady against her will or without her assent. The Penal Code moreover indicates disciplines for offenses related to capturing, snatching or

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<sup>14</sup> "The Children Act," 2013, <https://www.bing.com/ck/a?!&p=8291af76b3d8e971JmltdHM9MTY4NzgyNDAwMCZpZ3VpZD0wOWNiYWYwMS0wYTJiLTlY1MGYtM2E5Mi1hMDAyMGlxMzY0MGEmW5zaWQ9NTE5Mw&p=3&hsh=3&fclid=09cbaf01-0a2b-650f-3a92-a0020b13640a&psq=children+act+2013+in+bangladesh&u=a1aHR0cHM6Ly93d3cuaW>

<sup>15</sup> Biplob chakrabarty, "The Dowry Provision Act," *The Daily Star*, February 1, 2017, <https://www.thedailystar.net/editorial/the-dowry-prohibition-act-2017-1353904>.

<sup>16</sup> "Section 7, The Child Marriage Restraint Act," 2017, <https://www.bing.com/ck/a?!&p=e81de5653c6e9dc8JmltdHM9MTY4NzgyNDAwMCZpZ3VpZD0wOWNiYWYwMS0wYTJiLTlY1MGYtM2E5Mi1hMDAyMGlxMzY0MGEmW5zaWQ9NTE4Nw&p=3&hsh=3&fclid=09cbaf01-0a2b-650f-3a92-a0020b13640a&psq=Section+7%2CThe+Child+Marriage+Restraint+Act%2C+2017&u>

compelling a lady into marriage, 15, subjugation or constrained labor '(sections 359-374)<sup>17</sup>'. Be that as it may, these are at times, on the off chance that ever, conjured as they cover with ensuing Acts that criminalize these off offenses.

"The Rights and Protection of Persons with Disabilities Act, 2013 (RPPD)" asserts the rights of people with incapacities. 'Article 16'<sup>18</sup> of the Act reveres their right to break even with lawful acknowledgment and get to equity, as well as the proper to be utilized in open and private foundations. Essentially, the Act notices their right to a secure, sound environment, and security from torment. It denies any shape of separation by any person, institution, specialist or organization against any individual with an inability to boundary to their rights pronounced within the 'Act. 189 Segment 35' indicates that, cannot be any segregation or restriction against any individual with incapacities in terms of work for which they are qualified to apply<sup>19</sup>

## INTERNATIONAL INSTRUMENTS FOR DOMESTIC VIOLENCE PREVENTION

'The Declaration of Human Rights' changed the worldwide viewpoint on 'human rights. What I am doing to the citizens of my nation, whether I am doing it to them or not, is changing the state of mind of the states. Human rights have ended up being the guard dog of each country in the world. The decree proposes that each human being has nobility, and breaks even with unavoidable rights, this acknowledgment will be the establishment of justice, peace, and freedom within the world. There were no official obligations within

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<sup>17</sup> "The Penal Code," bdlaws, 1860, <http://bdlaws.minlaw.gov.bd/act-11.html?lang=bn>.

<sup>18</sup> Article 16, The Rights and Protection of Persons with Disabilities Act, 2013

<sup>19</sup> "The Rights and Protection of Persons with Disabilities Act," Human rights watch, 2013, <https://www.hrw.org/news/2022/07/18/bangladesh-submission-un-committee-rights-persons-disabilities>.



the corner of this agreement. However, it has since made critical commitments to the definition of worldwide settlements, the acknowledgment of human rights in constitutions in different nations, and the establishment of a worldwide culture of human rights. This statement is cited within the decisions of different households and outside courts. It is seen in terms of human rights measures all over the world. There are parcels of traditions to set up human rights, which are given underneath. There are some international Convention in which is recognized by Bangladesh are given below:

The Charter of the United Nations, 1945: Concurring with the 'UN Charter', it is one of the <sup>20</sup>purposes of the UN is to achieve world interest inside headway and bolster considered for human rights and vital adaptabilities for all without refinement as to race, sex, tongue or religion. 'Article 8 'of the Structure especially states that The UN might put no imprisonments on the capability of men and women to require portion in any capacity and underneath conditions of correspondence in its preeminent and assistant organs. 'Articles 13,<sup>21</sup> 55<sup>22</sup> and 76<sup>23</sup>' of the Structure call for the realization of human rights and pivotal adaptabilities "for all without refinement as to race, sex, lingo or religion".

Universal Declaration of Human Rights, 1948: Even though certification of the characteristic respectability and the rise to and basic rights of all individuals of the human family is the establishment of versatility, esteem and peace interior the world. Agreeing with Article 1<sup>24</sup> provided that, all human animals are born free and rise to respectability and rights. They are contributed with reason and soul and got to act towards one another in a soul of brotherhood. Article 7

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<sup>20</sup> "The Charter of the United Nations," 1945, <https://treaties.un.org/doc/Publication/CTC/uncharter.pdf>.

<sup>21</sup> *Ibid*, Article 13

<sup>22</sup> *Ibid*, Article 55

<sup>23</sup> *Ibid*, Article 76

<sup>24</sup> Article 1,,Universal Declaration of Human Rights, 1948

<sup>25</sup>said that all are break indeed a few times as of late the law and are entitled without any segregation to break indeed with the security of the law. All are entitled to break indeed with security against any isolation in encroachment of this Explanation and any insincerity to such separation. The All-inclusive 'Affirmation of Human Rights, 1948' to contains arrangements for the balance of men and ladies and forbids non-discrimination on the ground of race, sex, dialect or religion. Even though the UDHR did not endeavor to say any specific rights of ladies. It did not attempt to mention any particular right of women, 'Article 26' of it stated that motherhood and childhood should receive special protection from the state.<sup>26</sup>

Convention on the Elimination of All Forms of Discrimination against Women New York, 18 December 1979 (CEDAW): The Government of Bangladesh 'confirmed the CEDAW on '6 November 1984'. 'Article 11'<sup>27</sup> commits the Portion States to slaughter isolation against women inside the field of trade, and to ensure the correspondence of women and men. As talked around over, the 'CEDAW' Committees Common Proposition No. '19 (1992)'<sup>28</sup> entitled Viciousness against Women affirms that gender-based viciousness, counting sexual goading, may be an outline of isolation.

Commenting on 'Article 11 of CEDAW', <sup>29</sup>which relates to partition against women in work, the CEDAW Committee emphasized that correspondence in commerce can be truly obstructed when ladies are subjected to gender-specific violence, such as sexual bullying inside the working environment. The Committee portrayed a couple of behaviors acts that can be categorized as sexual goading, tallying both categories of quid ace quo and an unpleasant working

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<sup>25</sup> *Ibid*, Article 7

<sup>26</sup> "Universal Declaration of Human Rights," 1948, <https://www.un.org/en/about-us/universal-declaration-of-human-rights>.

<sup>27</sup> "Committee on the Elimination of Discrimination against Women (CEDAW)" (Newyork, 1979), <https://www.ohchr.org/en/instruments-listings>.

<sup>28</sup>*Ibid* ,recommendations no 19,(19920,<https://www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm>

<sup>29</sup> *Ibid* 39

environment. 'Common Proposition No. 35' of the CEDAW Committee endorses state parties to ensure that all shapes of gender-based brutality against women in all circles - which entirety to the encroachment of their physical, sexual, or mental cleverness are criminalized. It slants them to display without delay or strengthen, legal sanctions commensurate with the gravity of the offense, and nearby respectful cures.<sup>30</sup>

The UN Declaration on the Elimination of Violence against Women, 1993: Concurring to 'Article 1' of the confirmation characterizes that, viciousness against ladies as any act of gender-based viciousness that comes almost in or is likely to result in, physical, sexual or mental harm persevering to women, tallying threats of such acts, limitation or subjective hardship of flexibility, whether happening in open or in private life. It as well joins sexual bullying and terrorizing at work, in educators teach and some place a parcel of savagery against women.<sup>31</sup>

International Covenant on Economic, Social and Cultural Rights, 1966: Concurring to 'Article 7'<sup>32</sup> the States Parties to the display Contract recognize the proper of everybody to the satisfaction of fair and favorable conditions of work. 'Article 11'<sup>33</sup> gives the fundamental and same rights of uniformity between men and ladies. 'Article 12'<sup>34</sup> said that, take suitable measures to kill segregation against ladies. 'Article 13(b)'<sup>35</sup> expressed that, fitting measures to dispose of separation against ladies in regions of financial, social life and specific other shapes of the monetary emergency. On the other

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<sup>30</sup> *Ibid*, Recommendation no -35

<sup>31</sup> "Declaration on the Elimination of Violence against Women," 1993, [https://www.un.org/en/genocideprevention/documents/atrocities-crimes/Doc.21\\_declaration\\_elimination\\_vaw.pdf](https://www.un.org/en/genocideprevention/documents/atrocities-crimes/Doc.21_declaration_elimination_vaw.pdf).

<sup>32</sup> "International Covenant on Economic, Social and Cultural Rights," *United Nations Human Rights Office of High Commission*, 1966, <https://www.ohchr.org/en/instruments-listings>.

<sup>33</sup> *Ibid*, Article 11

<sup>34</sup> *Ibid*, Article 12

<sup>35</sup> *Ibid*, Article 13(b)

hand, 'Article 14(g)'<sup>36</sup> mentioned that, ensured the neutrality of equal rights between men and women.

Covenant on International Civil and Political Rights, 1966: 'Article 6'<sup>37</sup> communicated that each human being has the characteristic right to life. His right ought to be secured by law. No one may well be subjectively denied of his life. 'Article 7' communicated that No one may be subjected to torment or barbaric, pitiless or corrupting treatment or teaching In particular, no one may well be subjected without his free consent to remedial or coherent experimentation.<sup>38</sup> Other than that, 'Article 16' in addition states that everyone might have the correct to affirmation all over as an individual before the law.<sup>39</sup>

'Article 24' States that, each child might have, without any isolation as to race, color, sex, tongue, religion, national or social root, property or birth, the proper to such measures of confirmation as are required by his status as a minor, on the parcel of his family, society and the State.<sup>40</sup> On the other hand, 'Article 26'<sup>41</sup> stated that' all people are rising to sometime recently the law and are entitled without any separation to the rise to assurance of the law.

The Convention on the Rights of the Child, 1989: The most excellent intrigued of the child could be a key guideline within the '(The Tradition on the Rights of the Child, 1989) CRC'. So, 'CRC' does not center on the rights of the child in confinement but contains arrangements recognizing the interrelationships between the child, the family, and the State. In Article 2<sup>42</sup> of the tradition, states parties acknowledge a commitment to respect and ensure the rights laid out inside the Convention without partition of any kind.

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<sup>36</sup> *Ibid* Article 14(g)

<sup>37</sup> "International Covenant on Civil and Political Rights," *United Nations Human Rights Office of High Commission*, 1966, <https://www.ohchr.org/en/instruments-listings>.

<sup>38</sup> *Ibid*, Article 7

<sup>39</sup> *Ibid*, Article 16

<sup>40</sup> *Ibid*, Article 24

<sup>41</sup> *Ibid*, Article 26

<sup>42</sup> "Convention on the Rights of the Child," *United Nations Human Rights Office of High Commission*, 1989, <https://www.ohchr.org/en/instruments-listings>.

This Article includes a commitment viably to recognize individual children and assemble children for whom affirmation and realization of their rights may ask exceptional measures. 'Article 4'<sup>43</sup> of the CRC requires that states ought to endeavor all appropriate regulatory, administrative, and other measures for the execution of the rights recognized inside the Convention". 'Common Comment No. 5' issued by the Committee on the Rights of Child states that when a State endorses the CRC, it takes a commitment underneath all-inclusive law to execute it<sup>44</sup>

International Convention on the Elimination of all Forms of Racial Discrimination, 1965: Here is the preeminent reason that The States Parties to this Tradition, Considering that the Structure of the Joined together Countries is based on the measures of the respect and correspondence characteristic in all human creatures which all Parcel States have sworn themselves to require joint and partitioned development, in back with the Organization, for the accomplishment of one of the purposes of the Joined together Countries which is to the advancement and empower all-inclusive regard for and affirmation of human rights and fundamental openings for all, without capability as to race, sex, lingo or religion In addition, 'International Tradition on the Disposal of all Shapes of Racial Segregation 1965' given, beneath 'Articles 2 and 5' said that everyone can appreciate their rights without segregation as respects race, color national, moral root, uniformity sometime recently the law<sup>45</sup>

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<sup>43</sup> *Ibid*, Article 4

<sup>44</sup> 'The Convention on the Rights of the Child, 1989 <https://www.savethechildren.org.uk/what-we-do/childrens-rights/united-nations-convention-of-the-rights-of-the-child>'

<sup>45</sup> "International Convention on the Elimination of All Forms of Racial Discrimination," *United Nations Human Rights Office of High Commission*, 1965, <https://www.ohchr.org/en/instruments-listings>.

## GENDER-BASED DOMESTIC VIOLENCE:

Domestic violence is a dynamic situation that is spreading rapidly across the country and its impact is not small in Bangladesh. In Bangladesh, we usually see that in the case of men and women who are victims of violence against transgender people and children, we can only see remedies for women and children. We have the 'Prevention of Domestic Violence Act 2010' in Bangladesh. If we observe the Acts, we will see that the extent of implementation is a big question. Not only that, we can see, for 'women and children' the 'Prevention of Domestic Violence Act, 2010' has been created. But how much of an implementation of this Act it has been questionable.

### **Domestic Violence Against Women**

Spousal violence against women: Spousal violence, moreover alluded to as residential violence or hint of an accomplice viciousness, could be a behavioral cycle that includes enthusiastic, physical, or sexual savagery dispensed on a person in a household setting, such as cohabitation or marriage. Anybody can be a casualty, in any case of race, sex, age, sexual introduction, or financial foundation. Agreeing to the Joined Together States Division of Equity, '1.3 million' ladies and '835,000' men are casualties of physical savagery by an insinuate accomplice yearly.

The results of spousal manhandling amplify past culprits and casualties, influencing their quick families, companions, and communities. Children who witness spousal mishandling neighbors may be pulled into the violence, and the manhandled may pull back from family and companions, and so on. Spousal manhandling goes past the dividers of any one person's domestic.<sup>46</sup>

The impacts on domestic violence against women in Bangladesh: Bangladesh has tall rates of spousal savagery against

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<sup>46</sup> 'Heidi Bart Johnston and Ruchira Tabassum Naved, "Spousal Violence in Bangladesh: 'A Call for a Public Health Response'",' n.d.



ladies (SVAW). Agreeing to Naved, Azim, Bhuiya, & Person (2006), almost two-fifths of ever-married, reproductive-aged ladies detailed having ever been physically manhandled by their spouses in the country and urban regions of Bangladesh. Almost 50% of rustic ladies and 37% of urban ladies detailed lifetime inside marriage sexual viciousness '(Garcia- Moreno et al., 2005). Lifetime passionate manhandling was detailed by 31% of the ladies within the country region and 44% of urban ladies (Garcia-Moreno et al., 2005)'.

Additionally, the developing body of investigation proposes that spousal savagery is profoundly predominant in 'Bangladesh. In 2001', almost '60% (59% in an urban range and 60% in a rustic range)' of ladies detailed having ever experienced physical or sexual spousal violence.

Steady with the worldwide slant, the overpowering lion's share of physical and sexual savagery against ladies was executed by spouses, not by other people. Whereas stunning tall, the rates of spousal viciousness reported in Bangladesh isn't abnormal. A later think about from the USA detailed that about 'half (44%)' of more than '3,400' female individuals of a Seattle-based well-being agreeable detailed having experienced spousal savagery amid their grown-up lifetime.<sup>47</sup>

Critically analysis of domestic violence against women: We look into our society that, when a man who lived in a common zone might beat his companion on the occasion that helpful, he comes residential from work and finds that his supper isn't arranged, or she serves him warmed rice from the morning dinner rather than normally cooked rice inside the family. Particularly evening, she ignores to do something, like washing a life partner's shirt, or she does not respond quickly adequate when.

There he asks her to do something, or he considers she is stillborn and careless in caring for the children. Talking back

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<sup>47</sup> PhD Nazneen Akhtar MS Ruchira Tabassum Naved MS, "Spousal Violence Against Women and Suicidal Ideation in Bangladesh," 18, no. 6 (n.d.): 442-52.

expectations when condemned, taking off household without authorization, and coming up brief to comply with the in-laws (concurring with the in-laws) are other common outlines of women spouses' behavior that affects their companions to overcome them. And a few ladies said that they were beaten for giving birth to girls. These cases recommend that their savagery against ladies is seen as advocated (or seen so by men) when ladies come up short to comply to have or conventional part desires.

Ladies are required to be hard-working and particular and they are assembled life partners to bear children. In rural Bangladesh (as in another country India) share has progressed into a system of institutionalized shakedown, routinely fueled by violence against young companions.

Brutality and perils of empowered viciousness in exceptional cases in fact to the point of murder) are utilized to shakedown cash or property from the energetic woman's relatives, in a few cases in a wealth of what was ensured at the time the marriage was orchestrated. In expansion to the blackmail of assets utilizing the institution of settlement, men within the think-about towns regularly appeared to feel that anything their spouses brought with them at marriage, acquired, earned, procured, or indeed borrowed was legitimately theirs.

Moreover, for visiting to collect the primary data, case studies and questionnaire sessions with domestic violence expertized also visited the renowned victim support center which belongs to Non-Governmental Organization for collecting data.<sup>48</sup> Those are called the Victims Support Center called Ain O Salish Kendra (ASK) There is some sod of question-answering sessions with expertized about domestic violence. He answered based on these questions particularly

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<sup>48</sup> 1 Rue de Germont. 76031 Rouen 'S. Thureau \*\*, I. Le Blanc-Louvry-, S. Thureau , C. Gricourt and France B. Proust Cedex, "AConjugal Violence: A Comparison of Violence against Men by Women and Women by Men S.," *Thureau et Al. / Journal of Forensic and Legal Medicine* 31 (2015): 42-46.

(there are total 8 detail questioned were addressed for detail see footnotes)<sup>49</sup>

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<sup>49</sup> *First question*, what kind of support does your organization have? Provide to those who are victims of domestic violence? Our organization supports many combines. If they think that it can be solved by arbitration then they set the case aside through mediation and if they do not think that the case is bailable then it helps to file a case and if they think that any person cannot stand up then they have been raped. In case we see them there we try to give them counselling where they can stand up and talk to us and sue their husband will not be with them. He will be in another place; we call him halfway home and we will give him the treatment he needs: *Second question*, approximately how many reports of cases come to you every year based on domestic violence? Mediation and Rapid Response Unit Period: 01-Jan-2021 to 31-Dec-2021 Type: Complaints Domestic Violence from Ain o Shalish Kendra, Dhaka, Bangladesh (<https://www.askbd.org/ask/>) *Third*, Do you pay the full cost in case of domestic violence, or do the victims also provide something? Our organization pays the full cost if the case goes from lower court to high court or appellate division then our organization pays the money. And don't give only in one case which is that when the victim himself goes, the witness has to appear and the money has to be given to him. But if the victim is financially weak then we also provide the money. *Fourth*, if you file a case on domestic violence, how long does it take for that case to reach a final decision? It is difficult to say how many days the case will end because if any case goes through meditation, it will be seen that one party is coming and another party is not coming. Again, if the case ever goes through court proceedings, then we can see that the case takes time. Those of us here who have sued Expert learned Lawyers understand the case and sue. Our Law and Arbitration Center wants us to give them a remedy through a speedy trial. We, the expert-learned lawyers here, try to find a way to get the case settled quickly. *Fifth*, do the victims who come to sue for domestic violence bring awareness on their own, or through someone else? Many of the domestic violence victims who come to us come through social media. Many come through third parties. She told him that I know this company can help him. Many come through his family. They come to our organization following many multi-dimensional ways. *Sixth*, what is the education rate of those who come to sue for domestic violence? Don't educate people come more and uneducated people come more to sue for being victims of domestic violence? for those who have less formal knowledge, those who have studied up to class one to five, we think the proportion is much higher and 75% comes and those who want to sue a lot of educated people, it is up to them not to go through the mediation of court processing. So, they come to approximately 15%. *Seventh*, When women are victims of domestic violence, what percentage of them are victims of spousal violence? And what percentage are victims of the financial crisis? We filed the case based on spousal violence victims being 60% and financial crisis (torture for dowry) at 55% in 2021 approximately. *Eight*, what percentage of domestic violence is perpetrated by women inside the family and outside the family? Inside the family is 90% of victims of domestic violence and outsiders of the family are victims of 10% of domestic violence. Because we see that the transport and public toilets in Bangladesh are not women and child friendly.

Categories of Violence	Numbers of violence by the person
A) Economical Torture	1
B) Physical and Psychological Torture By Family (Muslim)	1
C) Physical and Psychological torture by father (1)	1
D) Physical and Psychological torture by husband (76)	76
E) Physical Torture/ Assault/battery (92)	92
F) Psychological Torture (26)	26
<b>Sub Total</b>	<b>197</b>

Tabel 1.0 Case Report on Daily Basis During 2021<sup>50</sup>

### Domestic Violence Against Men

The social and legal effects of preventing domestic violence: According to the 'Bangladesh Manabadhikar Bastabayan Sangstha (BMBS) database, in 2015', at slightest '500 men' purportedly quelled by their spouses reached them for lawful counsel to proceed with their family life without badgering. The database moreover appears that within the to begin with six months of that year, add up to '26 men' submitted composed affirmations of badgering against their spouses.

'In 2018, a piece distributed within The Gatekeeper expressed that one in six men encounters household viciousness, but as it were one in 20 tends to report it. In 2020', an organization named Bangladesh Men's Rights Establishment (BMRF) studied that 80%' of hitched men are casualties of mental torment by their spouses (or their family individuals) in our nation. Directly the point of this article is, when we discuss roughly household viciousness, why don't we think that men can as well be casualties of family viciousness? In our patriarchal society, it is respected as awful. For men to reveal their perseverance.

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<sup>50</sup> Reports of cases come to you every year based on domestic violence? Mediation and Rapid Response Unit Period: 01-Jan-2021 to 31-Dec-2021 Type: Complaints Domestic Violence from *Ain o Shalish Kendra*, Dhaka, Bangladesh (<https://www.askbd.org/ask/>)

The fear of showing up, female or not man adequate proceeds. This harmful manliness in the long run influences a man and pushes him to begin living in trouble, incapable to reveal inward sentiments to anyone. So, we ought to receive satisfactory measures to maintain a strategic distance from such mentally sick well-being. So, what are the preventive measures to secure men against sexual orientation-based residential violence?<sup>51</sup> A questionnaire session was conducted with domestic violence expert Mr. Dilip Pal (Advocated at Dhaka Bar Association) see details question on footnotes.<sup>52</sup>

Does need any specific law for protecting domestic violence against men? A recent case was filed: A long-time ancient Majed Evena Azad works for a private company in Dhaka, the capital of Bangladesh. He told DW that his spouse had rationally tormented him for a long time, but he couldn't get any offer of assistance as the society he lives in does not accept that a lady can torment a man. Azad said that a couple of days after getting hitched, she has begun taking parts of cash from him whereas appearing not intrigued about having a conjugal life with him.

I had met her cash-related demands for one or two of a long time, Azad said. But, at some point, he found that she has associations with many other men like him. At that point, Azad's life partner recorded an unfaithful case against him under the 'Digital Security

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<sup>51</sup> BMBS Mohammad Jamil Khan, "Oppressed Men Have No Legal Support," *Dhaka Tribune*, December 18, 2016, <https://archive.dhakatribune.com/bangladesh/law-rights/2016/12/18/oppressed-men-no-legal-support>.

<sup>52</sup> If the Men are not victims of domestic violence then why don't they want to come and the government has no specific laws for them so far then what kind of law or awareness do you think is needed to bring them to justice? In our Bangladesh contest, the patriarchal society has a lot of empowered women in non-empowerment status. We can see that in case we do not have special laws for men in Bangladesh they can sue General Penal Code 1860 but it was made for our women because women could not be covered by the Penal Code. Women were victims of acid and rape. Although sometimes if a girl commits domestic violence to a man then we have to see that a man must have been a victim of domestic violence in some way before. She may be from her husband's house, she may be from her in-laws.

Act 2018', after he ceased fulfilling her financial demands. He had to stay in covering up for over a year to evade capture, but as of late a court ruled that the case against him was made. Mr. Azad had to go through colossal mental torment by her. No one acknowledged him when he attempted to urge back from others. Our laws are women-friendly and can effectively be utilized to aggravate a man, Azan included.

So presently we are ready to observe that directly Azad will get the cure. What can be done about his companion's domestic violence? Yes, we are ready to say that 'Penal Code 1860' can sue his life partner. But how suitable the case will be since the most prominent law of Bangladesh is to deal with women and children? So, I think on the off chance that we had a particular law for men, men would get rise to treatment equally.<sup>53</sup>

### **Domestic Violence Against the Child**

The current situation of domestic violence of children in Bangladesh: Concurring to the media observing information from the 'National girl child Advocacy Forum (NGCAF)' Bangladesh, indeed even though assault laws were revised final year to permit passing punishment, a add up to of '813' young lady children were subjected to assault, of whom '110' were gang-raped within the, to begin with, eight months of 2021'.

'A add up to of 79 young ladies though assault incapacities were assaulted amid this period, whereas 127 confronted endeavored assault, the report was found'. On the opposite, data collected by The Everyday Star from, '41 upazilas of 13 areas found around 10,741 young ladies and at slightest two boys being wrongfully hitched off amid school closures' The Multiple 'Indicator Cluster Survey (MICS) 2019, arranged by the 'Bangladesh Bureau of Statistics (BBS)' and 'Unicef' through meeting 61,242 families from all 64 areas moreover

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<sup>53</sup> Arafatul Islam, "Male Victims of Domestic Violence Demand Gender-Neutral Laws" (DHAKA, BANGLADESG, 2020). <https://www.dw.com/en/bangladesh-domestic-abuse-male-victims/a-55675124>



found that nine out of 10 children experienced a few frames of rough restraining by their caregivers<sup>54</sup>. A questionnaire session was conducted with domestic violence expertized. He answered these questions immensely: What is the percentage of cases of Domestic Violence against girls and boys and Domestic Violence against boys and girls and from what age do they start to be victims of Domestic Violence?

Age	Child (0-12)	Adolescent (13-17)	Adult (18+)
Female	27	33	628
Male	26	1	9

Tabel 2.0 Case Report on Daily Basis Domestic Violence Against Children During 2021<sup>55</sup>

When a child is to be victimized by domestic violence, with whom does he come to report or file a case? When a child comes to sue with someone, he feels more comfortable with. It could be his father, maybe his brother, maybe his mother. We have seen a case here where a boy's daughter has been the victim of domestic violence, in which case her father wants to marry her to that boy but she wants to sue, so she has come to our organizations with her brother and sued.

Social and legal effects of domestic violence against children: Violence within the domestic and sexual manhandle in childhood and puberty can have deep-rooted well-being and advancement impacts, such as misery, moo self-esteem, destitute school execution and challenges in psycho-social alteration. Pre-adult young ladies and the impaired are particularly at the chance of repetitive SRH issues, such as undesirable pregnancies, hazardous premature births, sexually

<sup>54</sup> Farzana Islam and Gulshan Ara Akhter, "Original Child Abuse in Bangladesh," *Ibrahim Medical College Journal* 9, no. 1:(18) (2016), <https://doi.org/DOI:10.3329/imcj.v901.27635>.

<sup>55</sup> Mediation & Rapid Response Unit Period: 01-Jan-2021 to 31-Dec-2021 (Ain o Salish Kendra ASK) New Client Profile by Age and Gender

transmitted contaminations and higher dangers of HIV. Juvenile young ladies and youthful ladies are particularly at the chance of different shapes of GBV (Sexual orientation-based viciousness) counting sexual savagery and trafficking; sexual mishandling, counting inbreeding, assault and destructive hones such as 'Female genital mutilation or cutting (FGM/C)' and constrained marriage. They are a chance at domestic, in school, on the road, in their places of work (e.g., as production line, cultivate and residential laborer's) and in refugee/displaced individual camps<sup>56</sup>

The recent case was filed: As her mother works at a piece of clothing plant in Chittagong, Jeba lives with her day labourer father and close relatives in the inaccessible town of Patharghata upazila, beneath the Barguna area. Before this month, Jeba's maternal grandparents took. She to their domestic in 'Bamna upazila' of the area. When other family individuals were actively working within the paddy field, Jeba's 15 a long time ancient step-uncle assaulted her. The following day, when death did not halt, the grandma called Jeba's father and inquired him to come and take the child to a specialist. When Jeba's father took her to the clinic, the specialist affirmed assault and recommended quick treatment. Jeba's father recorded a case against the culprit with the Bamna Police Station right away. We are presently attempting to capture the charged, indeed although the family individuals are departing suddenly, said the officer-in-charge of Bamna Police Station<sup>57</sup>

### **Domestic violence against Transgender (Hijra)**

The current situation of transgender in Bangladesh: According to Blast, Europe Union and Christian Aid 2021 mentioned that "Sexual and Gender-Based Violence (SGBV)" is more acute in these

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<sup>56</sup> *Ibid*44

<sup>57</sup> Nilima Jahan, "Rise in Child Abuse: Long Way to Achieve SDG Goals," *The Daily Star*, December 28, 2021, <https://www.thedailystar.net/news/bangladesh/rights/news/rise-child-abuse-long-way-achieve-sdg-goals-2927416>.

communities compared to the rest of the country due to that social. And economic vulnerability. 76% of Transgender (Hijra) pointed out that they have faced (SGBV) because of their identity. 99% of Transgender and Hijra people responded that they never get invitations to these development activities and 47% transgender group reported not having access to education at all. On the other hand, they are excluded from society and at some point, in society they live in a place of neglect. Not only are they harassed by the police but they are also generally harassed by the people. Most of the hijras are seen as part of their traditional cultural part of the marriage and dance at the time of childbirth so that they can earn money they beg at the bus stand.

Many times, it has been seen that they get involved with sex workers. After all, they do not have any opportunity for income because they have no employment in job sectors, they have no treatment, and no education system. Not only that, the change in his/her physical condition seems to have taken a big storm in his/her life. No one likes them. The family members, relatives and the whole society push them away and no one wants them in their territorial zone.

Even if they live in the country as citizens, they cannot infringe on the rights of any citizen. They are treated as if they were an alien or a zoo animal and also, they are perceived as a burden to society. Hijras are being neglected by the society and they are being ridiculed and alienated from the society. In this case, there is no discrimination. Yes, of course. Because it is destroying their human dignity which directly violates their human rights.<sup>58</sup>

Comparative analysis with other countries (India and the United States of America) Even before, the condition of transgender was very miserable. Now the situation is improving because before the Hijras, there was no right to Hindu Succession Act 1956. No rights

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<sup>58</sup> Rupal Sharma, "Inheritance Rights of Transgender A Cry of Humanity," *IJLMH* 1, no. 3 (n.d.), issn: 2581-5369.

were mentioned about their rights but recently it was known that those in Uttar Pradesh transgender are getting their rights. For whom has been ensured which is called transgender persons (protection of Rights) Act 2019 <sup>59</sup>for transgender people in India. Their rights have been guaranteed here and also this specific law has been created for them through violence.<sup>60</sup>In fact, in the case law, “National Legal Services Authority Versus Union of India and Others Writ Petition (Civil) NO.604 OF 2013 <sup>61</sup>It was held that Middle and State Governments ought to truly address the issues being confronted by Hijras/Transgender such as residential violence fear, disgrace, sex dysphoria, social weight, misery, self-destructive propensities, social shame, etc.

“The United States of America (USA)”: In “The United States of America” we usually see that they developed the rights for transgender people. Where they have established education, and healthcare rights and said that where they will not only be treated based on gender but will be treated with dignity and no gender identity will prevail here. ‘Civil Rights Act of 1961’ provided that there are places where sex discrimination based on sexual orientation and gender identity is prohibited. Not only that, surveys in America have shown that when people are asked that, whether Hijras should be given equal rights, and should prohibit discrimination against them. The maximum number of people have shown public awareness, which is a very good thing. Not only that, but transgender people will also get employment opportunities under the Equal Employment Opportunity Commission in 2012.

The famous case “Bostock v. Clayton & County, 590 U.S (15 June 2020)”<sup>62</sup> established that prohibited transgender discrimination in employment sectors. At the same time, they will be able to participate

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<sup>59</sup> “The Transgender Persons (Protection of Rights) Act,” 2019, n.d., [https://www.indiacode.nic.in/handle/123456789/13091?sam\\_handle=123456789/1362](https://www.indiacode.nic.in/handle/123456789/13091?sam_handle=123456789/1362).

<sup>60</sup> *Ibid* 34

<sup>61</sup> A Sikri, National Legal Ser.Auth vs Union Of India & Ors (2013).

<sup>62</sup> Bostock v. Clayton County (2020).

in political parties or leadership. For example: In the 2020 election, Sarah McBride is becoming the first openly transgender state senator. She is to be elected in the United States of America. So, it has been observed here that, developing countries have gradually raised awareness of the discrimination against transgender people and they have taken adequate steps.

## CONCLUSION

Bangladesh has tried to achieve momentous advance Women's activists in making strides in the conditions of ladies and children, activities, especially on the ground of instruction, well-being, official nourishment, human rights, and other areas of fundamental must needs. They more likely appreciate rights and mentality openings which are playing exceptionally imperative parts in improving their socio-financial status. Although the condition of Bangladesh is still delicate, the government has been still attempting to make strides in the living standard of its citizens by killing destitution and starvation through comprehensive programs, especially diminishing the feminization of destitution. The government took programs to diminish disparities in living benchmarks between men and ladies and diminish the extending sexual orientation crevice in destitution but existing information claimed that ladies and young ladies have been enduring savagery, badgering, and separation made by the sexual orientation crevice and socio-economic delicate condition within the society.

In addition, the conditions of ladies and children of Bangladesh are not very favorable and agreeable since numerous damaging and destructive exercises still exist within the shapes of savagery, badgering, and hardship of human rights. These investigations found that the predominance of assault and sexual ambush has existed that took numerous lives of ladies and young ladies as well as they take to endeavor to commit suicide. Especially, it is seen that spouse has been overwhelmed and persecuted by spouse or spouses' family individuals due to sharing or claiming their rights to dissent against household viciousness counting early

marriage child, residential has been oppressed and annoyed within the shapes of assault, torment, mental weight, work burden, and sexually attacked. In reality, these powerless circumstances of ladies' young ladies, and children have been focused on savagery and sexual ambush indoors and open air of the domestic.

But tragically, there's no law for males and transgender to guarantee their rights<sup>63</sup>So, the government ought to be taken activities for executing the existing laws and the official handle of laws and defensive measures must be straightforward and responsible as well as the attitude of mass individuals must be a positive alter towards women children, males and transgender for ensuring equality and neutrality. When we implement these existing laws very well and establish new laws as well for male and transgender people, then there will be no more violence.

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<sup>63</sup> *Ibid* 37



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## ADDITIONAL INFORMATION

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