



THE BATTLE CONTINUES

ASPECTS OF VIOLENCE AGAINST WOMEN IN BANGLADESH

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A publication based on the findings of a programme on violence against women
from July 2011 – June 2012, supported by the
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Odhikar dedicates this advocacy paper to those victims of violence who are no longer with us. May they rest in peace.

"We constitute one half of the society and if are left behind, how can the society progress? If one leg is tired, how far can a person go? The interests of men and women are the same. The goal of life is the same for both"

- Begum Rokeya Sakhawat Hossain

"For the purposes of this Declaration, the term "violence against women" means any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life."

-Article 1, Declaration on the Elimination of Violence against Women

"Violence against women shall be understood to encompass, but not be limited to, the following:

(a) Physical, sexual and psychological violence occurring in the family, including battering, sexual abuse of female children in the household, dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to women, non-spousal violence and violence related to exploitation;

(b) Physical, sexual and psychological violence occurring within the general community, including rape, sexual abuse, sexual harassment and intimidation at work, in educational institutions and elsewhere, trafficking in women and forced prostitution;

(c) Physical, sexual and psychological violence perpetrated or condoned by the State, wherever it occurs."

- Article 2, Declaration on the Elimination of Violence against Women

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Chapter 1

Introduction: Women and Discrimination in Bangladesh

Discrimination takes various forms in Bangladesh. There are instances of discrimination on the grounds of economic, social, religious and ethnic status, but the issue of discrimination is even more noticeable when it comes to the status of women in our patriarchal society. Women are the largely silent victims and witnesses to domestic violence, rape and other heinous acts – their silence made even more profound due to the social stigma attached to some of the acts of violence they face. Women are discriminated against in public life and within the family. They are sometimes labelled the ‘poorest of the poor’ due to their low economic status – especially if they are poor women who have been abandoned by their husbands or are poor widows. Even when they are strong enough to seek employment overseas, Government policy places them in the stereotypical jobs such as child minding, housekeeping and looking after the elderly – and even there they face discrimination and violence.

The first official definition of ‘violence against women’ was incorporated in Article-1 of the U.N. Declaration on the Elimination of Violence against Women, 1993. The definition reads: “Any act of gender based violence that results in or is likely to result in sexual or physical harm or suffering to women, including threats of such acts, coercion or arbitrary deprivations of liberty, whether occurring in public or private life.” Women in Bangladesh are subject to various forms of violence because gender relations place them in subordinate positions in all aspects of life. The legal framework appears ineffective in combating patriarchal practices and dominance because of exceptions and loopholes. As a result, social norms that are detrimental to women are reinforced. Thus, women

continue to face various forms of violence, harassment and degradation.

‘Anyone who has any real understanding of Bangladeshi patriarchy will appreciate that making an effective challenge to patriarchal ideologies in Bangladesh is an extremely difficult project. The ideology that supports patriarchy in Bangladesh centers around concepts such as izzat (honour, focusing in particular on the control of women’s sexuality), lajja-sharam (shame) and parda (purdah, restrictions on women’s mobility). These concepts pervade the whole society and indeed support the class structure of the society, since the practicalities of survival mean that the poor are less able to meet the demands of honour, shame and parda than the better-off. What this means in the present context is that all those who stand to gain from the hierarchical class structure of Bangladeshi society, women as well as men, feel threatened by any attack on these principles’¹.

In 1904, the pioneer of Bengali women’s activism, Begum Rokeya Shakhawat wrote: ‘When we lost our capacity to differentiate between freedom and servitude, between advancement and debasement, it is then that men became “bhusshami” (owner of land), “grihosshami” (owner of the homestead), and gradually, our “shami” (owner/husband)’². This sense of ‘ownership’ over women is one of the causes of domestic violence in Bangladesh. A large number of women fall victim to domestic violence every year in Bangladesh, mainly over dowry demands by their husbands and in-laws. The unwillingness to address the issue of domestic violence effectively is because domestic violence is a far more divisive

¹ Rozario, S. Building Solidarity against Patriarchy. CARE Bangladesh 2004, p 8.

² Hossain, Rokeya Shakhawat ‘Streejatir Obonoti’, (1904) Translated by Rahnuma Ahmed in her paper ‘Mapping Female Emancipation’ published in the daily New Age, December 13, 2011.

and sensitive issue for Bangladeshi society than violence by police or violence in public spaces, since it raises the question of the abuse of the patriarchal power structure within the family. This patriarchal power is the source of domestic violence, the means for a husband to overpower his wife. Even the police view it as more of a social issue and not a legal one. Yet, there are studies and statistics that suggest that the vast majority of violence against women takes place within the homes.³ The reason why domestic violence is not taken seriously, or rather is tolerated by the society, is that women are perceived by the society as inferior to men, who have given them honour and status by marrying them. This only increases women's perceived economic and cultural dependency on men and the idea that there has to be a man to protect a woman and her honour.

A girl's refusal to have a relationship with a man or rejection of his marriage proposal is not well received. In many cases, especially in rural areas where the enforcement of law and order is, to say the least, not very strict, the jilted Romeo may take revenge by rape or acid violence, to spoil any future chances of a relationship for her. Failure to meet dowry demands may also lead to an acid burnt face and body. In 2007, 22 of the 129 reported incidents of acid violence were a result of dowry demands⁴. Family disputes, marital disputes, political rivalry and other reasons together account for almost fifty percent of the total cases of acid attacks in Bangladesh. Rising social and political intolerance, easy availability of acid, deteriorating law and order situation, and the traditional mindset of men translate into various forms of violence against women. It is still a debatable issue as to why some men will

³ See Schuler et al. 1996; Blanchet 2000; Bhuiya et al. 2003; Koenig et al. 2003.

⁴ Odhikar documentation. The Organisation collates information from 12 daily newspapers every day and from its country-wide network of human rights defenders.

resort to throwing acid on a woman, while others in the same situation, will not. It may depend on the temperament, mentality, social background and (lack of) moral values of a potential perpetrator. This lack of moral values is even more evident in the matter of the several false cases that have been filed throughout the years against persons, while the actual perpetrator was a family member of the survivor. This is done in order to harass rivals and usually ensues in land and property related disputes.

Rape is a taboo issue in Bangladesh as it is something that brings shame to not only the victim, but to her family – and mainly dishonours her father. When a woman has been raped and the crime made public, the first thought that enters the mind of the community is that she must have encouraged the perpetrator with sexual advances or flirtatious remarks. Unfortunately, in such a social make-up, here too, the woman and not the man is perceived to be of bad character. What happens afterwards? Usually, if the matter is not taken to court, a rural mediation or salish will commence with the village elite sitting as judges and pass a decision whereby the rapist and his victim are married; or the victim is labeled a loose women and both she and the perpetrator either whipped, beaten with shoes or even stoned; or the family of the victim are ostracised by the rest of the community. Whatever the social treatment after the offence, the people who pass the decision are men, the marriage to her rapist will, in a majority of the cases, be fraught with domestic violence and her father will be shamed for life⁵.

If the matter is complained of and see the inside of a court room, in camera trials are there in legislation but may not always be considered. As a result, the victim is made to relive the shameful event, in sickening detail, in front of, usually, a male Magistrate and a room full of (mostly) male lawyers and

⁵ Khan, Saira Rahman. Violence against Women in Bangladesh: Causes and Consequences. Unpublished paper. Presented at the 9th Asian Law Institute (ASLI) Conference at the National University of Singapore, May 2012.

perpetrators, despite a legal provision for *in camera* trials for victims of rape⁶. Apart from that, there always remains the fear of threats from the rapist and his family, which compel some victims to stop appearing before the court.

The Study:

From July 2011 to June 2012, Odhikar carried out a project to study the situation of some common instances of violence against women in four areas of Bangladesh. The acts of violence were dowry-related violence, acid violence and rape. The study areas were Satkhira, Sirajganj, Tangail and Munshiganj. The study was supported by the Finnish NGO Foundation for Human Rights, KIOS.

Even though such acts of violence against women occur all over Bangladesh, the target areas were selected due to the following factors:

- Availability of active human rights defenders in the areas;
- The close proximity of three areas – Sirajganj, Tangail and Munshiganj, to Dhaka, which made on-site fact finding and the receiving of information easier;
- The relatively high number of dowry related acts of violence in Tangail and Munshiganj, where there is a trend of men going abroad to seek work⁷.
- The relatively high number of acid attacks in Satkhira and Sirajganj.

⁶ Found in the Suppression of Repression against Women and Children Act, 2000 (Amended in 2003).

⁷ As a result, men seek dowry to 'fund' their possible trip abroad to look for work. Unfortunately, much of this is in the form of underground or illegal travel with forged or improper travel documents. As a result, dowry demands increase as the husband finds little employment or no employment back home.



Another reason for the project was to enhance the capacity of women human rights defenders in the area, who were already trained as fact finders by Odhikar. They received training on laws relating to women's rights; how to motivate and assist a victim of violence to file a first information report or a complaint at the police station or to the Magistrate; how to overcome obstacles put in their path by the perpetrator or the police; safety and security measures; and to share their experiences as women who were local level human rights defenders.

Justification:

Given the appalling levels of corruption in the law enforcing agency⁸ human rights violations are on the rise in Bangladesh and perpetrators are treated according to how much they can influence the police and the judiciary with money and the like. Violence against women is one such classification of human rights violations that are affected by this 'influence'. Violence against women is, indeed, a physical or mental act of harm and hurt on a woman by a man, or even by another woman; but it is also a human rights violation when the State, in the form of the police and judiciary, fail to provide even basic justice for the victim. As a result, the violence continues.

In the above scenario, the human rights organisation Odhikar, although mainly focusing on civil and political rights, believed that in order to strengthen its activities at the grass roots and local level and highlight the deplorable condition of human rights, it was necessary to also highlight the issue of violence against women and the abuse of their rights as citizens of Bangladesh. In order to do this, it was necessary to expose the violence, women faced in their public and domestic lives, the lack of access they had to justice – even at the police stations – and the urgent need for such women to have support groups. With the help of the Finnish NGO Foundation for Human Rights, KIOS, Odhikar came up with a project that would highlight three main areas of violence – domestic violence caused by dowry demands, rape and acid violence. The project involved compiling and collecting monthly reports of such acts of violence around the country; carrying out fact finding

⁸ For more on corruption in law enforcement and the judiciary, see the following : Transparency International, Bangladesh: 'Corruption in Service Sectors: National Household Survey 2010'; 'Overview of corruption within the justice sector and law enforcement' at www.u4.no/...corruption...law-enforcement...in-bangladesh/.../2800; and Odhikar fact finding reports on torture at www.odhikar.org

missions in four target areas and also strengthening human rights defenders networks in those areas to support victims of such violence.

The following chapters contain a description of the legal status of women in Bangladesh, the laws that have been enacted to prevent and punish acts of violence against women and the findings of the Odhikar study. Several recommendations to curtail violence against women have also been suggested. The final chapter contains the fact finding reports of incidents of violence against women in the four study areas.

Chapter 2

Justice for Women? : Legal Provisions

Apart from the Penal Code of 1860, Bangladesh has several laws that have been enacted specifically for the punishment of perpetrators of acts of violence against women. Among them, the most important two are: The Suppression of Repression against Women and Children Act, 2000 (amended in 2003) and the Acid Crime Control Act 2002. However, such laws were enacted without popular opinion, and with little proper consultation from women's rights groups. Needless to say, the drafting of the Penal Code of 1860 was an all-male affair, as are its modern amendments and additions.

• The Penal Code

The Penal Code contains provisions for acts amounting to violence against women, such as wrongful confinement, abduction, kidnapping, rape, causing miscarriage, throwing corrosive substances, hurt and grievous hurt, etc. However, trials took place as per the normal mandates of investigation, arrest, charge sheet, framing of charges, etc., and took a very long time. As a result, justice was not met since the whole exercise tended to exhaust the time and finances of the family of the survivor/victim; and some stopped making appearances in court on appointed dates and gave up pursuing the matter altogether. Further reason to stop pursuing the matter was threats from the family of the perpetrator and/or police paid by the perpetrator to scare the family of the complainant. The need for special Tribunals was recognised with time limits fixed for investigation and trial. This gave rise to specific laws drafted to punish acts of violence against women.

• Suppression of Repression against Women and Children Act, 2000 (amended in 2003):

This Act replaced the Suppression of Repression against Women and Children Act 1995 and was introduced by the Government to pay special attention to the violence faced by women and children, including kidnapping, trafficking, dowry violence, rape and acid violence. It provided for a special Tribunal for speedy trials and fixed time limits for investigation, trial and judgment. The law also makes provision for the punishment of sexual abuse and sexual harassment, and puts restrictions on the media so that the victims' privacy is protected. The introduction of the concept of the safe custody is one of the most important features of the law. This act introduced capital punishment in cases of rape, and grievous injuries. The important features of the Act are: speedy investigation and trial of cases will be held in tribunals and all crimes under the ambit of the law are non-bailable, with few exceptions; a summary tribunal titled Suppression of Repression against Women and Children Tribunal would be formed in every district headquarter to dispose of the related cases; the tribunal will complete the trial process within 180 days; the investigation should be completed within 60 days of the order by a magistrate or filing of the case.

The Act is also unique for containing a provision for the upkeep of children born out of rape. Section 13 of the Act states that the child will be kept and looked after by the mother or her family; that the child has the right to be known by either his/her father's or mother's name, or both; costs for maintaining the child will be borne by the State till the child is 21 years old, and the amount of maintenance will be determined by the State. The section also states that if the child is female, the State will continue support even after she is 21 until she gets married; if the child is male, the State will continue support even after he is 21, till he becomes

independent and can support himself. It also says that the State may compel the perpetrator of the rape (ie, the father) to pay a percentage of the maintenance, which may be taken out of the value of his property – or any property he may come into possession of in the future⁹.

However, there are yet to be any reported cases on the application of Section 13 of the Act of 2000 (amended 2003), and it is doubtful if such situations have arisen. Just as the issue of rape is taboo, so is the issue of illegitimate children. If a victim of rape does conceive as a result, inducing a miscarriage, as confidentially as possible, is the most common relief. Furthermore, it would be unheard of to force the perpetrator to acknowledge the child as his/her, let alone give the child his/her name. Such acts would only instigate further acts of violence on the victim – and possibly the child.

The Act of 2000 was amended in 2003. The amended Act of 2003 has all the components of the Act of 2000, but provides for more stringent measures including the death penalty, and life imprisonment for the crimes of rape, abduction, dowry and trafficking related offences. The age of children has been revised to 16 years from 14 years under this law. Although the law prohibits rape and physical spousal abuse, it makes no provisions for spousal rape as a crime. Regarding the issue of acid violence, the Act provides for punishment for causing death, grievous hurt for even attempting to throw any ‘burning, corrosive or poisonous substance on any woman or child (Section 4).

- **The Acid Crime Control Act, 2002**

The President of the Peoples' Republic of Bangladesh approved the Acid Crime Control Act, 2002 on 17 March 2002. The law was promulgated to meet the demands that acid crimes be

⁹ Section 13 (1) and 13 (2) of the Suppression of Repression against Women and Children Act, 2000 (amended 2003).

controlled and perpetrators receive swift punishment. The Act of 2002 provides for compensation to the victim; penalties for carelessness of the investigation officer; bailability; Magistrate's power to interview at any location; medical examinations; and protective custody. The Act provides that if the Acid Crime Control Tribunal feels that the investigating officer has lapsed in his duty in order to 'save someone from the liability of the crime and did not collect or examine usable evidence' or avoided an important witness, etc., the former can report to the superior of the investigating officer of the latter's negligence and may also take legal action against him.

According to the Acid Crime Control Act, 2002 this law aims to rigorously control acid crimes. It houses stringent punishments ranging from the death sentence to life imprisonment, to between fifteen to three years and a hefty fine. The variations of punishments depend on the gravity of the crime. For example, if the victim dies due to the crime, or totally or partially loses sight or hearing or both or 'suffers disfigurement or deformation of face, chest or reproductive organs', the punishment is the death penalty or life imprisonment, if just her arm is burnt, the punishment will be different and so forth. This Act, therefore, breaks the female anatomy into a jigsaw puzzle in order to award a specific punishment to the perpetrator, instead of awarding specific punishments based on 'injury', 'hurt', 'grievous hurt' or 'death'. This is extremely demeaning to the survivor, who is in excruciating pain, regardless of which area of her body has been injured.

- **The Domestic Violence (Protection and Prevention) Act, 2010**

On 5 October 2010 the Parliament of Bangladesh passed the Domestic Violence (Protection and Prevention) Act, 2010. The Law is significant because through it, the State recognises and confirms that domestic violence exists and must be prevented.

Section 3 of the Act defines 'domestic violence' as: 'abuse in physical, psychological, economical and sexual nature against one person by any other person with whom that person is, or has been, in family relationship, irrespective of the physical location where that act takes place'. It denotes any woman or child who is or has been at risk of being subject to domestic violence as a 'protected person' and this term also includes any victim who is or has been in a family relationship with the respondent; and any handicapped adult who is or has been subjected to domestic violence. Any person can file a complaint on their behalf¹⁰.

The Act of 2010 also provides for enforcement officers and service providers who will inform the victim of domestic violence of the availability of medical and legal aid services, after the complaint of violence has been made; and also provides for an interim 'Protection Order' by the Magistrate. Under the Act of 2010, the victim can seek a variety of reliefs, including divorce and maintenance¹¹. Section 16 states that the Court may pass a decree of compensation after ascertaining and assessing the victim's injury or damage or loss as a result of domestic violence; and that at any stage of hearing of the application for a protection order or for any other relief under this Act, a temporary custody of the children of the victim will be granted to the victim or the applicant¹².

If the perpetrator breaches the Protection Order given by the Magistrate, he is liable to penalties. For the first breach, the penalty is imprisonment of up to six months or a fine of up to taka ten thousand or both or engaging in a period of community service; while subsequent breaches of the Protection Order will lead to up to twenty four months of

¹⁰ Section 3 of the Domestic Violence (Protection and Prevention) Act, 2010.

¹¹ See sections 4, 5 and 6 of the Act of 2010.

¹² Section 17.

imprisonment or up to taka one lac in fine or both or engaging in a longer period of community service.

How effective are these laws?

As regards definitions and interpretations, there are some flaws in the laws. 'The Acid Crime Control Act, 2002 has managed to compartmentalise the female anatomy and provides for separate sentences depending on which part of the body has been affected. This, I find, is very demeaning for the affected woman. I have worked with survivors of acid violence for over a year and have seen the havoc such violence can wreck on the body and mind, regardless of which body part has been affected. Having separate punishments depending on whether the acid has burnt the face or arms, legs, or genital area does not seem right. Medical evidence determines the gravity of the offence and how serious the harm is. That ought to be the indicator for punishment'¹³.

'Acid' is not clearly defined in the Penal Code of 1860 or in the Act of 2000, but is defined in the Acid Control Act of 2002. So if the substance is found to be 'acid' the crime will be tried under the Act of 2002, if it is a 'corrosive or burning substance' it will be tried under the Act of 2000 and the Penal Code of 1860 will be obscured. To add to the confusion, there are also two separate Tribunals under the two Acts (of 2000 and 2002); and even the two acid laws of 2002¹⁴ have different interpretations of 'acid'! So, is acid not a corrosive and burning

¹³ Khan, Saira Rahman. 'The More Laws the Less Justice – When it comes to Women.' The Daily Star, Issue 196, 27 November 2006.

¹⁴ The Acid Crime Control Act, 2002 and the Acid Control Act, 2002. The latter deals with the sale and trade of acid and makes it mandatory for all businesses using or hoarding acid to obtain a trade license, which has to be renewed annually. Unfortunately, the police do not monitor establishments that trade in acid to determine whether they have a license or not. The issue usually comes up only after an attack and the perpetrator names where or how he got the acid.

substance? Case documents show that this confusion has led to the acquittal of perpetrators, tried under the Acid Crime Control Act, 2002; as it could not be determined, what substance had been thrown on the victims.

Again, section 9 of the Act of 2000 (as amended in 2003) provides that if death is caused due to rape or acts committed after rape, the punishment is death or life imprisonment. The prosecution has to prove two crimes here rape and murder and that the latter was a consequence of the former. Under the Penal Code, the two crimes can be argued separately and there are separate punishments, but there is only one punishment under the Act of 2002, making the changes more difficult to prove and leaving the judges with no space to use equity.

The new laws contain harsher punishments than those found in the Penal Code of 1860. Twelve offences are punishable with up to the death sentence in the Act of 2000 and three in the Acid Crime Control Act of 2002. In contrast, the Penal Code of 1860, which has more than 500 sections, carries a death penalty for only eight crimes. The death sentence is no longer an effective deterrence. So, how necessary are these laws if they cannot contain the violence? Would it not have been easier to amend the Penal Code, as has been done before? Again, if the Suppression of Repression against Women and Children Act 2000 (amended in 2003) contains provisions relating to acid violence, then why have another Acid Crime Control Act 2002?

‘The different definitions and punishments contained in the laws for a single offence make it difficult for both the victim and the judge to get and dispense justice in an effective, equitable manner.’¹⁵

¹⁵ Supra note 7.

Guidelines as to Sexual Harassment

On 14 May 2009, the Bench of Honourable Justices Syed Mahmud Hossain and Qamrul Islam Siddiquee declared a judgment to prevent the sexual abuse of women at the workplace, educational institutions and all types of government and non-government and semi-government organisations. The judgment followed a Writ Petition filed by the Bangladesh National Women Lawyer’s Association (BNWLA) challenging the fact that there is no legislative provision to address sexual harassment of women and girl children, and in the absence of such, there is a need to find alternative effective mechanism to cater to this need.

The Honourable Court issued directives in the form of guidelines to be followed and observed at all workplaces and educational institutions, till adequate and effective legislation is made. As per the judgment, the aims and objectives of the guidelines are as follows: to create awareness about sexual harassment; to create awareness about the consequences of sexual offences; to create awareness that sexual harassment is a punishable offence; duties of employers and authorities. The judgment also provides a definition of ‘sexual harassment’, which includes not only unwelcome sexually determined behavior as physical contact and advances; but also includes showing pornography; insult through SMS; taking video footage; prevention of participation in sports or cultural or academic activities on the grounds of sex. The Judgment also provides guidelines for preventive steps, disciplinary actions, complaints procedures and punishments¹⁶.

¹⁶ For details of the judgment please refer to ‘Guideline on Sexual Harassment’ published by the Bangladesh National Women Lawyers Association, 2009 or visit their website at www.bnwla.org.bd.

The issue of implementation

Not only are there some serious flaws in the present laws protecting women, but also that these laws, too, do not seem to be working to control the violence. It is a common consensus that both the lack of understanding the law and the lack of implementation of the law are reasons that are seriously hampering justice. Even if we ignore the flaws in the prevalent laws and focus on the lack of implementation, we will see that the latter is possibly one of the main causes for the continuation of violence against women. Here patriarchal attitudes creep in too. This is especially true in the case of domestic violence. Not many women in Bangladesh complain against domestic violence, either because they are ignorant of the laws that condone this act or because they or their families wish to keep the matter private. Predominantly in rural Bangladesh, children grow up seeing their father's physically and verbally assault their mothers – be it over dowry or due to economic frustration or a family practice of spouse abuse. This extreme show of patriarchal power is reflected in the police stations as well, where law enforcement officers still perceive domestic violence as a social and not a legal issue. It is 'ordinary' or 'common' for a man to chastise his wife. Unfortunately, such violence that stems from dowry demands and may lead to the death of the wife by her husband or her in-laws. Only after her death is the crime acknowledged and the perpetrator arrested. It is truly unfortunate that in cases of domestic violence, the bride keeps returning to her father's home for refuge, but is usually sent back to her husband's when he demands – or when her father cannot afford to feed her and/or her children. Later, she may return as a corpse.

Therefore, indifference; corruption; poor investigation; lack of evidence; poor preservation of evidence and reluctance of the police to handle domestic violence issues are some of the reasons. Others include the obvious ambiguity in the language

of the new laws, ignorance of the law, the inability to go to the police station to complain due to threats by the perpetrator; inability to continue court appearance due to financial or social reasons; and inefficient legal representation.

Bangladesh's economic reform is stalled in many instances by political infighting and corruption at all levels of government. Unfortunately, despite the Constitutional guarantee that everyone is equal in the eyes of the law and everyone has the right to seek justice, in practice, the criminal justice system is not pro-poor. Every step of the way involves 'paying' someone or the other in the system, be he the police officer investigating the matter, the officers of the Courts who file the cases to even the Public Prosecutors and Magistrates. As a result, poverty rules out justice.

Furthermore, apart from enacting laws for the protection of women, as has been seen in the above paragraphs, little is being done to control or prevent the violence. It has always been the target of the Government to focus on economic development – exports, trade relations, foreign investment – rather than on the protection of its people. Needless to say, such economic interests is predominantly the realm of the men of the country. Time and again, the country's legislature houses Members of Parliament who, for the majority come from the business community – industrialists and businessmen. It is their interests that are catered to. Thus, even if there is a show of supporting and protecting the women of Bangladesh by the passage of Bills into Laws, the constituencies such Members of Parliament are representing, still have to face poor law enforcement, corruption, lack of access to justice and continuing acts of violence against women as a result.

Chapter 3

Violence against Women

This section of the document highlights the findings of the Odhikar's work on the fact finding, documentation of aspects of violence against women and advocacy to prevent it. The issues of dowry related violence, rape and acid violence were studied in four districts of Bangladesh – Satkhira, Sirajganj, Tangail and Munshiganj. These forms of violence are widespread all over Bangladesh, therefore, Odhikar selected the four districts for their proximity to Dhaka – for easy access to information and monitoring – and the active human rights defenders residing there. Another component of the project was compiling reported incidents of such violence, as published in 12 national dailies and gathered from fact findings and Court monitoring by local human rights defenders trained by Odhikar all over Bangladesh. Such compilation is not a representation of the actual number of incidents of dowry violence, rape or acid violence, but shows the trends of such crimes of violence against women. Because the project commenced in July 2011 and ended in June 2012, in order to show annual figures from January – December, Odhikar's documentation staffs, who were already compiling such data from January 2011, assisted the project team. As a result, the tables of information cover January 2010 to December 2011; and data from the project period are included in separate columns.

1. Dowry Violence

Dowry has been defined in the Dowry Prohibition Act 1980 as:

“any property or valuable security given or agreed to be given either directly or indirectly-

(a) by one party to a marriage to the other party to the marriage; or

(b) by the parents of either party to a marriage or by any other person to either party to the marriage or to any other person;

at the time of marriage or at any time before or after the marriage as consideration for the marriage of the said parties, but does not include dower or mehr in the case of persons to whom the Muslim Personal Law (Shariat) applies”¹⁷.

The same Act, in sections 3 and 4 lay down the punishments for giving and accepting dowry and for demanding dowry. The punishments are all the same - between one to five years of imprisonment and fine. However, cases involving dowry violence are not heard under this Act. Such matters are heard under the Suppression of Repression against Women and Children Act, 2000 (amended in 2003). Under the Act of 2000 (amended in 2003), if her husband, or his parents, guardian, relative or any person on his behalf, kills or attempts to kill a woman for dowry, or causes her grievous or simple hurt, it will be a punishable offence¹⁸. The punishment is the death sentence for causing death and life imprisonment for attempting to cause death; either twelve years of imprisonment (up to five of which are rigorous) or rigorous life imprisonment for causing grievous hurt; and between one to three years of rigorous imprisonment for causing simple hurt. All the sentences come with a fine¹⁹.

¹⁷ Section 2 of the Dowry Prohibition Act 1980.

¹⁸ Section 11 of the Suppression of Repression against Women and Children Act, 2000 (amended in 2003).

¹⁹ Supra note 13.

Incidents of Dowry Violence ²⁰				
	Killed	Physically abused	Alleged Suicide	Total
2010	234	122	22	378
2011	305	192	19	516
July 2011- June 2012 ²¹	308	436	18	762
Jan-June 2012 ²²	142	306	10	458

The demanding of dowry is probably one of the root causes of domestic violence in Bangladesh – especially in rural areas and among low-income groups. There are several reasons why this illegal demand is still a fixture in marriage negotiations, some of which came out during the project period, and some which have been noted by Odhikar in its several years of documentation of dowry violence:

- Initially the family of the prospective bride (father, mainly) agrees to pay dowry, as they had no choice and wanted to see their daughter married. The daughter may have a ‘dark’ complexion, or may have some slight physical disability, which, to a bargain hunting groom, may help to increase the dowry demands.
- Where dowry was demanded to enable the son-in-law to work abroad, the victim’s family thought that she would be able to live well once her husband was working abroad. In some cases, the husband never did go abroad.

²⁰ Table taken from data in the Annual Human Rights Reports of 2010 and 2011, Odhikar. www.odhikar.org. The table is not an exhaustive representation, as much of the violence goes unreported.

²¹ Odhikar-KIOS project period.

²² Odhikar documentation data.

- Dowry is such a common practice, that it is very rarely protested/denied. The pressure to get a daughter married is high.

Mohammad Akram Shorder told Odhikar that Momin and Fatema were married on November 5, 2011. Fatema had a ‘dark’ complexion and due to that reason, Momin’s family demanded dowry, which included a steel cupboard, a pair of gold ear rings and seventy two thousand taka. Akram Shorder was concerned for Fatema’s future and on November 4, 2011, he gave Momin fifteen thousand taka more. He also fulfilled the other demands, including payment of the rest of the dowry money within one month of the marriage. However, Momin and his younger sister named Mosammat Fatema Khatun used to physically assault his daughter. Fatema told him that Momin always carry a clasp-knife. Momin used to scare her with that and asked her to bring more money from her father. He also recalled that two *salish*²³ were held in Momin’s house due to the abuse²⁴.

After the marriage, the demands continue. The demands of money become more persistent, often causing the victim’s family to fall heavily in debt or even sell their land to meet the demands. Apart from the abuse, the victim is either thrown out of the house, sent back to her parents (this is seen as an act to shame the wife) or given next to nothing in the form of food, clothing or comfort. The abuse may lead to the death of the victim, resulting in the husband absconding and his family claiming it was an ‘accident’. It is as if her husband, who abuses her over more and more money and material demands, holds the wife hostage.

²³ Informal mediation headed by the village elite.

²⁴ Odhikar fact finding report. 19 year old Fatema was killed by her husband in February 2012.

Nineteen year old Shahinur Begum was the daughter of Kalu Miah Prodhan of Baghaiakandi village of Gojaria thana in Munshiganj district. On May 20, 2011, Shahinur married Humayun Kabir Raju (25), son of Mohammad Badshah Miah from Lokkipur village. At the time of the marriage, her father gave Taka one hundred thousand towards Raju's business. 15 days after the marriage, Raju came to demand one hundred thousand more as dowry. Kalu Miah mortgaged his homestead and gave the money to Raju. However, after few days Raju demanded two hundred thousand Taka. Kalu Miah expressed his inability to pay. From then, Raju started abusing Shahinur. One day, Shahinur called her father and told him that Raju had tried to suffocate her while demanding dowry from her. The next day, Kalu Miah went to Raju's home and brought his pregnant daughter back. Raju came to his house after around one month and dragged Shahinur out of the home and physically assaulted her. Neighbours stopped him and came to her rescue. Raju said that he would not take his wife back unless he was paid. Some days later he came, begged forgiveness, and took his wife back home. According to Shahinur's family, at around 2.30 pm on February 4, 2012, Raju killed Shahinur²⁵.

More often than not, police see domestic violence as a social and not a legal issue. They sometimes tell the victim/family to seek help at a local NGO and not come to the police station. If the victim has died due to the abuse, only then do they accept the FIR and commence investigation. Corruption in the police force is extremely common and there are cases where the police cannot 'find' the 'absconding' accused as they have been paid by the husband's family to prolong the investigation.

²⁵ See details of the fact finding report in annexure.

Twenty year old Akhi Shutrodhar was married to Ashim Shutrodhor, son of Sri Vasha Shutrodhor of Maijhail Mistripara village of Belkuchi upazilla in Sirajganj on June 27 2010. At the time of her marriage, her family gave Ashim 25 thousand taka and 2 carats of gold ornaments as dowry and assured him that they would give 10 thousand taka more. After the marriage, Ashim used to beat Akhi and repeatedly remind her of the rest of the dowry money yet to be paid. Moreover, he used to abuse her physically and verbally. Ashim's family also abused Akhi. Akhi informed her father and asked for the money to be given. Since her family took loans for Akhi's marriage, they were facing a financial crisis and were unable to pay. Moreover, at the time of the delivery of Akhi's son, her brother borrowed 35 thousand taka to pay the medical expenses. At around 1.30 in the night of December 21, 2011, Akhi's brother-in-law, Polash called her family and said that Akhi was dead. Akhi's family reached her in-laws house at around three in the night, where they saw Akhi's body lying on a bed. They saw that her left toe had been injured and there were scratch marks on her body. Her in-laws had conflicting statements as to what had happened to her. Post mortem report states that she had died of suffocation. Ashim Shutrodhar is, according to police, absconding.²⁶

2. Acid Violence

What makes a man so vindictive that he must throw acid on a person in order to seek revenge? Are there any socio-cultural factors that affect the male members of society to such an extreme that acid violence is the only way in which to resolve a dispute? Why is it that in a group of friends, only one will think about throwing acid? If we look at the tool used, we see that it is comparatively cheaper than a knife or a gun, it can be thrown from a distance - avoiding proximity and giving the perpetrator time to flee the scene - and the result is painfully permanent. The

²⁶ Odhikar fact finding report December 2011. For more fact finding reports covering the project period, see annexures.

perpetrators are mainly unemployed youth – some who enjoy impunity under the patronage of local politicians. If such a youth was rejected by a young woman, that might be construed as an insult to his masculinity and that is when acid may seem to be the most effective means to make the girl remember her 'mistake'. The concept of women as chattel or objects is, sadly still regarded in the patriarchal society of Bangladesh. The fact that the perpetrator has the time to buy the acid and lay a plan on how to administer it, shows the cold-blooded nature of the crime.

On the evening of 9 July 2011, at around 7.30pm Liton, the son of Kader Ali and Khadeja Begum of Chadkathi village of police line area of Satkhira threw acid on and burnt the face, neck and breast of his wife Moshammot Monzila Khatun Shathi (20), the daughter of Yunus Ali and Moshammot Rokeya Khatun of Itgacha. Hearing Monzila Khatun scream, local people rushed to the spot and rescued her and poured water on her injury and got her immediately admitted to the Satkhira Sodor Hospital. In hospital, Monzila was given emergency treatment for 5 days. Treatment for acid victims is not advanced in Satkhira which is why she was transferred to the Acid Survivors Foundation in Dhaka. After getting treatment for 12 days, she is staying in her father's residence at Itagacha. Monzila's mother as a complainant filed a case against Liton in Satkhira Police Station. Case is numbered-42, dated: 10/07/2011 under section 5(Kha) of the Acid Control Act 2002. The case is under investigation under SI, Mahbubur Rahman of Satkhira Sadar Police Station. Liton has not yet been arrested, though it is known that he is staying in his house. Liton used to harass and physically assault his wife over dowry demands²⁷.

The President of the Peoples' Republic of Bangladesh approved the Acid Control Act, 2002 and the Acid Crime Control Act,

²⁷ Odhikar fact finding report.

2002 on 17 March 2002. The laws were promulgated to meet the demands that acid crimes be controlled and perpetrators receive swift punishment and that legal checks and balances to prevent their easy accessibility guard the trade in acid and other corrosive substances. According to the Acid Crime Control Act, this law aims to rigorously control acid crimes. It houses stringent punishments ranging from the death sentence to life imprisonment, to between fifteen to three years and a hefty fine. Interestingly enough, the Act provides that if the Acid Crime Control Tribunal feels that the investigating officer has lapsed in his duty in order to 'save someone from the liability of the crime and did not collect or examine usable evidence' or avoided an important witness, etc., the former can report to the superior of the investigating officer of the latter's negligence and may also take legal action against him.

Fatema Begum told Odhikar that her husband Nuruzzaman is a rickshaw-puller in Dhaka. He comes home every 15 days. Due to this, her neighbour Ansar Ali used to harass her with indecent proposals. On 26th May 2012 when her husband Sheikh Nuruzzaman came home, she informed him about Ansar Ali's indecent proposals. Her husband and Ansar Ali got into an argument. As a result, Ansar Ali threatened that he would shut Fatema's mouth for good. After that on 28th May 2012, her husband went back to Dhaka. On 29th May 2012, at around midnight, she took her son Milon Sheikh (12) to the bathroom beside her house. She was waiting for her son outside the bathroom when Ansar Ali and another person, threw a liquid at her and ran away. She believes they may have used a syringe to do so. The liquid caused the left side of her neck and chest to burn in pain. She began screaming and fell to the ground, writhing in pain. People living nearby came and put water on her wounds. On 29th May 2012 at around 10am she got admitted to Kaligonj Upazila Health Complex for treatment. After being treated there for one day, on 30th May 2012, she was admitted to Khulna Medical Hospital for better treatment²⁸.

²⁸ Odhikar fact finding report.

The Acid Control Act has been introduced to control the "import, production, transportation, hoarding, sale and use of acid and to provide treatment for acid victims, rehabilitate them and provide legal assistance". The National Acid Control Council has been set up under this act, with the Minister for Home Affairs as its Chairperson. Under this Council, District-wise Committees have been formed albeit, only in six or seven Districts to date. Members of the Council include the Minister for Women and Children Affairs, Secretaries from the Ministries of Commerce, Industry, Home Affairs, Health, Women and Children Affairs, and representatives from civil society as specifically mentioned in the law. This allows for a broad spectrum of representation. More importantly, according to this law, businesses dealing with acid need a license to do so, and the government has arranged for a Fund to provide treatment to victims of the violence and to rehabilitate them, as well as to create public awareness about the bad effects of the misuse of acid.

Incidents of Acid Violence ²⁹			
	No. of Women	No. of Girl Child (below 18)	Total
2010	84	16	100
2011	57	10	67
July 2011- June 2012 ³⁰	55	16	71
Jan-June 2012 ³¹	28	06	34

²⁹ Table taken from data in the Annual Human Rights Reports 2010 and 2011, Odhikar. www.odhikar.org. The table is not an exhaustive representation, as much of the violence goes unreported.

³⁰ Odhikar-KIOS project period.

³¹ Odhikar documentation data.

Despite the Acid Laws of 2002 why is it still so easy to procure acid and sell it openly without a license? There are several reasons for this and for why the law is not being implemented properly. There is yet to be a modernised Investigation Department with trained investigators and forensic experts in the police force and overburdened police are unable to carry out their investigation duties properly. This may result in hurriedly written reports and inefficient investigation. Furthermore, there is no follow-up done as to whether businesses are procuring licenses for the sale and trade of acid. Furthermore, doctors are not always able to identify acid burns, due to lack of training; and medical certificates are not clear and sometimes vital information is not noted down, thus weakening the evidence. Furthermore, many doctors are reluctant to come to court to give evidence. Lack of sufficient judges and judicial officers in the lower courts causes delay in hearings and cases are either not heard on time or remain pending. Here too there have been complaints from the families of victims that police, prosecutors and sometimes judges have been 'influenced' by the perpetrator or a local political leader not to pursue the matter. Unfortunately, the victims of acid violence are not always women. Odhikar has observed that acid is being used as a weapon of choice over issues of property and land disputes. As a result, men are also falling victim to this crime.

A dispute had been running for many days between Mohammad Alauddin, resident of Songbolla Poschim Para at Kalihati upazila of Tangail district and his own paternal uncle, Rohomot Ullah (48) over the demarcation of a boundary line in the house where both Mohammad Alauddin and his paternal uncle Rohomot Ullah lived. On August 24, 2011 at around 6.45 in the evening Mohammad Alauddin and his wife Sohana (28), daughters Dristti (8) and Tanas (2 months), father A. Salam (60) and mother Aleya Begum (55) were eating iftar³². Rohomot Ullah threw a bowl of acid at them. Alauddin's father's face, eyes and chest; Sohana's face and

³² Iftar is the sunset meal that breaks the fast during Ramadan.

breast; Tanas's and Dristti's chest and back, Aleya Begum's face and Mohammad Alauddin's upper right elbow and back were burnt. Hearing the screams, neighbours came and poured water on them. Then, they were taken to the Tangail General Hospital where they were given primary treatment there. Later, they were admitted to the burn unit of the Dhaka Medical College Hospital.

3. Rape

The crime of rape is punished under the Suppression of Repression against Women and Children Act, 2000 (amended in 2003). Despite the fact that the maximum punishment for this offence is the death sentence³³, this has never deterred perpetrators and the level of incidents remain high. As women in Bangladesh, as well as all over south Asia, have a lower status in society than men it makes them more vulnerable to sexual crimes as men view them not only as sex objects but also as non-entities. The problem is compounded by the fact that in Bangladesh, their families often reject raped women, as it is seen as a 'shameful act' – not to be spoken of. In courts the reputation of the victim is attacked, if it is revealed that she was raped or molested. This makes rape victims even more reluctant to complain against their assailant, which in turn encourages more rape.

In Bangladesh, as in the rest of the world, rape is not only a crime but an act of dominance, of 'superiority'. It is also an act of depravity. Of the five incidents of rape investigated during the programme period, two of the victims were below the age of 10 and two were below the age of 18. What are the main reasons for the perpetration of the crime of rape in Bangladesh? Fact finding by Odhikar, and comments and statements that were shared during discussions and meetings organised by Odhikar with women human rights defenders, local lawyers

³³ Section 9 of the Suppression of Repression against Women and Children Act, 2000 (Amended in 2003).

have identified several reasons why rape happens – rejection and revenge, lust and loss of control. In all the incidents investigated by Odhikar, the victim knew the perpetrator. This is very common in rape incidents in Bangladesh – and gives rise to the question that if the rapist is identified, then why is he not arrested or punished? Some of the common reasons are that the family of the victim is either threatened or paid not to file a case; or they are too ashamed to do so; or a local, informal village arbitration (called a salish) passes judgment and punishes the victim and the perpetrator and the matter 'resolved'³⁴.

On October 15, 2011, 17 year old Nilima Das of Satkhira, received an 'urgent' phone call from Salauddin Gazi, Constable of Debhata Police Station. When she met him, he confined her in the Shapla Hotel in Satkhira Sadar for eight hours, where he raped her repeatedly, with the help of an accomplice, Azharul Islam, owner of the hotel. Two years ago Salauddin Gazi rented a house next to Nilima's. Thus, they knew each other and Nilima called Salauddin 'uncle'. Nilima began to bleed profusely and was left all night in the hotel. The next day, Salauddin Gazi took her to the Sadar Hospital in a van and left her there. Nilima phoned her mother, who came and admitted her to the hospital. During the fact finding Odhikar observed that, some influential people were trying very hard to save the police constable. They were trying to convince the victim and her family and even threatened them not to give a statement in the Court. Because Nilima's family protested the rape, her mother could no longer find work as a

³⁴ The village salish is notorious for passing illegal 'fatwa' that punished the victim more than the perpetrator. Women have been beaten, stoned, set on fire, whipped and some have ultimately committed suicide in shame. Accusations against the parties include illicit sex, extra marital affairs and in some cases, 'allowing' or encouraging the events that led up to the rape. March 2011, 14 year old Hena Akhtar of Shariatpur was whipped after she was raped by her 40 year old cousin. The salish accused her of adultery and ordered the 101 lashes. She died in hospital. For more information see <http://www.guardian.co.uk/world/2011/feb/04/bangladeshi-girl-whipping-fatwa>, <http://www.siasat.com/english/news/500-women-fatwa-victims-bangladesh-past-10-years>.

domestic maid and her father, a barber, no longer left the house. Friends and family of Salauddin were defaming her daughter and people have advised her to settle out of court. Later, when the fact finding team of Odhikar went back to talk with Nilima's mother she said that the accused rapist, Salauddin had given them Tk.1, 50, 000 as compensation and that was the end of the matter³⁵.

When a potential rapist has his marriage or love proposal rejected by a woman or young girl, or her family, he seeks revenge by raping and thereby 'ruining' her. This is seen as not only destroying her chances of getting married (or the cause of her divorce or abandonment), but also shaming her family and her father or husband.

Thirty two year old Debosry Mojumder was the wife of Ramesh Mojumder of Satkhira district. Porimol Mondol who resided in the same village had been proposing adultery to Debosry Mojumder for many days. On March 7, 2012 at around 9 in the morning Porimol entered Debosry's home and raped her with the help of two accomplices. Hearing her screams, her husband Ramesh came and caught Porimol, who began fighting back. Debosry Mojumder filed a case against Porimol Mondol and the two accomplices. On that day at around 5.30 in the afternoon Porimol Mondol was arrested.

Odhikar documentation and compiled statistics show that there is no decline in the numbers of reported incidents of rape – and that a majority of the victims are young women below the age of 18 – legally children. In 2011, of a total of 696 recorded incidents of rape, almost 65% of the victims were below the age of 18³⁶.

³⁵ Odhikar fact finding report.

³⁶ Odhikar documentation.

Akbar Ali, six and a half year old Mosammat Mitu Akhter's brother, told Odhikar that at around 2 pm on March 20, 2012, he heard Mitu scream from Habil Bepari's home. Hearing the scream, he, with neighbours, rushed towards Habil Bepari's home. Seeing them, Fulbabu (19) his son, escaped. Mitu was lying on Fulbabu's bed, crying. She informed him that at around 2 pm, Fulbabu gave her a chocolate and took her to his room. He put his hand over her mouth and hurt her. Akbar took Mitu to the local Health Complex where she was examined, and needed stitches to repair her torn vaginal area. Fulbabu's father and brother came to him to request him not to file a case. After waiting two days, he went to Shahjadpur Police Station on March 22, 2012 and filed a case against Fulbabu and Habil Bepari. He said that Monirul Islam and Mohammad Abdul Habil, Fulbabu's relatives were threatening him to withdraw the case.³⁷

During fact-finding of rape incidents, the victims and their families have often refused to go into details with Odhikar, and have even begged the investigators not to publish the incident. There have been several reasons behind their pleas – they have been compensated by the perpetrator; they have been threatened not to talk about the incident; the perpetrator is under the patronage of a locally influential person, whom they fear; or they fear social ostracisation. In such cases, Odhikar only learns of the incident after the victim or a family member discloses it to a local human rights defender, who in turn, informs the organisation.

³⁷ Odhikar fact finding report.

Incidents of Rape ³⁸			
	No. of Women	No. of Girl Child (below 18)	Total
2010	248	311	559
2011	246	450	696
July 2011- June 2012 ³⁹	290	511	801
Jan-June 2012 ⁴⁰	158	271	429

In order to empower victims of acts of violence against women and their family members, Odhikar has observed that there is a need to strengthen the local level awareness levels on issues of legal recourse, women's rights and reasons why such violence continues. As a result, another component of this programme was the training of women as human rights defenders and enhancing the capabilities of human rights defenders in defending women's rights. In doing so, Odhikar recognised the challenges and constraints faced by women human rights defenders from not only members of the public, but also from their families – particularly their husband's and fathers. The issue of women as human rights defenders is discussed in the next chapter.

³⁸ Table taken from data in the Annual Human Rights Reports 2010 and 2011, Odhikar. www.odhikar.org. The table is not an exhaustive representation, as much of the violence goes unreported.

³⁹ Odhikar-KIOS project period.

⁴⁰ Odhikar documentation data.

Chapter 4

Defending Women's Rights: Women as Human Rights Defenders

Women as human rights defenders

In 1792, Mary Wollstonecraft⁴¹ wrote, in her *Vindication of the Rights of Women*⁴², that the struggle for rights of women is located within the personal space – the home and the family; and within the public sphere – the political and economic world. Two hundred years later, around the world, women are promoting human rights in various roles and such activism is vital as they effectively advance the rights of all people by challenging inequality and repression. In order to address violations of women's human rights, women in groups – or as individuals – have worked fearlessly to defend their rights and the rights of others. Such women are called women human rights defenders⁴³. 'Women human rights defenders include women active in human rights defence who are targeted for who they are, as well as all those active in the defence of women's rights who are targeted for what they do.'⁴⁴

⁴¹ Mary Wollstonecraft (27 April 1759 – 10 September 1797) was an eighteenth-century British writer, philosopher, and feminist. She is best known for *A Vindication of the Rights of Woman* (1792), in which she argues that women are not naturally inferior to men, but appear to be only because they lack education. She suggests that both men and women should be treated as rational beings. She envisioned a social order founded on reason.

⁴² Published by W. Scott, London 1892. Source copy consulted: University of Virginia Library Electronic Text Centre. <http://etext.lib.virginia.edu/modeng/modeng/W.browse.html>.

⁴³ According to Article 1 of the Declaration of Human Rights Defenders, a human rights defender is any person 'who promotes and strives for the protection and realization of human rights and fundamental freedoms'.

⁴⁴ Perry, Laura (Ed.). *Claiming Rights, Claiming Justice*. Aisa Pacific Forum on Women, Law and Development (APWLD). 2007. p15.

Human rights defenders, regardless of profession or gender, have several characteristics in common. They are all involved in upholding the fundamental principle that all human beings are equal in dignity and rights, regardless of gender, race, ethnicity, or any other status; they are committed to the realisation of international human rights standards; they respect the rights and freedoms of others in their own actions⁴⁵.

Women human rights defenders do not only defend women's rights. They also work in the broader range of civil, political, social, economic and cultural human rights. This may involve multiple issues that affect the community they live in, or affect the general population or even affect themselves. On the other hand, there are women human rights defenders who are involved in defending the rights of a particular sector in the community with a specific focus on women's rights⁴⁶. There are also women human rights defenders who focus specifically on women's rights and the violations of such rights. These women human rights defenders challenge patriarchal norms and practices that discriminate against women.

Women human rights defenders fall in various categories, but they deserve special attention and focus in order to ensure their protection. The manipulative use of culture, tradition, custom and religious misinterpretation, expose them to additional, gender-specific violence and risks.

Challenges Faced by Women Human Rights Defenders

Patriarchy not only perpetrates violence against women, it maintains the status quo by preventing dissenting voices. When women human rights defenders (WHRD) rally and work to

⁴⁵ See <http://www.amnesty.org/en/human-rights-defenders/background> for more information.

⁴⁶ For example, WHRDs' in India working to ensure the rights of Dalit women, WHRD's working with the urban poor to push for the recognition of women's rights to work and be recognised as the head of the family, etc.

promote and protect human rights, they too face several gender-specific risks, in addition to those risks that are faced by their male counterparts. When women take action to defend their rights, they may be perceived as a threat to social stability. Women human rights defenders face social pressures, such as prejudice and exclusion, and are even victimised at home where they may suffer domestic violence. Women human rights defenders may be subject to verbal abuse, sexual harassment and even rape, which may again lead to gender-specific repercussions such as sexually transmitted diseases and pregnancy. Given the culture of 'shame against a woman is shame against the family', silence of the victim and the male-dominated, repressive legal system, also ensure that many of such violations are not made public and the experiences are suppressed. This has serious repercussions on the well-being of women human rights defenders.



Odhikar's WHRD in a procession observing international day for Elimination of Violence against Women 2012.

Hina Jilani, the former UN Special Representative on Human Rights Defenders, said: 'Women defenders may arouse more hostility than their male colleagues because as women human rights defenders they may defy cultural, religious or social norms about femininity and the role of women in a particular country or society. In this context, not only may they face human rights violations for their work as human rights defenders, but even more so because of their gender and the fact that their work may run counter to societal stereotypes

about women's submissive nature, or challenge notions of the society about the status of women'⁴⁷.

At workshops and training programmes for women human rights defenders, organised by Odhikar, it was revealed that when women speak out against abuses of women's rights, and challenge ingrained cultural beliefs and attitudes about the role of women in their societies, they are labeled as 'fast', 'westernised' or 'immoral' by the local men – even their fathers and husbands⁴⁸. A further issue was that they were 'not taken seriously' by the police officers at the local police station and as a result found scarce assistance from local law enforcement. The WHRDs also reported that the police did not take immediate action against the perpetrators in cases where the perpetrators were threatening victims and witnesses, with a few exceptions.

Women human rights defenders also found it difficult to get information when carrying out fact finding missions of incidents not relating to violence against women. Male victims of human rights violations were not too interested to speak to them. Lack of communications in the form of e-mail and skype were highlighted as reasons why information could not be communicated to Odhikar faster.

⁴⁷ Peoples Watch. A Guidebook of Human Rights Defenders. Retrieved from <http://www.peopleswatch.org/dm-documents/HRD/HRD%20Guidebook%202nd%20Edition.pdf>, at pp 8.

⁴⁸ The author coordinated this 2011 study in four districts in Bangladesh –Satkhira, Sirajganj, Tangail and Munshiganj. Discussion meetings and workshops were organised with women, including local NGO workers, district lawyers, college students and teachers and village women who had been abused over dowry or had lost daughters to domestic violence. A total of 130 women were participants at the programmes. The workshops were designed to help women learn about violence against women, the national laws and how to seek assistance or give assistance when approached by a victim or her family. It also included discussions on reasons for violence, the main perpetrators and whether there would be any obstacles to their functioning as human rights defenders.

On September 2011 a woman of Baka village of Paikgachha thana of Khulna district was gang raped. Shampa Goswami, a local human rights defenders affiliated to Odhikar, went to Paikgachha Upazilla Health Complex to meet the woman, who refused to go into details, saying that if she did so, people would hate her and she would be ostracised. She requested Shampa to hide her identity. While talking with the woman, Shampa met a man named Shushanto Kor. Shampa explained to the victim that she could seek the help of law in this regard. The victim replied that she would think about it. When Shampa gave her mobile number to the woman, Shushanto Kor also took the number. After one month the woman called Shampa and said she filed a case based on sexual harassment against a few relatives of Shushanto Kor in the Paikgachha Police Station, and did not mention the rape. Then Shushanto Kor called Shampa a few times to try and make her find a way to remove the names of his relative's from the case.

Shampa told him that it was the jurisdiction of the court to solve the case. Shushanto Kaur kept threatening Shampa and even had men follow and harass her. At around 2 in the afternoon of October 23, 2011 Shampa went to the town to submit some papers sent from Odhikar to the District Administrator of Satkhira. At that time she met he brother's friend, Noyon Das (33). Shampa and Noyon Das sat in the Shuchona Bakery, when four or five men came and sat on the table beside them and passed perverted comments. Shushanto Kor and Shomir Dey of Baka village came to the bakery and began verbally abusing Shampa. Shampa went out of the bakery to call the police, but someone grabbed her from behind and snatched away her cell phone. Shomir Dey came to her and said that their 'boss' was on the second floor of the Banani market and her phone would be returned if she went there. She refused to go and then some of them started pulling her towards the market. Arriving on the roof of the Banani market, she saw 8/10 people surrounding Noyon Das. They forced her to sit beside him and took pictures with a mobile phone. They said that she would get the phone back in exchange of 5,000 taka. During the chaos, a local journalist, hearing the noise, rescued Shampa. According to the advice of Odhikar, on November 25, 2011 Shampa filed a case in Satkhira Sadar Police Station against

Shushanto Kor, Shomir Dey and Roni along with 8/10 other persons. Two days after the incident, Shomir Dey called her and said that she could get her phone back if she paid 1,500 taka. Shampa informed Rofiq, Officer-in-Charge of Kaligonj Police Station and according to his suggestion she called Shomir Dey to come to Kaligonj Bungalow with the phone and take the money. Shomir came and the waiting police arrested him.

The men and their supporters are still harassing Shampa. On August 30, 2012, a show-cause letter was sent to Shampa Goswami from the Head Teacher of the school she taught at. The letter contained allegations of 'anti-social' and unethical behavior against her. In September 2012, Shampa contacted Odhikar to state that she had been suspended from her job as a teacher⁴⁹.

However, the underlying issue was the lack of security for women human rights defenders. This manifested when the women defenders spoke of the threats they received; the lack of cooperation from the police; the indifference of and little encouragement from their spouse and other male family members; the fact that patriarchal attitudes are stronger in the rural and less 'developed' areas of Bangladesh; and the fact that they were so far away from any immediate support in times of threat. Lack of e-mail and internet facilities also added to the insecurity, as without them, they were unable to communicate on a frequent and urgent basis with Odhikar.

How to overcome the challenges

Given the circumstances under which women human rights defenders courageously voice their demands, how can they be protected? Human rights are fundamental rights everyone has by virtue of being human, regardless of their status in any given society. Article 1 of the Universal Declaration of Human Rights provides that 'All human beings are born free and equal

⁴⁹ See http://www.odhikar.org/documents/2012/Urgent_Alert_Shampa.pdf for a detailed report.

in dignity and rights..' and Article 2 states that everyone is entitled to all rights and freedoms contained in the Declaration without any discrimination whatsoever. Non-discrimination is further elaborated in Article 1 of the UNCEDAW. Thus, upholding the principles of gender equality and non-discrimination of women is vital to the protection of women human rights defenders. States must take measures to correct gender biases in their legal systems, repeal biased laws and policies and modify social attitudes that do not consider women as equal under the law. Such mechanisms may ensure some basic protection for women human rights defenders.

'Human rights defenders cannot work or achieve their goals without proper legal assistance. In this regard, efficient police protection and proper implementation of laws must be made a regular practice and not just something the police reserve for those with power or money. Victims of violence must find an understanding, welcoming atmosphere when they come to a police station to lodge complaints, as should women human rights defenders who are active in the areas. Sadly, this is lacking in Bangladesh, where a great deal of sensitisation is necessary among the police force, many of whom still consider 'domestic violence' a social and not a legal issue. Women police officers also need to be sensitised and not only work as a 'police officer' but also play the role of comforter, friend and activist in the area of crimes perpetrated against women'⁵⁰.

In order to protect WHRD's it is necessary to first acknowledge and understand the gender-specific concerns of women human rights defenders and afford their protection accordance with the 1998 UN Declaration on Human Rights Defenders and other international instruments and mechanisms. Without having proper legal, social and economic mechanism

⁵⁰ Khan, Saira R. 'Women Human Rights Defenders in Bangladesh', unpublished paper presented at the Women Human Rights Defenders Regional Conference organised by Odhikar on 8 – 9 August 2009.

in place – with monitoring and proper implementation – the conditions in which WHRD’s work in Bangladesh will remain bleak and frustrating.



Women HRD's protesting sexual harassment in police custody.

‘Women in Bangladesh must be able to stand up for their rights and freedoms, as guaranteed in the Constitution. The State must take measures to ensure that women can voice injustices and see that the perpetrators are punished, without fear of threat. Women must no longer give in to customs and traditions that demean them. There needs to be more WHRD’s at the local level to create pressure groups to stop discriminatory attitudes and customs.’⁵¹

The creation of autonomous campaigns with grassroots support; achieving more visibility in the press and public; filing and documenting public complaints; mobilising family and friends and like-minded organisations; carrying out informal security trainings; and holding psychological workshops to cope with the pressure are some recommendations that can be realistically implemented at the local level in Bangladesh to protect and support local level women human rights defenders.

⁵¹ Ibid.

Chapter 5

International Obligations: the CEDAW

Bangladesh has ratified most of the major Conventions and treaties, including the Universal Declaration of Human Rights, the two Covenants on Civil and Political Rights and Economic, Social and Cultural Rights, the Convention on the Rights of the Child and the Convention against Torture.

In 1984, Bangladesh signed and ratified the Convention against all forms of Discrimination against Women (CEDAW), with reservations to Article 2, Article 13 (a) and Article 16 (1), clauses (a) and (f). It also ratified the CEDAW Optional Protocol, with reservations to several Articles in 2000. Through such reservations, and lack of respect for treaty obligations, successive government in Bangladesh have only added to the misery of women in Bangladesh. As late paragraphs will show, such reservations are unnecessary and seem also to have been made based on patriarchal attitudes.

Article 2 of CEDAW states : “States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake

(a) To embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realization of this principle;

(b) To adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women;

(c) To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination;

(d) To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation;

(e) To take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise;

(f) To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women;

(g) To repeal all national penal provisions which constitute discrimination against women.”

Article 16.1. states: “1. States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women:

(a) The same right to enter into marriage;

(b) The same right freely to choose a spouse and to enter into marriage only with their free and full consent;

(c) The same rights and responsibilities during marriage and at its dissolution;

(d) The same rights and responsibilities as parents, irrespective of their marital status, in matters relating to their children; in all cases the interests of the children shall be paramount;

(e) The same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights;

(f) The same rights and responsibilities with regard to guardianship, wardship, trusteeship and adoption of children, or similar institutions where these concepts exist in national legislation; in all cases the interests of the children shall be paramount;

(g) The same personal rights as husband and wife, including the right to choose a family name, a profession and an occupation;

(h) The same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property, whether free of charge or for a valuable consideration.”

As regards the Optional Protocol to the CEDAW, the Government of Bangladesh placed reservations to Articles 8 and 9, which deal with the competence of the CEDAW Committee to conduct inquiries into grave or systematic violations of the CEDAW Convention through an ‘inquiry procedure’. Although the reservation to Article 13(a) and Article 16 (f) were lifted in 1992, reservation to the ‘mother Article’, Art. 2, firmly remains in place.

The abovementioned reservations to CEDAW are in conflict with the ‘impermissibility principle’ contained in Article 19 of the Vienna Convention on the Law of Treaties. Article 28(2) of CEDAW adopts this ‘impermissibility principle’ and reads as follows: “A reservation incompatible with the object and purpose of the present Convention shall not be permitted.” This was further highlighted in the February 2011 CEDAW Committee observations on Bangladesh, where the Committee

remarked that it is “concerned at the State party’s reservations to article 2 and article 16.1 (c), as it is of the opinion that these reservations are impermissible since these articles are fundamental to the implementation of all other provisions of the Convention.”⁵²

The reason the Government of Bangladesh stated for its reservations to Articles 2 and clauses of Article 16, was that they do not comply with Shariah Laws. The declaration made by the then Government of Bangladesh was: "The Government of the People's Republic of Bangladesh does not consider as binding upon itself the provisions of articles 2, [.....] and 16 (1) (c) and [.....] as they conflict with Sharia law based on Holy Quran and Sunna."⁵³ However, Bangladesh is not the only Muslim-majority country that has ratified CEDAW. Muslim or Muslim-majority countries that did not put any reservation to CEDAW provisions in the name of Shariah Laws include: Indonesia, Libya, Yemen, Gabon, Maldives and Nigeria. Furthermore, Bangladesh has a large Hindu community and also Christian and Buddhist communities. Such reservations also, unjustifiably affect the women of those communities as well. Interestingly, in the past, the Government of Bangladesh has enacted laws and regulations which do not strictly conform with Shariah Laws. These include the Muslim Family Laws Ordinance of 1961, amended in 1986; the Marriage and Divorce Registration Act 1974; the Child Marriage Restraint Act of 1929, amended in 1984, the Family Courts Ordinance of 1985. Furthermore, the Constitution of the People’s Republic of Bangladesh demands equality before the law and non discrimination on the grounds of gender. This too, does not conform to Sharia Law – but the Constitution and the Muslim family laws have coexisted peacefully in an independent

⁵² CEDAW Forty-eighth session, 17 January – 04 February 2011. Concluding Observations on Bangladesh. CEDAW/C/BGD/CO/7. Paragraph 11.

⁵³ United Nations, Treaty Series, vol. 1379, p. 336

Bangladesh for the last 42 years. So, are these reservations a way to avoid political confrontation from extreme right and so-called religious groups? Does it prove that enacting laws that conform with Article 2 of CEDAW will threaten patriarchal control? In Bangladesh, Hindu women still have no right to divorce and property rights are bias against them. Women of the Christian and Buddhist communities also face bias laws in the areas of divorce and inheritance. The reservation to Article 2 of CEDAW affects not only Muslim women, but Bangladeshi women as a whole. Furthermore, such excuses by the government only enhance the importance of so-called ‘religious experts’ in the country, who have failed to study the reasons why other Muslim majority countries have ratified CEDAW with no reservations, and what the Holy Quran actually teaches regarding the removal of all forms of repression, inequality and injustice.

Regarding the issue of violence against women, the CEDAW Committee in its 2004 “Concluding Observations: Bangladesh” stated: “The Committee expresses concern that, despite the adoption of the Prevention of Women and Children Repression Act, 2000, the Acid Control Act, 2002, and the Acid Crime Control Act, 2002, violence against women, including domestic violence, rape, acid throwing, dowry-related violence, fatwa-instigated violence, and sexual harassment in the workplace, continues to exist. The Committee is also concerned that women who are threatened by or subjected to such violence are placed in "safe custody" in shelter homes without their consent.”⁵⁴ The February 2011 CEDAW Committee observations on Bangladesh, reflect the Committees concern that the Constitution of Bangladesh only allows for equal rights in spheres of the State and of public life

⁵⁴ CEDAW Concluding Observations: Bangladesh., U.N. Doc. A/59/38 (SUPP) paras. 228-267 (2004). Paragraph 241.

and not in private life “which is not in line with the Convention”.⁵⁵ The CEDAW committee also noted its concern regarding the prevalence of laws discriminating against women (at para.15); and the limited number of shelters and crisis centres for women (at para. 19). This only adds to the fact that Bangladesh is doing precious little to conform with the obligations contained in the Convention – and to protect the rights of women in Bangladesh.

⁵⁵ CEDAW Forty-eighth session, 17 January – 04 February 2011. Concluding Observations on Bangladesh. CEDAW/C/BGD/CO/7. Paragraph 13.

Chapter 6

Conclusion

The issue of women’s rights in Bangladesh seems not to be an extremely pressing or urgent matter on the Government agenda, despite the numerous women’s groups, NGOs and their demands. One proof of this is the Government’s persistent stubbornness to remove its reservation to Article 2 of the Convention for the Elimination of all forms of Discrimination against Women – considered the core Article of the Convention. One of the reasons it gives for the reservation is that the said Article conflicts with ‘Sharia Law based on the Holy Quran and Sunna’. This is the same reason the Government gave for its reservations to Article 16 (c) and (f) and Article 13 (a). However, it has, to date, removed its reservation to Article 13 (a) and 16.1 (f)⁵⁶. Furthermore, the CEDAW Committee has time and again requested, in its periodic reports, that Bangladesh improve its human rights situation with regard to women’s rights and CEDAW obligations. Still the Government made no further move.

The government created a permanent Law Commission to review all laws related to protection of women's rights and to provide recommendations wherever required. The Ministry of Women and Children Affairs has undertaken multi-sectoral projects to eliminate violence against women including setting up One-stop Crisis Centres (OCC) in Dhaka and Rajshahi Medical College Hospitals mainly to help acid and rape victims secure a quick First Information Report (FIR) and other

⁵⁶ On 23 July 1997, the Government of Bangladesh notified the Secretary-General that it had decided to withdraw the reservation relating to articles 13 (a) and 16 (1) (c) and (f) made upon accession.

services. In addition, some police stations have Special Cells for women complainants. At the national, district and *thana*⁵⁷ levels, Committees for the Prevention of Violence against Women have been formed. Violence prevention cells also exist in the Department of Women's Affairs and the Jatiyo Mahila Sangastha. Shelter homes for abused and tortured women and for women under safe custody have also been established both by the government and NGOs - though far too inadequate to meet the needs. Unfortunately, there are reports that the District Acid Committees and the District level Committees for the Prevention of Violence against Women are not functioning properly and are reluctant to provide services for women seeking their assistance. Reluctant local level government officials claim that they are understaffed, overworked, and unable to give assistance⁵⁸.

As has been mentioned throughout the paper, the most common causes of the failure to protect women's rights are poverty, lack of proper understanding of the rights of women, weak law enforcement, and widespread corruption within the justice system. According to a study carried out by the Policy Leadership and Advocacy for Gender Equality (PLAGE) project of the Ministry of Women's Affairs, legal measures and other support services undertaken by the government have not been able to address the issue of violence against women effectively. Violence-related issues at the community level continue to be unresolved without any visible government intervention. Unusual delay in court procedures and trial proceedings allow accused persons out on bail to intimidate victims and tamper with evidence.

⁵⁷ Thana means 'police station'. Several villages come under a single thana.

⁵⁸ Odhikar and Action Aid Bangladesh joint study on acid violence and rape in four Districts, July – December 2007.

Corruption in the law enforcing agencies and in the criminal justice delivery system are critical obstacles to the elimination of crime and violence against women. Medical care, short-stay-homes or shelters are far too inadequate and girls and women who suffer from family problems often are left with no option but to fall prey to new exploiters. There are no facilities to treat trauma victims, or to provide occupational therapy, education-cum-vocational training or recreation.

The Constitution of the People's Republic of Bangladesh guarantees equality before the law and equal protection of the law to all its citizens. Apart from the three laws mentioned above, the country has other 'special laws' protecting women, including the Dowry Prohibition Act, 1980; the Child Marriage Restraint Act, 1984 and the Family Courts Ordinance 1985. Apart from CEDAW, the Government of Bangladesh is also party to the Convention against Torture and, the Convention on the Rights of the Child. As a result, there are some excellent mechanisms in place to protect women from violence and punish perpetrators in accordance with the law. Unfortunately, given the patriarchal nature of Bangladeshi society, women-related incidents are not given much priority and instances of domestic violence are still seen as a social and not a legal matter. Perpetrators take the upper hand and investigating police look the other way. Furthermore, Courts in Bangladesh are reluctant to listen to arguments in favour of international law and refuse to entertain pleadings based on them or which refer to them. Conventions that have been ratified have not become part of the national legislation. Therefore, the judges only accept the submissions and citations that are binding on them and refuse to travel beyond this situation.

In conclusion, it is the specific, ultimate task of the human rights defenders, regardless of gender, and of the people in general, to mobilise themselves to generate a socio-political struggle to change the present, patriarchal and repressive

system and establish a just and democratic society. Without hard-hitting social awareness and unity among like-minded groups, change will be difficult to make to the present social order – causing the continuation of violence against and discrimination of women in all spheres of life.

The End

Fact Finding Reports

The following pages contain reports of fact finding on violence against women that were carried out by Odhikar's in-house and local level human rights defenders on incidents of dowry violence, acid violence and rape. The fact findings were also done as part of the Odhikar-KIOS joint programme.

1. DOWRY VIOLENCE

06 August 2011: Sonia Akhter

In the evening of 6 August 2011, Rakib (24), the husband of Sonia Akhter (20) killed his wife by suffocating her. Sheikh Halem, Sonia's father filed a case as a plaintiff in the Shirajdikhan Police Station of Munshiganj. Sub Inspector (SI) Shofikul Islam of Shirajdikhan Police Station is the investigating officer of the case.

At 12.30 in the night of 11 September 2011, Sub Inspector (SI) Shofikul Islam arrested Rakib. The investigating officer Sub Inspector (SI) Shofikul Islam framed charge sheet of this case and submitted to the court on 30/09/11.

Odhikar conducted a fact- finding mission into this incident. Odhikar interviewed-

- Relatives of Sonia Akhter
- Elder brother of the accused, Rakib
- Chairman of the victim's area and the female UP member
- Police officers
- The doctor who performed post-mortem

Sheikh Halem (48), Sonia's father

Sheikh Halem told Odhikar that Sonia used to work in a garment-manufacturing factory. She met Rakib there. On 21 January 2011, Rakib and Sonia Akhter got married with 2 lac taka dower money. After their marriage, the couple lived with Rakib's elder brother, Din Islam (25) in Rakib's village Bhura