

COMBATING DOWRY VIOLENCE AGAINST WOMEN IN BANGLADESH: A CRITICAL STUDY

Mohammad Abu Taher¹, Md. Rashedul Islam², Md. Abdul Musabbir Chowdhury³, and Soabarin Siddiqua³

¹PhD (Candidate),
Faculty of Law, University of Malaya, Malaysia

²Assistant Professor,
Dept. of Law, Leading University, Sylhet,
Sylhet, Bangladesh

³Senior Lecturer,
Department of Law, Leading University, Sylhet,
Sylhet, Bangladesh

Copyright © 2014 ISSR Journals. This is an open access article distributed under the **Creative Commons Attribution License**, which permits unrestricted use, distribution, and reproduction in any medium, provided the original work is properly cited.

ABSTRACT: In Bangladesh the most important event in a women's life is marriage which is surrounded by the various financial transactions including primarily the religiously sanctioned dowry. Added to the dowry, the practice of dowry popularly known as 'Joutuk', demands made by the groom's side to the bride's side, have in the last few decades become a widespread practice in the society supported neither by state law nor personal laws, but apparently designed to strengthen traditional patriarchal assumptions and with the expansion of capitalist relations that help capital accumulation by men in Bangladesh. The dangerous scenario is that every year a number of women become the victims of violence for non fulfillment of dowry demand, which is caused the threatened to their lives as the law cannot eradicate the menace of dowry due to lack of proper enforcement. This paper is an attempt to indicate the severity of the dowry violence including the analysis of legal strategies to put on curb the dowry violence in Bangladesh.

KEYWORDS: Bangladesh, Bride, Dowry, Groom, Law, Violence.

INTRODUCTION

In contemporary Bangladesh violence against women appears in a myriad of forms. Dowry violence especially beating wives for dowry by husbands has been common in Bangladesh society for a long time. Newspaper reports clearly indicate that the prevalence of dowry-related violence against women is very high as daily papers are full of the news of violence against women specially the dowry violence. Zahan(1994) states that most of the violence caused against women are due to non payment or inadequate payment of dowry. The violence is increasing rapidly although here are several laws in Bangladesh to prevent dowry and violence relating to it. The anti-dowry criminal statutes firstly enacted in 1980 and subsequently modified in 1982, 1984 and 1986 and newly adopted Nari O Shishu Nirjatan Daman Ain, 2000 with the support of women advocates have not provided a dramatic protective effect. Instead, they have been implemented narrowly. The result is to de-emphasize the systematic subordination of women that was at the root of the original attack on dowry violence. Although this may generally be a problem of legal reformist efforts, it is specially a problem of reliance on criminal law where we must rely on enforcement by a limited cast of both the specialized institutional actors and preexisting systems of criminal justice. In the adversarial justice delivery system, it takes a long time to dispose a dowry violence case. Moreover, women have no easy access to justice system as the judicial system in Bangladesh is patriarchal.

Dowry related violence has been proved to be highly complicated in Bangladesh. Zaman and Aziz, (2009) asserts that due to dowry related violence many women have been killed and the rest victimized to physical and mental abuse. Sometimes

husbands alone or collaborated with other members of the family tortures or kills wife for failure to pay the demand of dowry. Dowry completely demolishes the dignity of women and makes them very helpless in their so-called homes. Dowry-related violence affects the lives of many women in Bangladesh. This is also a determinant of male dominated patriarchal society and poor enforcement of the anti-dowry laws.

CONCEPT AND NATURE OF DOWRY

Dowry means the transmission of large sums of money, jewellery, cash and other goods from the bride's family to the groom's family (Srinivas: 1984). In the Encyclopedia Britannica dowry is defined as a term denoting the property the 'property, whether realty or personal, that a wife brings to her husband on marriage (Encyclopedia Britannica: 1970). Similarly, the Encyclopedia Americana defines dowry as 'the property that the bride's family gives to the groom or his family upon marriage (Encyclopedia Americana: 1969). So, whatever property a husband gains from his wife or wife's family through marriage is dowry. The extended meaning of dowry includes anything exchanged in consideration of marriage according to Bangladesh law related to dowry.

The modern phenomenon of Dowry in South Asia is that it is an abuse. It takes the form of inducement for a man to marry a woman. There is a common tendency to consider dowry as groom price. It is differentiated from *kanyadan* or bride wealth. At present the bride's family sends large sums of money, jewelry, cash and other goods to the groom's family.

In rural areas, among the poor, money, ornaments or household articles are often demanded as dowry. In urban areas similar demands are made in matured forms. Some families even demand luxury goods such as a car, television, furniture, or even a job abroad or building a house for the groom. The miseries of the bride's parents do not end with their giving a dowry at the time of marriage. The custom demands a perennial flow of gifts from parents of the girl to the boy's family on all festivals. If we look at the upper class families, there may not be any dowry negotiations apparently but the monetary expectation of the groom's family is properly addressed in different form. Dowry appears here in disguise of gifts. When matrimonial baggage is not up to the mark according to the expectation of the groom's family it turns to be a mental abuse for the bride. (Monsoor: 1999) states that even if to meet the expectations of groom's family it is needed to face economic hardship or even to run for a loan, they would do it. They would not like to think of not marrying their daughter. Nusrat Ameen writes: "In several cases they (bride's family) continue to fulfill the demands of their daughter's in-laws forgetting that a woman cannot buy peace, not to speak of affection, by meeting monetary demands of her in-laws. The demands may lead to constant nagging and bullying which is even more damaging to the human spirit. Sometimes dowries are demanded after the wedding ceremony. The refusal to pay could result in the daughter being divorced or even oppression causing the death of the bride".

VIOLENCE CAUSED BY DOWRY

Beginning from the early 1970s and up to the present, dowry demands are cited as a major cause of violence against women, as well as suicides by the women themselves. During 1980-1982, dowry was allegedly the major cause of suicide of women (Jahan: 1994). *The Daily Star* showed that in Jhenidhah district, the majority of suicides reported between 1991-1995 were attributed to dowry demands. In 2004 alone, 18 women were forced to commit suicide due to dowry while 371 cases of dowry related violence were reported in that year, taking a variety of forms and reports of death and violence due to dowry continue to fill the newspapers (BNWLA: 2004). It has been widely accepted that acid violence, murder by burning and other types of violence towards women are to a great extent due to demands for dowry. Non-payment or inadequate payment of dowry is a common cause for harassment and divorce (Agarwal: 1994). *The Daily Star* reported from the Natore district of Bangladesh that thousands of divorce cases have been registered in different courts of the district during the last five years', attributing dowry as the main cause. The demand for dowry underlines most forms of mental torture within marriage, in particular the threat of divorce (Roy: 1992).

The demands often continue after marriage, and the wife may be forced to suffer physical and mental torture for the inability of her parents to fulfill additional and continuing demands. This may cause the marriage end in divorce or the husband may marry again in order to procure more dowries. A news item on 20 March 1989 in the *Ananda Bazar Patrika* reported that, according to the National Association of Marriage Registrars, dowry was responsible for the break-up of 200, 000 marriages in Bangladesh each year (Ghose: 1989). It may be too simplistic to blame dowry as the only cause of violence against women in Bangladesh. However, it cannot be denied that dowry demands and disagreements over dowry 'are a significant source of violence against women and can have powerful influence on a woman's relationship with her original family and her new one (Scheffer: 1986).

In one report of *The Daily Star* observed: "It is an evil prevalent in the society and despite efforts by some activists and women's rights organization to eliminate this malaise, the numbers have continued to climb. In villages marriage was once considered a very sanctified bond united in the worst or best of times, in sickness or in health through the vicissitudes of life. But dowry related deaths have shattered that bond of peaceful and happy relationship.

According to a report on human rights violations in Bangladesh by the human rights organization Odhikar: "267 women including one child were victimized due to dowry related matters. Among them, 165 were killed, 77 tortured by acid violence and one was divorced and 11 committed suicide due to incessant dowry demands." These figures were collected by Odhikar from newspaper reports on dowry related violence published throughout 2004.

In a report on violence against women in Bangladesh in 2006, *The Daily Star* writes: "In the last five year two month women were the most vulnerable groups in Bangladesh that witnessed an alarming increase in human rights violations. From 1 January 2001 to 28 February 2006... a total of 1575 women found to be victimized of dowry related violence. Of them 1009 women were killed, 420 were brutally tortured, 55 found acid burns, 8 committed suicide and 7 were divorced due to dowry.

Hong Kong –based Asian Legal Resource Centre (ALRC) provides data on dowry violence in Bangladesh: "In the first half of 2009, 119 cases of dowry-related violence, including 78 deaths, were reported, said Ain O Salish Kendra (ASK), a local NGO working for human rights. In 2008, 172 women were killed and the figure for 2007 was 187, ASK said, adding that there were at least five reported cases of women committing suicide in the first half of this year when dowries went unpaid.

Recently, in an article in *The Financial Express* on 23 April, 2011 M. Mizanur Rahman mentioned: "A report of Bangladesh Society for the Enforcement of Human Rights (BSEHR) says that 249 women were killed in 2010 in dowry related violence, which is more than double the number of 109 deaths for the same reason in 2009. In 2008, the number of dowry victims was 114 and in 2007 it was 145. Reports say, in the month of March this year about 18 women were tortured to death. Even, many of these incidents are not reported only for the pressure of the male counterpart.

LEGAL STRATEGIES FOR COMBATING DOWRY VIOLENCE

The dowry system increases the vulnerability of women in Bangladesh. To assume logically, it appears to turning the women into liabilities for their family. It is often maintained that the problem of dowry during the post-independence era of Bangladesh became so widespread that women activists demanded legislation to eradicate this social evil. Daulatunnessa Khatun introduced a Dowry Prohibition Bill in parliament, and, under pressure, the government passed it as the *Dowry Prohibition Act of 1980* (Begum: 2006). The Act makes giving and taking or demanding dowry a punishable offence. According to the Section of this Act, dowry means '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.

The Dowry Prohibition (Amendment) Ordinance 1984 extended the definition of dowry to 'any property or valuable security given at the time of marriage or at any time' that substituted the earlier words 'at, before or after the marriage'. It states that [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.

Section 3 of the Act provides the punishment for giving or taking dowry: If any person, after the commencement of this Act, gives or takes or abets the giving or taking of dowry, he shall be punishable with imprisonment which may extend to [five years and shall not be less than one year, or with fine, or with both].

Section 4 of the Act sets out the punishment for demanding dowry: If any person, after the commencement of this Act, demands, directly or indirectly, from the parents or guardian of a bride or bridegroom, as the case may be, any dowry, he shall be punishable with imprisonment which may extend to [five years and shall not be less than one year, or with fine, or with both].

In acknowledgement of dowry-related violence against women in Bangladesh, *the Cruelty to Women (Deterrent Punishment) Ordinance of 1983* was enacted, but was then repealed by *the Women and Child Repression (Special Provision) Act of 1995*. The 1995 Act provided severe penalties for crimes committed against women and children, including those related to dowry, stipulating the death penalty in section 10(1) for causing death for dowry and life imprisonment for attempting to cause death. Section 11 laid down the penalty for causing grievous hurt to a woman in connection with dowry as life imprisonment or 14 years of rigorous imprisonment (which would not be less than five years), and the perpetrator was also required to pay additional monetary compensation. A still more stringent law to combat violence against women and

children was enacted when *the Nari O Shishu Nirjatan Daman Ain 2000 (Women and Children Repression Prevention Act 2000)* repealed the 1995 Act. Special Tribunals have now been set up in every district to try cases under this Act. But despite deterrent punishments, dowry violence continues unabated.

Critics of the law point out that instead of protecting women as intended, these laws are widely used to harass people, including women of the husband's family. In many cases, in order to bring an offence of domestic violence that is not related to dowry demands within the law of 2000; false allegations of such demands are made. Laws alone cannot purge society of the dowry system. Any official state law has definite limits in the face of opposition from society and its unofficial laws (Menski: 1998). Great difficulty lies in devising ways to prevent and punish an offence which to the perpetrators is an offence only because the law says it is, but which is supported by far stronger village custom. To stop practice of dowry we must look forward to the enforcement of the existing laws which is really big hurdle as most of the villagers of our country cannot get access to legal protection because of illiteracy and economic constrains.

In 2011, Bangladesh government has introduced "*Jatio Nari Unnyan Niti 2011*' (National Women Development Policy 2011) with an aim to establish equality between man and woman according to the Constitution, women empowerment, women entrepreneurship, women rehabilitation that means proper development of women in our country and to protect women from all sorts of oppression, in other words this policy desires to ensure women's safety in every stage. In the second part of this policy in clause 19.1, it has been mentioned that the policy aims to stop all sorts of violence against women such as social and domestic violence, sexual abuse or mental harassment, rape, dowry, acid throwing. But just after the declaration of this policy we saw reaction from a particular section of our society who opposed such noble venture of the government on the ground of misinterpreted religious law. These religious bigots are not at all ready to accept women's equality. So this national women policy will have to face challenges from a corner of our own society. Time will say how far this policy succeeds in protecting women from violence especially domestic tortures related to dowry.

PROBLEMS OF IMPLEMENTATION OF LAWS

While appropriate legislation is an important step towards providing protection against dowry-related violence, law reform alone does not guarantee implementation. Indeed, the implementation of anti-dowry provisions in Bangladesh has been disappointing, hampered greatly by the attitude and operation of enforcement agencies: the police, the administrative machinery and the judiciary.

The role of the police is more central in this regard. By emphasizing the criminal nature of dowry-related violence, the legislature itself has recognized the central role of the police in responding to it. Legal strategies encourage police intervention at various levels, placing upon them a heavy responsibility for effective and unbiased enforcement. In practice, however, the situation is grim (Menski: 1998). The paradoxical picture of governmental activism on the one hand and general policy apathy on the other finds reflection in the establishment and functioning of violence against women cell. But this cell is run by staff inadequately trained in the dynamics of dowry violence and available legal alternatives and services. Understandably such cell has assumed a mediatory role, seeking to affect reconciliation rather than pursuing the matter under prescribed criminal law. The absence of gender sensitization may result in dangerous assumptions regarding the inferior status of women, which are carried over to the place of work. Thus a woman who is trying to make a complaint about dowry harassment finds herself unwillingly dragged into a process of negotiations which she neither wants nor understands, receiving virtually no information or advice different from what her family or society would have given her. In cases of reconciliation the follow up procedure is the least efficient part of the process. Summons for effective monitoring are either not sent or, if they are and couples do report back, they are summarily dismissed without allowing the woman a chance to voice her opinion (Vanita: 1987).

The police frequently hesitate to intervene in what is perceived as a family matter. It is only after intense pressure from the aggrieved party or social organizations that a case is registered, which in the event of a dowry death is usually registered as a suicide, changed only after much persuasion into murder (Jha and Pujari: 1996). This follows a lapse in ordinary procedural duties of providing the complainant a copy of the First Information Report (FIR) informing her of her legal rights and further judicial procedure.

The Bangladeshi criminal justice system is evidence-based and requires adequate incriminating material for prosecution. Instances often indicate that the policy may be guilty of collusion and gross misconduct. Relevant evidence may be completely ignored or tampered with so that it fails to build a good case admissible in law, defeating the ends of justice. Courts have often lamented the callous and almost prejudiced stance of the investigating officers, reprimanding them for exonerating culprits despite clear evidence of their guilt. Police malfunctioning and apathy has taken many forms; among them undue influence in recording dying declarations, delay in sending the body for post-mortem, intimidation of prime

witnesses and exploitation of the legal ignorance of both parties to extort money as a price to build a good case in their favor.

Along with the corruption, deliberate lapses of duty and the pre-conceived mind-set of the police, frequent transfers of the functionaries add to the piecemeal preparation of the case. As the case file goes through the many hands, the seriousness of the situation is lost on the officers, permitting a thoughtless and disinterested mechanical approach. All such factors combine to make it difficult to generate a fair and just approach from machinery turned corrupt, apathetic and gender-biased causing disillusionment among the victims, preventing them from reporting violence in the home and so reinforcing the fact that such violence so often goes unreported.

The role of the administrative machinery in the implementation of the anti-dowry law is equally to be found wanting. As administrative agents, government doctors, prosecutors and other relevant agencies play an integral role in the enforcement process of the legal provisions pertaining to dowry. Practice reveals that agents of this tardy administrative machinery are increasingly guilty of professional misconduct.

Studies have shown that doctors, too, can fall prey to greed and become manipulative. Collusion with the interested party is not unusual. It is quite common for wrong fitness certificates to be given to fabricate dying declarations in favour of the accused. Postmortem reports are similarly skewed. Vital evidence is thus destroyed, killing the prosecution even before the case has begun. Counsellors, both public and private, commonly exhibit a mercenary attitude that cuts across professional obligation and, instead protecting the interests of the client, extends to colluding with the defence for personal gain. Moreover, the propensity to shun dowry cases as being unprofitable leaves victims with little hope of achieving justice, even after withstanding untold pressures not to approach the court.

Although an increase in the number of dowry death cases is evident, only a tiny proportion are reported, of which fewer still reach trial and judgment. On being asked about possible explanations, a sample of judicial magistrates and judges interviewed opined that the courts were at the mercy of the evidence placed before them. Faulty and fabricated evidence or a complete lack of it, circumstantial evidence which might prove to be inadequate, lack of proof and corroborative evidence, prime witnesses turning hostile and hesitating to depose, plus the self-contradictory nature of the legal provisions, were cited as major difficulties faced by the court in arriving at a fair and just verdict. Apart from procedural inadequacies, the attitude of the judiciary towards gender equality which stems from the values of the patriarchal society of which they are a part may be seen as an important component in preventing a truly impartial appraisal of dowry offences and crimes against women.

Moreover, the dowry system and dowry-related violence are issues which cannot be addressed in isolation. Any discussion of the subject must be placed within the socio-economic and cultural framework of the complex Bangladeshi society, if effective answers are to be found to the unabated dowry crimes and lack of commensurate prosecution under law. Dowry crimes may be linked to socially structured and highly distorted traditional expectations about dowry giving, engineered to foster the inferior status of the woman. Strong societal and religious dictates continue to demand the marriage of a girl to a man of appropriate caste and class, subjecting her family to grave censure and disgrace if they fail to perform this religio-cultural duty. As Monsoor (1999) discussed in her research that most parents are not opposed to giving a dowry to their daughter, seeing it essentially as the maximum price a family is willing to pay to settle her in matrimony and also to safeguard their social standing, creating in the process a dangerous asymmetry between the two parties to the transaction. Associated with this belief is the general consensus that divorce and separation are a disaster for women, who should go to great lengths to avoid them.

In fact, the natal family's attitude towards recurring dowry-related violence is seen largely to determine whether the girl would opt out of a bad marriage and seek legal recourse to bring dowry offenders to book. Studies show that all the women who refused to return to violent husbands were those whose families concurred in the decision. All those who returned to continuing violence which could ultimately result in a dowry death were women whose parents were willing to humiliate themselves and concede to the unreasonable demands of the husband, if he would only agree to take her back (Vanita: 1987). A woman finds herself under pressure from her family to return to a violent marriage and adjust to the ways of her real home, reinforcing the concept that her natal home is no longer her home. Negotiations are usually kept within the family for fear of social disgrace or even defence to the husband.

CONCLUSION

Dowry is a social reality in Bangladesh. Despite anti-dowry laws and government's legal and other interventions to address dowry and dowry-related violence against women, agitation and protests and actions by government and nongovernment organizations at national and international area, the evil persists and is aggravating. Over the last two

decades, violence against women has become one of the most visible and articulated social issues and dowry multiplied the issue in Bangladesh. Dowry related violence occurs at individual level, in the family within the general community. Today all sections of the society are concerned about the issue and anti-dowry movement, and legal reforms are being made against women oppression and violence.

In the society of patriarchy, the subordinate status of women, illiteracy, ignorance, prejudice, and limitations of law and criminal justice system might be the underlying causes. Women of bridegroom's family are demanding dowry and committing violence against women of another family. Even the women themselves also are not able to realize situation. They sometimes accept violence against them as usual. In Bangladesh it is difficult to change anything by the government initiatives alone due to resource scarcity. So there is the need for collaborative efforts of GOs and NGOs that can stop dowry prohibition and reduce dowry related violence and others violence against women. Based on the study of the problem of dowry and related violence against women, it appears that there is a dire need of a comprehensive national policy on all forms of violence against women. The proper implementation of the dowry prohibition laws and fair justice must be ensured provided that the perpetrators do not get escape from the trial process with excuse of evidence or proof. Awareness raising measures through mass media in the society against cruel crime like domestic violence must be undertaken by the government and the NGOs. Educational programs with special focus on girl's education, legal aid education, illiteracy eradication etc. at family level needs to be paid attention. Government should activate violence monitoring cell so that they function as per the set goals. Anti-dowry monitoring cell should be established at union and upazila levels. Legal aid and support services must be expanded for the victims and quick trial of cases must be done and the perpetrators must be brought under punishment. Finally, to eradicate the violence relating to dowry, the women themselves must wake up to their conscience. They have to realize that the inferiority imposed on them is not their destiny rather their deprivation. Such deprivation can be removed only if the women become empowered and enlightened.

REFERENCES

- [1] Bina Agarwal, *A Field of One's Own –Gender and Land Rights in South Asia* (Cambridge: Cambridge University Press, 1994).
- [2] BNWLA, *Violence against Women in Bangladesh 2004* (Dhaka: Bangladesh National Women's Lawyers Association, 2005).
- [3] Jha Uma Shankar and Premlata Pujari, *Indian women today: tradition, modernity and change*. New Delhi: Kanishka, 1996
- [4] Maleka Begum, *Joutuker Saangskriti* (Dhaka: University Press Limited, 2006).
- [5] Muhammad Kamruzzaman and Mohammad Azizur Rahman, Dowry related violence against women in Bangladesh, *Empowerment*, journal of women for women, 2009.
- [6] Nusrat Ameen, 'Dowry in Bangladesh: How many more Deaths to its End'? *The Dhaka University Studies*, Part F, vol. VIII, no.1, (June 1997) pp. 125-155.
- [7] Roushan Jahan, *'Hidden Danger: Women and Family Violence in Bangladesh*, (Dhaka: Women for Women, 1994).
- [8] Taslima Monsoor, 'Dowry Problem in Bangladesh: Legal and Socio-Cultural Perspectives', *The Dhaka University Studies*, Part F, vol. XIV, no.1, (June 2003) pp.1-16.
'From Patriarchy to Gender Equity Family Law and its Impact on Women in Bangladesh (Dhaka: University Press Limited, 1999).
- [9] Rita Das Roy, 'Battered Spouse Syndrome: Violence against Women in Marriage', (Dhaka: Research and Evaluation Division, BRAC, 1992).
- [10] M. Mizanur Rahman, 'Dowry: A Poison to the Society' Available at: http://www.thefinancialexpress-bd.com/more.php?news_id=133392 &, last visited 2 February 2011.
- [11] S.K.Ghose, *Indian Women through the Ages* (New Delhi: Ashish, 1989).
- [12] M.N. Srinivas, *Some Reflections on Dowry* (Delhi: Oxford University Press, 1984).
- [13] Teresita C. Schaffer, *Profile of Women in Bangladesh* (Dhaka: USAID, 1986).
- [14] Vanita Rath, *Can Police reform husbands?*. In: No. 40 [May-June 1987] Manushi, pp. 12-24
- [15] Werner F Menski, *South Asians and the dowry problem*, Trentham books and School of Oriental and African Studies, 1998.