



**Justice Salma Masud  
Chowdhury**

## **‘DOMESTIC VIOLENCE’**

**Justice Salma Masud Chowdhury**  
Bangladesh Supreme Court.

Domestic violence is one of the most widespread but least recognized human rights abuses in the world, including Bangladesh. For a long time, public did not acknowledge the physical and emotional mistreatment of a woman in her domestic life. In almost every society in the world, whether it is in North or South, East or West, in rich countries or in poor countries, women share at least one element in common, i.e. a frighteningly high proportion of violence.

The home, although idealized as a heaven of protection in a violent world can be a dangerous place at times. Women often find themselves at the mercy of the men with whom they have chosen to co-habit and whose children they have borne. Now a days horrifying instances of domestic violence towards maid servants are also found.

When violence is directed against a female member at home, the same may be precisely termed as “Domestic Violence Against Women.” The stereotype expression of “Domestic Violence” means violence perpetrated by a man upon a woman at home, such as husband beating up his wife etc, but it is one of the ranges of relationships in which violence takes place. A woman may be subject to domestic violence from male members, in-laws or even from another female member on whom they are dependent (i.e. maid servant abuse).

Domestic relationships are by definition private and as such violence to a great extent is invisible. It is not noticed because it is hidden and people cannot feel the extent of psychological abuse.

Domestic violence is a crime and it’s status as such must be maintained. It is essential to guard against the trend of categorizing this problem as quasi-criminal, civil or purely social. It is becoming increasingly evident that the problem of physical and mental abuse on women is of far greater magnitude than has been imagined previously. A woman is not on the whole protected from severe psychological abuse and mental torture as the law currently stands. Evidences show that violence towards women at home are much more widespread than apparent.

In practice, however, the Criminal Law has proved to be of little assistance to the victims of domestic violence. The police, like others, are not interested in the abuse of women at home seeing it as normal feature of domestic life. Again, police see domestic violence against women as a non-criminal, marital and social problem and not as a law and order issue. In cases of domestic violence, especially in matrimonial offences, generally the police is reluctant to interfere.

Violence is not always committed for economic reasons i.e. dowry demands. There may be social, psychological or moral reasons as well. Traditional or mental attitude,

lack of moral education, drug or alcohol cause violence in many cases. Violence has no class, no caste, no religion. It is universal. In order to provide deterrent punishment for Cruelty to Women, in the year 1983 Cruelty to Women (Deterrent Punishment) Ordinance was promulgated. It dealt with penalty for kidnapping, abduction, trafficking of women, torture for dowry, causing of death for dowry or in committing rape etc.

The Ordinance was repealed and Nari-O-Shishu Nirjaton (Bishesh Bidhan) Ain came into force in the year 1995. It included punishment for causing death or hurt on child or a woman by corrosive substance. Torture and crime on children were included in the Ain. The said law was repealed and then Nari-O-Shishu Nirjatan Daman Ain, 2000 came into force. The Bangladesh Law Commission has taken an initiative in drafting a Bill on domestic violence.

In its introduction to the draft Domestic Violence Bill, the Law Commission has specifically discussed the domestic violence laws in New Zealand and Malaysia. New Zealand enacted Domestic Violence Act 1995 which categorized domestic violence into physical, sexual and psychological abuses and empowered the courts to pass certain orders to protect the victims of domestic violence. Preventive measures have also been provided in the said Act. The Malaysian Domestic Violence Act, 1994 has also been enacted providing preventive measures for combating domestic violence.

In the proposed Domestic Violence Act of Bangladesh, domestic violence includes any act or physical abuse, sexual abuse and psychological abuse by any member against any other member of the family. The Bangladeshi draft Bill requires that the abuser and the victim share a household.

According to the draft Bill, the court may, during the pendency of investigation relating to an offence of domestic violence, issue an interim protection order. The court may, after hearing the parties, issue a protection order for a period of not exceeding 12 months. Where a victim of domestic violence suffers personal injury or damage to property or financial loss or trauma or psychological damage as a result of domestic violence, the court may pass an order of compensation against the offender.

By perusing the existing laws relating to the protection against cruelty to women, it appears that the laws only deal with violence in public sphere rather than within family, except dowry related offences. Recently major out breaks of violence against women and children are found within family context. Beating or physical abuse, verbal abuse, mental torture of married women by their husbands and in laws occur widely in Bangladesh and its neighboring countries. This torture by the husbands at times is recognized by their family members and the society and the relations of the husbands often abet to these acts.

Children are our future assets. In many families, we find that some children, especially the orphans, who share the same household with their uncles, grandparents, in the absence of their parents, are maltreated. This also comes under domestic violence. Children coming from homes affected by domestic violence usually are found to repeat the similar maltreatment like their fathers or ancestors. Mostly the children take the side of their mothers for which they are assaulted by their fathers for which these children suffer psychologically, emotionally and economically.

Male and female adult or children who are domestic servants or helps are also objects of domestic violence. Physical injuries are caused on them for very little negligence, mistake or wrong done by them. They are denied proper food and clothing as punishment. They are locked or confined in rooms disallowing normal movement and socialization. They often become subject to sexual abuse.

In order to combat domestic violence, we are looking forward to see that an effective Domestic Violence Act comes into force soon. There must be a clear and deliberate domestic violence policy within the justice system. Clear and explicit guidelines should be established for police intervention in cases of domestic violence. If Domestic Violence Act comes into force in Bangladesh taking into consideration the recommendations and suggestions by different non-governmental organizations, who are actively working on the issue, in that case domestic violence will be reduced or curbed considerably and Bangladesh will witness satisfactory growth of violence free families in near future.

=====