Research Monograph

On

"Socio – Legal Analysis of Domestic Violence in Bangladesh: A Deeper Understanding of The Root Causes and Legal Remedies".

This Research Submitted For The Partial Fulfilment of The Award of The Degree in LL.B (Honours) Department of Law Sonargaon University (SU), Dhaka

Submitted To:

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Letter of Transmittal

To

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Subject: Submission of Research Monograph on"Socio – Legal Analysis of Domestic Violence in Bangladesh: A Deeper Understanding of The Root Causes and Legal Remedies".

Dear Sir,

I do herby please to submit the Research Monograph on the topic "Socio – Legal Analysis of Domestic Violence in Bangladesh: A Deeper Understanding of The Root Causes and Legal Remedies**".** It is a great pleasure to work on such important topic. This Research work has been done according to the requirements of the Sonargaon University for the fulfillment of my LL.B (Hon's) years course under the department of law. I respectfully acknowledge your guidance, leadership and help for the preparation of this paper. It is worthwhile to mention that there might be some errors and mistakes in my report due to limited time and knowledge. I am still at learning stage. So I respect that you will pardon my unintentional mistakes in preparing this paper.

Sincerely. Yours,

_____

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Solemn Affirmation

I do thereby solemnly declare that the work presented in this research has been carried out by meand has not been previously submitted to other University/College/Organization for any academic qualification, publication or a personal Degree. I hereby ensure that the work presentedhere not breach any existing copyright.

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Guide Certificate

This is to certified that the Research Monograph on **"Socio – Legal Analysis of Domestic Violence in Bangladesh: A Deeper Understanding of The Root Causes and Legal Remedies".** is prepared by Amirul Islam, Id No: LLB1901016029 for partial fulfillment of the requirement of the Program: LL.B (Hon's) from Sonargaon University, Dhaka. It also certified that the research work has been carried out under my supervision and intensive guidance.

It is to be certified that this research work is original and suitable in its style and contents for submission and fulfillment of his LL.B (Hon's).

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Thank you.

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Abustract

Domestic violence is not new in Bangladesh. Domestic violence is on the rise in our society and if we don't stop it, a dire situation awaits us. Such abuse of violence is deeply rooted in our society where masculinity supports and reinforces it. Research has shown that social norms and practices in both rural and urban areas have internalized domestic violence. Victims are often sent back from their natal homes to their abusive husbands because it affects their family's honor. It's a scenario we're all too familiar with, and it's led to dire consequences for some of them. Women are taught to be patient and ignore abuse in relationships, after all it was a little hurt.' Domestic violence in Bangladesh has such a narrative and women are often unaware that such violence is real and legal. Community attitudes also encourage such practices.

According to the law of Bangladesh, what do we mean by family violence? A common misconception in our society is that if a husband beats his wife, physical abuse, it is only considered as domestic violence. However, physical violence is only one of the four types of domestic violence. According to Section 3 of the Domestic Violence (Prevention and Protection) Act 2010 domestic violence includes physical, mental, sexual and economic abuse against a woman or child (victim) by family members. Physical violence includes (but not limited to) slapping, hitting, beating, etc. to that person. Domestic violence mainly involves denial of liberty such as not allowing the victim to visit his family or his friends, thereby isolating him, restricting his movement and depriving the victim of his liberty. Sexual harassment includes abuse of a sexual nature that violates the victim's dignity. However, if the victim is raped by her husband, this is a tricky area, as marital rape is not considered a crime in Bangladesh unless the wife is under 13 years of age. A fourth form of abuse is deprivation of economic resources which includes deprivation of property to which they are legally entitled; Deprivation of daily necessities etc. Child abuse by daughter-in-law, family members.

Most women are abused by their husbands, in-laws and other family members. Domestic violence affects the lives of many women in both urban and rural areas. Domestic violence takes many forms, occurs within families, and is almost always perpetuated by patriarchal orders. The aim of this study is to find out the impact of violence in our society and reconcile it with our social norms and values

❖ Chapter 1

INTRODUCTORY CHAPTER

1.Introduction

Domestic violence against women in our Bangladesh has a wide impact around the world but has no universally accepted definition or term. Unfortunately, domestic violence is a complex and difficult issue to study, and research findings are inconsistent. Even after thinking about domestic violence problem there is no solution because values, beliefs influence how we see or we see it. For example: Although women may feel that violence used against them is painful or wrong, they may not define it as a crime. Additionally, an act that is not considered violence in one situation or time may be considered violence in another situation or time. The general concept of "domestic violence" includes many different categories and meanings, such as: "intimate partner violence" "domestic abuse" "domesticassault" "battering" "partner abuse" "marital strife" "marital dispute" "wife beating" "marital discord" "women abuse' "dysfunctional relationship" "intimate fighting" "mate beating " "spouse abuse" "wife abuse" and "wife assault" "conjugal violence" "marital violence" "family violence" 'gender violence'

Domestic violence is defined as a subset of violence perpetrated by intimate partners. Specifically, it refers to acts committed by intimate partners or other family members, thereby defining physical, sexual, emotional domestic violence as a form of violence against women committed by intimate partners and family members. Domestic violence often occurs in private spaces and is o by society as a private or family matter. Although some feminists criticize the use of the terms domestic, spousal, and family violence because they hide the gendered nature of the problem, a man is a part of a man who is domesticated by a man. The concept of domestic violence is often considered gender-specific because it is typically experienced by women and perpetrated by men, and women of any type can experience racial violence, less racial violence. Most importantly, domestic violence is recurrent, life-threatening, and devastating to the lives of women and children.

The term "domestic" refers to the family in which such violence is committed against women. Violence against women in the home is particularly dangerous because while the home is said to be the safest palace for men, the home can be the least safe place for women. Violence against women in their homes is a unique phenomenon in the world of violence and is only possible for a person in a prison or similar institution.Against women is a serious problem in Bangladesh. Although the concept of intimate partners may or may not be legally married, domestic violence occurs in both marital and cohabiting relationships. Intimate partner violence typically includes a range of sexually, emotionally and physically coercive acts used against adult and adolescent women by a current or former intimate partner.

Also many predisposing tractors precipitate family violence. Factor like lack of education, alcohol abuse, poverty, cultural restrictions and so on are thought to be a factor that induces people to commit family relationships, family violence permeates every aspect of women's life. In particular, violence against women imposes profound implications on body, mind, and health as a whole, although it is often ignored due to the practice of cultural norms and social perception

A significant number of laws and regulations have been implemented in Bangladesh
For prevention of domestic violence (Prevention and Protection) Act 2010 and Constitution of Bangladesh. Nari o Shishu Nirjaton Daman Ain 2000 and Penal Code, 1860. Despite these legalities And regulatory protection Violence against women still persists. A lot of work has been done on the causes and effects of domestic violence from a socio-legal perspective; However, no Considerable work has been done in Bangladesh on criminological or psychological reasoning Domestic violence from the perpetrators' perspective. This paper tries to understand the underlying psychological influences or factors that lead criminals to resort to violence and Factors that shaped their repressive and hostile attitudes in the first place, especially in Bangladesh.

1.1 Statement of the problem:

Violence against women and girls continues to be a global epidemic in every country of the world, including Bangladesh, killing, torturing and maiming physically, mentally, sexually and economically. Security, dignity, self-worth and the right to enjoy their fundamental freedoms. This challenge needs to be addressed to avoid suicide, murder, separation, and divorce occur in many homes. The challenges that come with domestic violence should never be underrated. Why Victims Don't Report Domestic Violence" to Police Victim Support Units, Law and Arbitration Centers and Other Service Providers.

Many urban areas in Bangladesh lack many social amenities as well as industry. A fuel for domestic violence is the sense that men engage in activities such as drug abuse. Lack of demand for such work creates desperation among individuals which leads to brutality, increases unemployment which in turn increases abuse of house girls. Social amenities like the luxury of a good quality hotel, play parks, modern sports grounds, museums and modern shopping complexes are all completely absent in our Bangladesh, the Bangladeshi government would be requested to consider them then maybe-or domestic violence would be reduced to a large extent.

Domestic violence against women has many causes and therefore urgent solutions are needed to stop this cruel practice. One such measure is the Domestic Violence (Prevention and Protection Act 2010) Act enacted by the government to eliminate violence against women.
Nari o Shishu Nirjatan Daman Ain 2000. And there are many more Act. The way to get rid of this problem is for women to speak up, report harassment to the police immediately and appeal to the government, take steps to eliminate unemployment by building factories, hotels, motels, etc. They create domestic violence for reasons that are difficult to understand from the outside. I believe that if these steps are taken domestic violence will decrease..

1.2 Objective of the study:

Domestic violence in Bangladesh is increasing day by day many women many children are victimized so we are doing such a research and the main objective of this research is to explore and present the hidden agenda of domestic violence against women in Bangladesh and this paper tries to reveal two dimensions of domestic violence which are sociological From the point of view, which is supported by empirical findings and content analysis and the other from the perspective of administration where it focuses on the existing legal and policy framework, its involvement, its articulation, limitations of addressing, limitations of addressing domestic violence in Bangladesh. Although there are many laws against domestic violence in Bangladesh, if it is not used properly, there would not be so much violence. I will try how to solve it. Finally suggest some policies to overcome the current situation.

1.3 Importance of the study:

I think the importance of this study is immense because domestic violence is now the first and foremost cause in Bangladesh and there is no day left that domestic violence is not printed in the daily newspaper and there is no death related to domestic violence. Where does this brutality start and why does this cruelty have no definite limits. This research is important for addressing domestic violence. From January to June 2016, Bangladesh National Women Lawyers Association.recorded 2,481 incidents of violent acts (Malik & Hasan, 2016). Despite The significance of the numbers, the actual figure is supposed to be significantly higher,
According to various publications available. Gender discrimination and domestic violence are ours Society is very important and general factor as it is different in every family As a result women never get their due rights and women are victimized in the family Unlike domestic violations of members. This monogram presents various forms Gender discrimination and domestic violence in Bangladesh. What are the main reasons for this?

Gender discrimination and domestic violence are also explained here. Domestic According to Kaur and Garg (2008) violence is described as “abuse of authority”.Expressing feelings of "control and

fear" through violence is considered superior in relationships Such as “physical abuse, emotional abuse, social abuse, financial abuse or sexual Insult. What are the right steps to eliminate gender discrimination and domestic violence? Also explained here. And I think this research will have an important bearing on addressing domestic violence

1.4 Methodology:

This paper relies on qualitative data to understand the rationale for domestic violence, the relevant criminological theories, and the current trends and pattern of domestic violence in Bangladesh. Through content analysis, secondary sources have been used to support the literature and develop a more objective understanding of the phenomenon of domestic violence in a country context as well. Secondary data analysis primarily included newspapers, journals, articles, books, internet publications, online journal and articles, online opinionated write-ups like blogs, and online archives of governmental and non-governmental organizations.

In addition to these resources, a survey using the quantitative survey method was conducted in some parts of Dhaka to understand the relationship between a perpetrator and his psychological background of deviance or criminality. The surveyed sample is representative of the population of people living in geographically recognized economically disadvantaged areas in three distinct slum2 areas of Dhaka: Begunbari, Shahjahanpur and Karwanbazar Railway Slum.

The paper has concentrated on mixed methods of research as a mixed method is more likely to add value by increasing validity in the findings, informing the collection of the second data source, and assisting with knowledge creation (McKim, 2017:203). The author believes that studies using a mixed methods approach in assessing a sensitive issue like domestic violence gain a wider and broader understanding of the phenomenon than studies that do not utilize both a quantitative and qualitative approach. A limitation of the present study is found in the gendered perspective of

abuse. Though domestic violence can be caused by a female relative too, the paper limits evaluation to the male dominants (i.e., predominantly husband) and investigates how the psychology behind this crime works against a woman in the family to identify male perpetrators' reasoning for committing violence.

1.5 Limitation of the study:

The major limitation of this research is the heavy reliance on secondary data such as books, articles, journals and news reports. Moreover, non-availability of data related to practical situations related to the research problem can also be described as another limitation. Basically there is a lot of information. But we cannot say that it is correct or 100 percent authentic. Because, in our society, women cannot express themselves to the authorities. Time constraints and budget are another issue. Actually it is very difficult to complete a research properly in 1 month or less with limited budget.

❖ CHAPTER-2

CONCEPT ABOUT DOMESTIC VIOLENCE SOCIO LEGAL ANALYSIS

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2. Definition of domestic violence:

According to **section 3** of Domestic violence (Prevention & Protection) Act 2010.

Domestic violence.- For the purpose of this Act, domestic violence means **Physical abuse**, **psychological abuse**, **sexual abuse** or **economic abuse** against a woman or a child of a family by any other person of that family with whom victim is, or has been, in family relationship.

Explanation: For the purpose of this section-

(a) **"Physical abuse"**- that is, any act or conduct which is of such a nature as to cause bodily pain, harm, or danger to life, limb, or health or impair the health or development of the victim and includes assault, criminal intimidation and criminal force;

(b) **"Psychological abuse"**- that includes but is not limited to:-

(i) verbal abuse including insults, ridicule, humiliation, insults or threats of any nature;

(ii) harassment; or

(iii) controlling behaviour, such as restrictions on mobility, communication or selfexpression;

(c) **"Sexual abuse"**- that is, any conduct of a sexual nature that abuses, humiliates, degrades or otherwise violates the dignity of the victim;

(d) **"Economic abuse"** that includes but is not limited to:-

(i) deprivation of all or any economic or financial resources or property to which the victim is entitled under any law or custom whether payable under any law or custom or an order of a court or any other competent authority;

(ii) not allow to use the articles of daily necessities to the victim;

(iii) deprivation or prohibiting the victim from applying legal rights to her stridhan or dower or alimony or any consideration for marriage or any property owned by the victim;

(iv) transferring without consent of the victim or prohibiting the victim from applying legal rights to any assets whether movable or immovable owned by her;

(v) deprivation or prohibiting the victim from applying legal rights to continued access to resources or facilities which the victim is entitled to use or enjoy by virtue of the family relationship[1]

[1]**Section 3** of Domestic Violence (Prevention & Protection) Act, 2010 [Act 58 of 2010]

2.1 Historical background of domestic violence:

Domestic violence has only increased manifold over the decades domestic violence has occurred in households around the world. In 1993, the Violence Against Women Act was introduced. This was done to increase women's safety and help law enforcement agencies respond to domestic violence calls so that women are no longer victims of violence. There are many laws in Bangladesh to protect women against violence. The domestic violence (prevention & protection) Act was specifically created in 2010.

Since the establishment of the Violence Against Women Act, each state has been responsible for enacting its own laws on domestic violence. In Massachusetts, both the abuser and the survivor are arrested, while in Illinois only the abuser is arrested. Additionally, domestic violence may increase from the cause.

There are many aspects of domestic violence among which two historical backgrounds form distinct aspects - I think

1. Male dominance or monogamy is the main cause of domestic violence in our country. Men have always oppressed women and children as their rights due to socio-economic and physical conditions.

2. Another aspect is the ignorance of people interpreting religious lines in their own way which emphasizes domestic violence along with modernization of society. Such violence is fueled by ignorance of religion.

The current picture of domestic violence in Bangladesh Janet E., former deputy representative of the United Nations Population Fund in Bangladesh (UNFPA). According to Jackson, "Sixty-five percent of Bangladeshi men think it is justified to beat their wives, 38 percent have no clear idea of what constitutes physical violence, and 40 percent support keeping women socially dormant."

It vividly tells the 'sad but true' story of domestic violence in Bangladesh
Several studies have shown that domestic violence.

2.2 Theoretical perspective of domestic violence:

Anomie theory :

The pioneer of the anomie theory is Émile Durkheim. However Robert K. Merton later established a modified theory on anomie. In the perspective of Merton's anomie theory, when the social bond becomes weak in a society then an anomie situation gets created (Merton,1938). That means social norms and values get destroyed. In this situation, a person wants to achieve his goal at any cost. Every person tends to think of himself as a powerful being in the society. In our male-dominant society, a male wants to dominate the female by illegal practice of power. He thinks whatever he is doing is right. Females are not given any importance to express their perception and views. Men being completely deprived of social decorum and morality, forgets to treat women as human beings. Rather they are always ready to look down upon women neglecting their perpetual contribution to the family, society and nation. This negligence towards women's vital role in the development of a nation causes spontaneous domestic violence.

Feminist theory :

The Feminist Movement arose in the early 1970s in the United States as a second wave movement to address the developing and pervasive concerns of domestic violence and women's oppression (Bergeron,Suzanne,& Healy,2015).On the view of feminist theory, a powerless being is always dependent on a powerful one and the powerful one always tries to dominate the powerless being. So in case of domestic violence, a powerless member of a family, who are generally considered to be female members, children, old members, unemployed persons are always dependent on powerful members of the family. That points out the fact that powerless members always become the victims of domestic violence.On a serious note, when a woman is entirely dependent on a man financially, often men take advantage of their weakness causing economic torments resulting another form of domestic violence. Again the lack of self-esteem in women also causes domestic violence. The tendency to not respect themselves and the lack of self-confidence are quite the responsible factors of domestic violence.

Social learning theory:

According to the social learning theory men learn social behaviour by socialization and they learn by imitating others (Bandura,1962). On the context of domestic violence, in Bangladeshi society, families are mostly male dominant. It's been a tradition of Bangladesh, for which females can never practise domination. As a result, the females become the victims of domestic violence. Another trend in our society is that the first child is always expected to be a son. Thus from the very beginning, a growing family is biased towards the male children. On top of that daughters are always given less opportunities to develop their physical strength as well as social status on educative fields. Thus from a very young age, daughters and sons of the same family are learning different social values which simply pushes them to carry on with domestic violence later in life.[2]

[2] Bennice, J. A., & Resick, P. A. (2003). Marital rape: History, research, and practice. Trauma, Violence, & Abuse, 4(3), 228–246. https://doi.org/10.1177/1524838003004003003

2.3 Socio - psychological model of domestic violence:

This model is mainly encouraged by the social learning theory. It tried to analyse the external factorswhich affect family like mental stress, family structure or intergenerational experience of wife beating. Italso believes that biological superiority of men inspire them to act violently. Burgess and Draper (1989)illustrates that individual perform in certain way to ensure that their inherent (genetic) superiority willtransfer to next generation. However Smuts (1992) argued that men's aggression against womenpostulates the result of men's reproductive urge and men use aggression against women from kind ofintimidation. Thus it has been seen from different experience that men assume as the bread earner of the family due to the biological superiority or sometimes due to the feeling of inferiority whichultimately encourage them to beat wives.

Some of the theorist believed that violence is a learned behaviour and can have the influence of othersituational factors. O'Leary (1988) explains that violence is a learned behaviour and can be precipitatedthrough contextual or situational factors such as mental stress, violent behaviour, aggressivepersonality, drug or alcohol abuse, marital infidelity or illegal relationships. However the most dominantnotion of the social learning theory is the intergenerational transmission of family violence whichexplains that people who have experienced physical family aggression in their childhood have a greaterprobability of living in a violent domestic situation later on in life (Straus, Gelles and Steinmetz 1980;Pagelow 1981; Groth 1983; Kaufman and Zigler 1987). Thus it has been assumed that the environmentor social context in which family development occurs and where family resides is a big contributoryfactor to DV. Moreover domestic violence happens when the parents, children or the family mismatchedwith the neighbourhood or community context. With complete opposite notion Gelles (1987) statesthat, "To put it simply, people hit family members because they can".Thus this model presumed that violence can be an ideological or psychological practice or can be alearned behaviour from society or family.[3]

[3] Available at http://www.blacksacademy.net/content/2978 .html Accessed 4 February 2013

2.4 Socio-Cultural Model of Domestic Violence:

This model mainly focuses on the role of men and women in the society. It also highlights the culturalattitudes towards women and the acceptance of violence as family or private matter in the society. Thismodel mainly tries to find some causes of domestic violence with theories like the patriarchal theory asone of the root causes.

a) Patriarchy and its relation with domestic violence

Patriarchy is a social and ideological construct denotes the rule of the father of a male-dominatedfamily. It refers a society where the father (bread earner) ruled not only the women but every memberof the family. The patriarch power mainly derived from his ownership of wealth. According to thetraditional view patriarchy is determine by the biological distinction of men and women and their socialroles where men considers (who are the patriarchs) as superior to women (Ray ca2005).This model has taken the arguments of Hartmann (1979) and German (1981) of patriarchal theory tounderstand the core relation of patriarchy and domestic violence. According to Hartmann (1979)patriarchy is "a set of social relations between men and women, which have a material base, and which through hierarchical, establish or create interdependence or solidarity among men that enable them todominate women". She further explained that the base upon which patriarchy establishes is the men'scontrol over women by labour power as all the social structures enables men to control women's labourand this power is controlled by the refusal of women's access to necessary economic resources oractivity. However German (1981) argued that there are mainly two dimensions of patriarchy such asideological or economic. There is a connection in between the economic basis and the ideas arise in asociety. He argued that consequence of the supremacy of ideas or of a succession of ideas and men useto behave violently as they think themselves as the superior which ultimately outweighed the economicautonomy of women (ibid.).

Hamilton (1978), states that patriarchal mode defines the system of male domination or femalesubjugation in any society and it has a historical basis of its own. According to the Marxist argumentpatriarchy is a social structure where "male shall dominate female". Human beings are living withpatriarchy which has no biological basis but gender roles are socially constructed. They again postulatethat capitalism is the fundamental structure which serves patriarchy (Engles 1884)

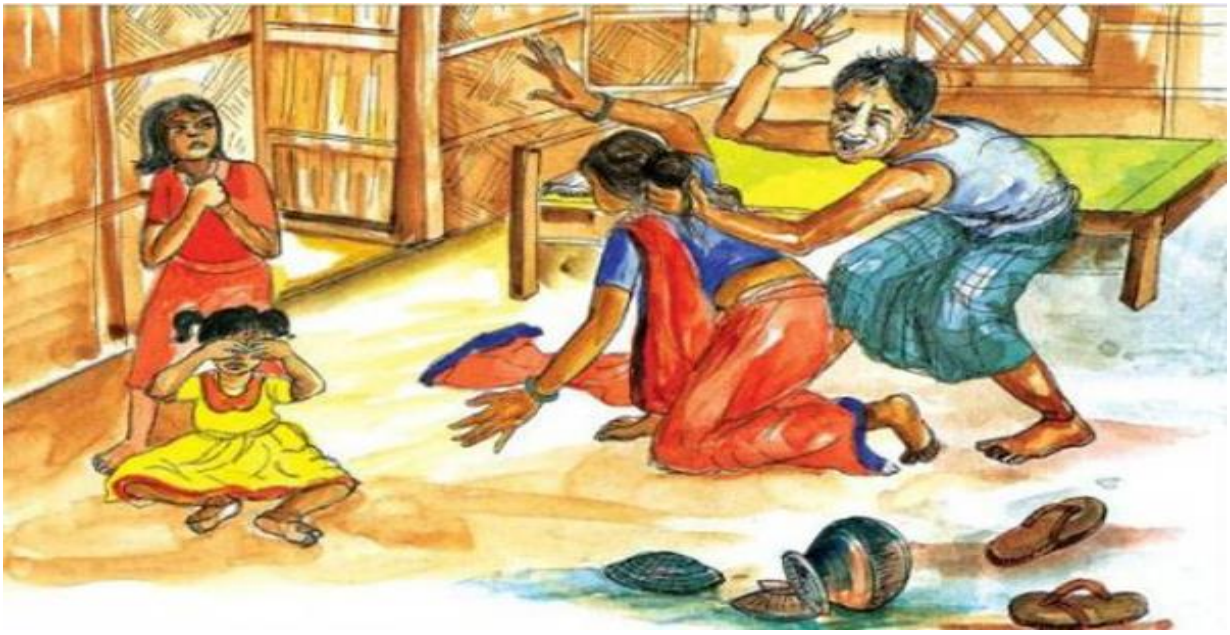
Engles wrote, "It isbased on the supremacy of man, the express purpose being to produce children of undisputedpaternity; such paternity is demanded because these children are later to come into their father'sproperty as his natural heir" (ibid.)

The notion of patriarchy can also be linked with the “hegemonic masculinity” theory (1982) adopted byConnell's acceptance of the essential feminist insight that the relations between men and womeninvolve oppression and domination. Connell’s hegemonic masculinity is a type of external hegemonyand connected to the institutionalised power relation of men’s dominance over women. He highlightedthree different relations how men dominate women. Firstly; the labour relations concedes materialadvantages served by labour market, then the power relations by which men control the mean ofinstitutionalised power through state and thirdly emotional attachment defined as men is superior overwomen through society (Demetriou 2001).

This study has considered patriarchal theory as one of the main defense to establish the arguments ofthe paper. Patriarchal notion is historical which has accepted the men domination over women asembedded. The argument of this paper is mainly inspired by the notion of patriarchy which is the rootcauses of domestic violence context of Bangladesh. Some women have argued that men try to benefitfrom women’s oppression, and believe that they are able to do so because of the fundamental biological differences between the sexes where the basis for patriarchy lies. However, other theorists bring downdifferent sectoral examples to narrate the existence of patriarchal practice in every sphere of life.[4]

[4] Available at http://www.blacksacademy.net/content/2978 .html Accessed 4 February 2013

2.5 Present condition of domestic violence against women in Bangladesh:



Bangladesh ranks 4th in violence against women by intimate partner

Bangladesh has become one of the top ranking countries in violence against women (VAW) by intimate partner. Fifty per cent of women aged between 15 and 49 of the country have experienced physical or sexual violence by their partners during their lifetime, according to a report of the World Health Organization (WHO).

The report was prepared after analyzing the data on violence against women in 61 countries and areas between the years 2000 and 2018. According to WHO, one in three women worldwide is subjected to physical or sexual violence during her lifetime.

The Pacific Ocean country Kiribati has the highest prevalence of physical and sexual intimate partner violence. Fifty-three per cent of the women in this poor country become victim of this form of violence. Kiribati is followed by another two island countries of the Pacific Ocean – Fiji (52 per cent) and Papua New Genue Papua New Guinea (51 per cent). The prevalence for Bangladesh and Solomon Islands stands at 50 per cent.

People's mindset contributes to the higher rate of violence against women in Bangladesh, said Tania Haque, a professor of Women and Gender Studies at Dhaka University. She told Prothom Alo that women feel insecure without a male partner because of the dominance of patriarchy in the country. As a result, a man starts thinking himself superior than a woman even though he holds a socially weaker position than women. The mindset of being superior instigates a man to carry out various wrongdoings.

Professor Tania Haque thinks that the first change must come from the family to overcome this crisis. She said if social and family equality and equal rights is ensured, only then women empowerment will happen and violence against women will decrease.

In the meantime, UNICEF expressed concern over growing child marriage that hinders women empowerment in Bangladesh. The UN children agency, in a statement on Monday, said Bangladesh ranks fourth in the prevalence of child marriage globally.

Another South Asian country Afghanistan has come at the sixth place in violence against women by intimate partner. The WHO released the report on behalf of others UN agencies on 9 March. The report further said the prevalence of violence against women has made no progress from the estimates published by the WHO in 2013. Women also become victim of non-partner physical and sexual violence. They began facing violence since an early age.

The report said 12 countries and 2 areas have the lowest prevalence (10–14 per cent) of intimate or non-intimate partner violence among women aged 15–49 years. Six of the 12 countries are in Europe, three are in Western Asia and the remaining three are Cuba (14 per cent), the Philippines (14 per cent) and Singapore (11 per cent)[5].

[5] Available at https://en.prothomalo.com/bangladesh/bangladesh-ranks-4th-in-violence-against-women-by-intimate-partner Accessed in March 12, 2021

❖ CHAPTER- 3

ROOT CAUSES OF DOMESTIC VIOLENCE IN BANGLADESH

3.1 Major causes of domestic violence in Bangladesh:

Age gap:

As child marriage is rampant in our Bangladesh, wives are usually younger than their husbands and as a result struggle to fit in with their husbands' families, some husbands and in-laws exploit their young brides for modesty. Therefore, child marriage of girls creates the basis for young wife abuse in Bangladesh.

Illiteracy and cultural approval of wife beating:

In our country, the education rate is low among both men and women in rural areas. In rural areas, both husbands and wives have lower education rates, with many husbands not completing higher secondary education; Most of them either completed primary education or were illiterate. Illiterate family members hold strongly to patriarchal values and traditions that support male dominance, superstitions and religious misinterpretations that support against married women. Most of the couples were not aware of non-violent means to resolve marital conflict and illiterate husbands mostly used physical force to control their wives. However, abused illiterate wives resorted to abuse themselves to protect themselves which led to more victims. Furthermore, abusive husbands were not aware of the long-term consequences on their children and families. In fact, this study identifies a 'culture' in families where both husband and wife are illiterate. Most victims are culturally taught and justified that the husband has the right to beat the wife occasionally. Society also tolerates such violence and freely condones wife-beating—a means of subjugating, subjugating, and controlling women. Our research shows that some husbands beat their wives even in front of their neighbors and don't care much about what other people say.

Wife's dependency on husband and barriers in seeking legal help:

This study reveals that illiterate women are socio-economically dependent on their husbands who control and suppress their wives knowing that the wives have little option to stay in and out of

their marriages. Moreover, if parents are poor, women become helpless and vulnerable. an insult The husband usually exploits this situation and abuses his wife knowing that a woman with children cannot remarry or leave the children for remarriage.

Silence :

As discussed above, family honors are usually not disclosed. Victims remain silent due to cultural taboos, and the uncertain future of children, and their dependence on marriage. Our study found that victims were unable to share their experiences of being abused with relatives and community leaders: embarrassment, maintaining family honor and continuing marital relationships. The Investigations showed that women were brutally abused whenever they quarreled with their in-laws or denied them or demanded basic necessities.

Dowry practice :

Dowry confirms 'patriarchal norms of supremacy', which often work against women in Bangladesh. Dowry is the demand or insistence of receiving cash or materials from the parents/guardians of the wife. Rupiya and Mahmuda, both victims of dowry abuse. The problem started when my husband secretly married for the second time. Soon after marriage he started beating me. I was forced to fetch 200,000 rupees (1 US$= TK 78) from my father. After 20 days he demanded money again. When I (Rupiya) refused, he beat me mercilessly.

Poverty:

This is especially so when Male breadwinners struggle to run the household. In Bangladesh, approximately 31.5% of people live in absolute poverty (Ministry of Finance, 2014), with women being the most affected. The average monthly household income of our respondents was US$87. Poverty prompts the husband and his family members to demand dowry from the wife's family, which sets the stage for conflict between husband and wife leading to divorce. Although both are Zubaydah With parents and her husband's family living in abject poverty, she was still pressured to bring dowry. He described

Polygamy:

Polygamy is still prevalent among Muslims of lower socio-economic levels in Bangladesh. We found five respondents whose husbands had multiple wives and three husbands who attempted second marriages. Even the husband's relatives encourage him to marry a second time if his first wife fails to give birth to a son or if there is incompatibility between the husband and his wife. Although the practice of polygamy is legally restricted in Bangladesh, in our study, very few victims believed that a man is allowed to have four wives at once.

Extramarital and premarital affairs

Unfortunately it is true that my research testifies that generally in Bangladeshi culture, a married man and his family members are wary of his wife's infidelity or extra-marital affair(s). Apparently, a wife also develops and remains suspicious of her husband Afraid of his second or any secret marriage. Research findings further testify that Khaleda and Khadija's husbands had extra-marital affairs and remarried. Suspicions of marital infidelity caused DV between them. As narrated by Khaleda and Khadija respectively

Wife is not considered beautiful:

In our country, a married woman is expected to be 'beautiful' on every spectrum—beautiful, not just from an anatomical point of view, but also compulsively tender and capable of doing housework. Our research shows that most husbands fail to find all these qualities in 'a single woman', which prompts them to become violent. The findings revealed that while some were verbally abused or teased by their husbands and in-laws for not being good-looking, sarcastically addressed as 'dwarf', 'black' and 'dark-looking', others hesitated to describe their wives.

Giving birth to a girl child:

Patriarchal family structure apace with customs, people’s mindset towards girls, illiteracy, and security concerns—all these indicators of societal pressures expect a pregnant wife to give birth to a baby boy. Especially, the families scourged in poverty do not welcome the birth of a girl child.

As explains Shukkura, who after delivering a girl child received only suffering and humiliation that led to her divorce.

Drug addiction:

At the extreme, another finding of our study suggests that drug effects are another factor leading to DV. Five victims reported that their husbands abused them physically and 17 verbally after becoming addicted to drugs. However, they also tortured other family members and the children, as Sathi reflects on her days with her alcoholic husband...

My husband drinks alcohol regularly. He is very aggressive and impatient. He also takes drugs and becomes more violent after taking drugs. When I protested his drug use, he would go crazy and beat me mercilessly.

3.2 Men's frustration root cause of domestic violence:

VIOLENCE against women takes many forms. It takes place both in the private and public realms. It manifests itself in acts of rape, sexual assault, sexual harassment, acid attack, domestic violence, marital rape, sex-selective abortion, voyeurism, stalking and 'honour killing'. Gender-based violence is an outcome of systemic discrimination and inequality between the sexes, and is a violation of fundamental rights of the victim.

I shall concentrate on spousal violence, which is widespread in our country. Official data continues to indicate that domestic violence is on the rise and so do the media reports of gruesome cases of intimate partner violence. According to the National Family Health Survey-3 (NFHS) of 2005-06, 27 per cent of all married women have experienced physical, emotional and sexual violence. Activists claim that the percentage is actually much higher.

It is important to understand the cultural context of how marital violence is perceived by men and women and what is the level of its acceptance. For this, I shall rely upon my fieldwork done in my state, Haryana.

Culturally, beating women is very much part of the rural culture, accepted as a matter of course by men and women. To understand this, the ideology summed up in a popular proverb, common throughout northern India, is useful: joru khasam ki ladai kya (a quarrel between a married couple is of no consequence). This proverb shows the acceptance of ladai (quarrel), as a 'verbal duel', which is considered innocuous; but in reality, it often means infliction of physical violence on the woman. Rural society has always sanctioned wife-beating. "The man who beats his wife or the family that beats its bahu are all considered to be doing the right thing," pontificate the older generation of men in the villages. The general opinion voiced by a majority of the men regarding the infliction of violence on their wives ranged from total denial to prevarication. A few confessed to having used a 'couple of slaps' here and there 'to keep the women in line'. However, an underlying impression of both men and women was that physical violence has declined over the years.

Two factors which are identified and highlighted by women themselves in their individual and collective take on violence are: alcoholism and unemployment of men. Both accentuate men's frustration that is frequently taken out on women, especially their wives. The foremost was growing alcoholism. Women voiced a strong co-relation between the two. The existence of a vast network of sharab ke theke (licensed liquor shops) has become a continually growing problem in northern India. The ban on liquor in Bihar is a recent example of dealing with this problem. The women consider the spread of liquor and intoxicants as the cause of tension in homes, leading to shortage of money for family expenses, frequent quarrels, and extortion of money from women, leading to violence. Liquor is clearly behind the deteriorating quality of a woman's life and cuts across region, caste and class lines.

This increase in the consumption of liquor has been triggered by a cluster of inter-related causes, peculiar to different classes and even caste groups. Among these causes, the increased paying capacity of the consumers, particularly in the rural areas, has been a decisive factor both according to the academics and the rural perception. Interestingly, the two reasons advocated for the popularity of alcohol among the lower castes and classes, in direct opposition to higher castes and classes, is economic deprivation and low self-esteem. The rise in alcohol consumption has also been indirectly encouraged by the state with a major stake in its revenue — through its excise policy and licensing of an increasing number of retail shops.

Apart from alcoholism, unemployment of men is primarily responsible for violence against women. The great increase in population and pressure on land due to limited expansion in commerce and industry and the overburdening of the agrarian sector has created severe unemployment. Rural unemployment is calculated to be almost twice of urban unemployment. Widespread unemployment and the consequent inability of a man to support his family are a major cause of frustration, lack of confidence and an onslaught on their masculinity. Together, these lead to domestic violence.

Among the unemployed, the plight of the educated male is particularly alarming. Those among the educated who are employed may well be having a job not commensurate with their educational status. This factor, according to women, causes more frustration than men can handle. Newspapers are full of reports about MA/PhD holders working as a peon or chowkidar. Unemployment is especially aggravated as the boys are not willing to settle down to an agricultural life in the village. There is a great scramble for any employment, high or low, whatever the social status. The jobs in their own villages are limited and very few can be absorbed in them. Village women say that even those boys who have studied only up to matriculation (Class X) and have qualified by nakal (copying or cheating) want white-collar jobs. Large-scale unemployment is leading to social disorder, lawlessness and violence in society — both public and private.

While there have been many legislative reforms to safeguard women's rights, the infrastructure to actualise the ambitious and far-reaching reforms are sadly lacking within our court spaces. Among such reforms was the Protection of Women from Domestic Violence Act (2005), aimed at protecting women from physical, sexual, verbal, emotional and economic abuse and securing their rights of residence in their matrimonial home. However, it was hardly implemented.[6]

[6] Available at https://www.tribuneindia.com/news/archive/comment/men-s-frustration-root-cause-of-domestic-violence-740122 Accessed in mar 9 2019

3.3 Root causes of family violence under judicial spotlight:

From 2009 to 2015, there were 194 deaths as a result of family violence. Of those, 92 were classified as intimate partner deaths, 56 child abuse and neglect deaths and 46 intra-familial deaths.

High though those figures are, the number of incidents where victims are not killed, but suffer harm because of family violence, is far higher. For example, in 2016, there were 118,910 police investigations of family violence. Even more alarming is the estimate that 76% of family violence goes unreported.

In recognition of the serious impact family violence has on families, the District Court has maintained an emphasis on education of judges and developed innovative ways to address the problems, within the confines of the current law.

The District Court deals with criminal charges resulting from family violence. Specialist Family Violence Courts have been established within the District Court, where the emphasis is on rehabilitation and prevention of further harm.

After guilty pleas are entered, consideration is given to the apparent root causes of the violence, such as alcohol and drug addiction. These often impact a person's ability to manage relationship problems.

When the underlying causes are identified, referrals are made to appropriate agencies and the case is then monitored regularly to track progress. Only when programmes have been completed is the offender sentenced, taking into account measures the offender has taken to lessen the risk of further offending.

On the other hand, the Family Court deals with the implementation of protective measures in Domestic Violence Act proceedings.These proceedings at any one time make up about 12% of the Family Court's work.

The Act governs the making of protection and related orders such as Occupation and Tenancy Orders. The legislation provides the Family Court with tools to provide rehabilitative measures such as Stopping Violence programmes for perpetrators and, for victims, protected persons programmes.

Although domestic violence proceedings make up a relatively small proportion of the Family Court's business, family violence pervades almost every area of the court's work. The impact of violence on children is reflected in Care of Children Act 2004 proceedings which make up more than half of the applications filed in the Family Court.

In determining what promotes the welfare and best interests of the child, the first principle for the court to consider is that the child's safety must be protected, particularly from all forms of violence. Violence also dominates care and protection proceedings under the Oranga Tamariki Act 1989 where the state is required to intervene in families unable to ensure their children's safety and welfare.

Some people question why the courts do not do more to assist families in which violence features. However, courts are required to implement legislation as it stands.

In recognition of the damage family violence inflicts on families and the wider community, legislative change is on its way. The Family Violence Legislation Bill promises to simplify proceedings, clarify the principles which guide decisions and widen the scope of the law. Additional programmes to address rehabilitation will also be introduced.

When implemented, both the criminal and Family Court will be empowered to better respond to families who are affected by violence. Judges welcome the change.[7]

[7] Available at https://www.districtcourts.govt.nz/about-the-courts/j/root-causes-of-family-violence-under-judicial-spotlight

❖ CHAPTER-4

LEGISLATION ON DOMESTIC VIOLENCE IN BANGLADESH AND LEGAL REMEDY

4. Domestic violence (Prevention and protection) Act-2010:

The Procedure to follow under The Domestic Violence Act

A person or a victim of domestic violence can get aid under this Act going through the following procedure; The aggrieved/victim or on her behalf anyone (can be an Enforcement officer, a service provider) can apply for remedy in any Court under whose jurisdiction the applicant or respondent resides or the place where the domestic violence occurred or where the victim temporarily resides. After receiving the application the Court shall set a date for hearing within 7 (seven) working days. Upon receipt of the application if the Court satisfied that there has committed or possibility to commit or abet to commit any domestic violence then an ex-parte interim protection order can be issued.

Later on, the Court considering the application can issue orders namely protection order, residence order, compensation order, custody order and in all cases the order passed by the Court under this Act shall be given to the applicant party, the officer in charge of the concern police station, the Enforcement office and if applicable, any service provider. Under Chapter- 5 of the Act, the Court shall dispose of every application under this Act from the date of issuance of notice within a period of **60 working days** and if it is not disposed within the specified time due to unavoidable reasons then the period can be extended gradually to **15 days** and again if not disposed then **7 days** however the reasons should be informed in writing to the Appellate Court. Even if the concerned Court again fails to dispose of the case within the last specified time then the Appellate Court can transfer the case to another appropriate Court and this Court will dispose of the case from the stage where it was pending.

The Victim's Rights

Well, the rights which one can obtain being a victim of domestic violence has been discussed in Chapter 4 of the DVPP Act, 2010. According to the Act the victim or on her behalf anyone

(can be an Enforcement officer, a service provider) has the right to apply for remedy in any Court under whose jurisdiction the applicant or respondent resides or the place where the domestic violence occurred or where the victim temporarily resides and after receiving the application the Court shall set a date for hearing within 7 working days.

In spite of all due to family relationship the victim shall have the right to reside in the shared residence. She can also by order, appearing with Enforcement officer, can enter the shared residence for collecting personal belongings, medical, educational and professional records, passport, cash money, jewellery, mobile, bank account and income tax documents and other documents and valuables.

The Court's Powers & the Remedies

Now the question is, to what extent the victim will get a remedy? it has been figured in the Chapter-Four of the DVPP Act, 2010 conforming to the Court's power. The Court has the power in favor of the victim to issue an *ex-parte* interim protection order if upon receiving the application *prima facie* it is satisfactory that the respondent has committed or has possibility to commit or abet any domestic violence and also a show cause notice to the respondent to reply with reasons within 7 working days that why permanent protection order shall not be issued against him.

After the hearing case if the Court satisfied that domestic violence has taken place or likely to take place may issue a protection order in favor of the victim and also an order restraining the respondent from committing any domestic violence, aiding or abetting any domestic violence, prohibiting from entering any workplace, any business or educational institution or any other institution where the victim generally visits, restraining from contacting with the victim personally or through written, telephone, mobile phone, email, or any other means of communication, detaining from inducing any violence to the dependents or relatives of the victim or any other

person who aided the victim to protect from the domestic violence or any other act as the Court thinks necessary.

Moreover, based on the application the Court may issue orders on dwelling that is to say restricting the respondent from residing, visiting or dispossessing the shared residence of the victim and even in case of using vehicle which generally used by victim, the respondent may be directed to let her continue using; to make settlement for a safe shelter for the victim and her children with her consent under the supervision of the Enforcement officer and circumstantially the respondent can be directed to settle alternate accommodation and also pay rent for the victim. Moreover, the Court can, for the time being, evict the person against whom the order is made if it is necessary to ensure the victim's safety. And also the Court can execute a bond with or without sureties that the respondent or his family member won't commit any further domestic violence. However, no order shall be made which affect any title or interest of the person against whom the order is made.

If the victim is injured physically, mentally and economically or there is damage of the moveable and immovable property of the victim then she can apply for compensation and then the Court will dispose of the application within 6 months after hearing of the parties. Based on the actual loss or damage considering the nature and effect and also cost of such physical or mental injury, the amount and value of the moveable or immovable property that has been transferred, destroyed or damaged the Court can pass an order for compensation in favour of the victim. Additionally, an order may be passed for adequate and reasonable maintenance of the victim and her child. Subsequently, the Court can grant an order for temporary custody of the victim's child or children to her or to someone on behalf of her.

Offences & Remedy:

Under Chapter- Six of the Act there has been stated about the offences and punishments. **The offences committed under the Act shall be cognizable, bailable and compoundable.** Now if the respondent breach the protection order under this Act then it will be considered as an offence and he shall be punished with imprisonment which may extend to 6 months or fine which may extend to 10 thousand Taka or both and in case of repetition of the same the punishment shall be imprisonment which may extend to 2 years or fine which may extend to 1 lakh Taka or both.

However, if the Court thinks fit then instead of passing order of sentence against the respondent, may pass an order to carry out various community welfare services and the responsibility and supervision may be vested upon any institution or organization. any income gained by such services the respondent may be liable to pay such portion to the aggrieved party as the Court thinks fit. Lastly one of the important points is that if any person to cause loss to any other person, makes a complaint knowing that there is no legitimate reason to file such application then shall be punished with imprisonment which may extend to 1 year or fine which may extend to 50 thousand Taka or both.

Although it has been defined about the rights and remedies under the DVPP Act 2010 that the victim of domestic violence can get but still many of them do not get proper remedies. Due to several reasons like lawyers are not pursuing these kinds of cases as it is not cost effective, not enough budget from the government in this sector, lack of management for victim's shelter, superstitious society and so on, the Act is still not progressive. It is a matter of fact that many of them even do not know that there is a specific law through which being a victim of domestic violence one can get relieves.[8]

[8] Domestic Violence (Prevention and Protection) Act, 2010 (Act 58 of 2010)
[30th december 2010]

4.1 Nari o shishu nirjatan daman ain-2000 :

- **Offences & Remedy**

Remedy for offences committed by corrosive or any other substances (Section 4)

1. If a person causes death or attempts to cause death of any woman or a child by burner, corrosive poisonous substance he or she shall be punished with- a) death or, b) imprisonment for life and also with fine not exceeding one lac taka.

2. The sight or ear is damaged or face or breast or sexual organ is disfigured of any woman or a child, the person shall be punished with- a) death or, b) imprisonment for life and also with fine not exceeding one lac taka.

3. Any limb, joint or part of the body is disfigured or any part of the body is damaged, he or she shall be punished with - a) imprisonment of either description which may extend to fourteen years but not less than seven years of rigorous punishment and also with fine not exceeding fifty thousand taka.

4. If a person throws or attempts to throw any substance burner, caustic or poisonous over a child or a woman, he or she shall be punished, if the child or woman is injured physically, mentally or otherwise in consequence of such act, with - a) rigorous imprisonment of either description which may extend to seven years but not less than three years and also with fine not exceeding fifty thousand taka.

Punishment for kidnapping a child or a woman (Section 7)

If a person kidnaps a child or a woman which commits an offence under section 3 and 6 of Trafficking Prevention Act 2012, he or she shall be punished with - a) imprisonment for life or, b) with rigorous imprisonment for either description, which may extend to fourteen years and also with fine.

Punishment for taking ransom (Section 8)

Whoever detains a child or a woman to levy a ransom; he shall be punished with - a) death or b) with rigorous imprisonment for life and also with fine.

Punishment for rape or death in consequence of rape (Section 9)

1. If a person commits rape with a woman or a child, he shall be punished with - a) death or b) rigorous imprisonment for life and with fine.

2. If in consequence of rape or any act so raped, died later, the man shall be punished with - a) death or b) with rigorous imprisonment for life and also with fine not exceeding one lac taka.

3. If more than one man rapes a woman or a child and that woman or child dies or is injured in consequences of that rape, each of the gang shall be punished with- a) death or b) rigorous imprisonment for life and also with fine not exceeding one lac taka.

4. If a person attempts on a woman or a child to cause death or hurt after rape, he shall be punished with- a) death or b) rigorous imprisonment for life and also with fine.

5. If a person attempts on a woman or a child try to commit rape, he shall be punished with - a) imprisonment for either description, which may extend to ten years but not less than five years rigorous imprisonment and also with fine.

6. If a woman is raped in the police custody, each and every person, under whose custody the rape was committed and they all were directly responsible for safety of that woman, they shall be punished for failure to provide safety, unless otherwise proved, with - a) imprisonment for either description which may extend to ten years but not less than five years of rigorous imprisonment and also with fine.

Provocation for Suicide (Section 9A)

Whoever, willfully snatch the reputation or character of a woman without her consent and by this directly induce the woman to commit suicide shall commit an offence of inducing suicide and he

shall be punished with - a) imprisonment for either description which may extend to ten years but not less than five years of rigorous imprisonment and also liable with fine.

Punishment for sexual oppression (Section 10)

If a person, to satisfy his sexual urge illegally, touches the sexual organ or other organ of a woman or a child with any organ of his body or with any substance, his act shall be said to be sexual oppression and he shall be punished with - a) imprisonment for either description which may extend to ten years but not less than three years of rigorous imprisonment and also with fine.

Punishment for causing death for dowry (Section 11)

1. for causing death: a) death penalty for attempt for causing death: a) imprisonment for life and also with additional fine, in both case.

2. for causing grievous hurt:

a) imprisonment for life or not exceeding twelve years but not less than five years of rigorous punishment and also with additional fine, in both case;

3. For simple hurt: a) imprisonment not exceeding three years but not less than one year and with additional extra fine with both.[9]

[9] Nari-O-Shishu Nirjatan Daman Ain, 2000 (Act 8 of 2000)

[14th February 2000]

4.2 Constitutional law:

The supreme law of our Bangladesh is the constitution has contains some articles against domestic violence as well as crime. By which it is clear that domestic violence is a reprehensible heinous crime and women will get all kinds of freedom. The article are discussed below:

Socialism and freedom from exploitation (Article 10)

A socialist economic system shall be established with a view to ensuring the attainment of a just and egalitarian society, free from the exploitation of man by man.]

Equality of opportunity (Article 19)

(1) The State shall endeavour to ensure equality of opportunity to all citizens.

(2) The State shall adopt effective measures to remove social and economic inequality between man and man and to ensure the equitable distribution of wealth among citizens, and of opportunities in order to attain a uniform level of economic development throughout the Republic.

(3) [The State Shall endeavour to ensure equality of opportunity and participation of women in all spheres of national life.]

Equality before law (Article 27)

All citizens are equal before law and are entitled to equal protection of law.

Discrimination on grounds of religion, etc. (Article 28)

(1) The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex or place of birth.

(2) Women shall have equal rights with men in all spheres of the State and of public life.

(3) No citizen shall, on grounds only of religion, race, caste, sex or place of birth be subjected to any disability, liability, restriction or condition with regard to access to any place of public entertainment or resort, or admission to any educational institution.

(4) Nothing in this article shall prevent the State from making special provision in favour of women or children or for the advancement of any backward section of citizens.

Right to protection of law (Article 31)

To enjoy the protection of the law, and to be treated in accordance with law, and only in accordance with law, is the inalienable right of every citizen, wherever he may be, and of every other person for the time being within Bangladesh, and in particular no action detrimental to the life, liberty, body, reputation or property of any person shall be taken except in accordance with law.

Protection of right to life and personal liberty (Article 32)

No person shall be deprived of life or personal liberty save in accordance with law.[10]

[10] The Constitution of the People's Republic of Bangladesh (ACT NO. OF 1972)
Last amendment, April, 2016

4.3 Penal code-1860:

The Bangladesh Penal Code of 1860 has many sections that protect women which are mainstream laws. discussing some sections

Cohabitation caused by a man deceitfully inducing a belief of lawful marriage (Section 493)
Every man who by deceit causes any woman who is not lawfully married to him to believe that she is lawfully married to him and to cohabit or have sexual intercourse with him in that belief, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Marrying again during lifetime of husband or wife (Section 494)
Whoever, having a husband or wife living, marries in any case in which such marriage is void by reason of its taking place during the life of such husband or wife, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Exception.- This section does not extend to any person whose marriage with such husband or wife has been declared void by a Court of competent jurisdiction,

nor to any person who contracts a marriage during the life of a former husband or wife, if such husband or wife, at the time of the subsequent marriage, shall have been continually absent from such person for the space of seven years, and shall not have been heard of by such person as being alive within that time provided the person contracting such subsequent marriage shall, before such marriage takes place, inform the person with whom such marriage is contracted of the real state of facts so far as the same are within his or her knowledge.

Same offence with concealment of former marriage from person with whom subsequent marriage is contracted (Section 495)
Whoever commits the offence defined in the last preceding section having concealed from the person with whom the subsequent marriage is contracted, the fact of the former marriage, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Marriage ceremony fraudulently gone through without lawful marriage (Section 496) Whoever, dishonestly or with a fraudulent intention, goes through the ceremony of being married, knowing that he is not thereby lawfully married, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Adultery (Section 497)

Whoever has sexual intercourse with a person who is and whom he knows or has reason to believe to be the wife of anather man, without the consent or connivance of that man, such sexual intercourse not amounting to the offence of rape, is guilty of the offence of adultery, and shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both. In such case the wife shall not be punished as an abettor

Enticing or taking away or detaining with criminal intent a married woman (Section 498) Whoever takes or entices away any woman who is and whom he knows or has reason to believe to be wife of any other man, from that man, or from any person having the care of her on behalf of that man, with intent that she may have illicit intercourse with any person, or conceals or detains with that intent any such woman, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both

Word, gesture or act intended to insult the modesty of a woman (Section 509) Whoever, intending to insult the modesty of any woman, utters any word, makes any sound or gesture, or exhibits any object, intending that such word or sound shall be heard, or that such gesture or object shall be seen, by such woman, or intrudes upon the privacy of such woman, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.[11]

[11] The Penal Code, 1860 (ACT NO. XLV OF 1860)

[6th October, 1860] A.S.M SAIFULLAH

4.4 Dowry prohibition Act-2018:

In September 2018, Parliament passed a new Dowry Prevention Act, 2018, which included 11 additional provisions, some of which were actually enacted to protect women. discussing some sections

Definition of Dowry (Section 2b)

Definition of 'dowry' has been made more precise and wide in the new law. If any amount of money or any other property is directly or indirectly, demanded by either party to marriage or given to one party by the other or agreed to be given before marriage or while solemnization or during continuance of the marital relationship; then it is to be called dowry. The definition scrapped the phrase'valuable security' of the previous law and by adding the phrase 'any other property' broadened its scope of application.

Offences in the Act

Section 3 of the Act says that any direct or indirect demand for dowry by either party from the other will be an offence under the law. Such offence shall be punishable with imprisonment maximum five years but not less than one year or fine not exceeding 50,000 (fifty thousand taka) or with both.

According to **section 4** of the Act, if any party to marriage gives or takes or abets in the giving or taking of dowry, or makes an agreement to give or take dowry then it shall constitute an offence. The punishment for such offence shall be imprisonment up to five years but not less than one year or fine not exceeding 50,000 (fifty thousand taka) or with both. New feature of the provisions of punishment in the new law is that the maximum amount of fine is limited below 50,000, which were unlimited in the equivalent sections of the preceding law.[12]

[12] Dowry prohibition Act of 2018 (ACT NO. XXXLX OF 2018) [1th October, 2018]
An Act to make afresh a time-befitting law by repealing the dowry prohibition Act, 1980

4.5 Child Marriage Restraint Act- 2017:

Child Marriage Restraint Act (CMRA), 2017, makes it a criminal offense to marry or facilitate the marriage of a girl under 18 or a man or boy under 21, but the law is rarely enforced. 48 In 2017, Bangladesh took a major step back in the fight to end child marriage when the government repealed and replaced the CMRA to permit girls under 18 with no specified minimum age to marry under undefined "special circumstances."49 Research demonstrates a strong correlation between child marriage and domestic violence.50 A 2015 Human Rights Watch report based on interviews with 59 Bangladeshi girls and young women who had married before the age of 18 found that physical, emotional, and verbal abuse was common.51 Some of the cases of domestic violence documented in this report were also cases of child marriage. When Nusrat, 34, was 13 she was forced to marry her half-brother. She told Human Rights Watch that he would beat her regularly over the 18 years she was married to him. When she was able to move to Dhaka in 2016 to protect herself and her children, he found her, threw acid in her face, and stabbed her in the head with a knife.52 Bangladesh authorities committed to developing a National Action Plan to Eliminate Child Marriage for 2015-2021 but that has not materialized despite being nearly at the end of the proposed timeline. The government also pledged to end all marriage before age 15 by 2021 and all marriage before age 18 by 2041, pledges that seem unlikely to be met in the absence of a plan.[13]

[13] The child marriage restrain Act, 2017 (Act No. VI of 2017) [14th december, 2017]

An Act to make afresh a time-befitting law by repealing the Child Marriage Restraint Act, 1929

4.6 The acid control Act- 2002

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The acid crime prevention Act 2002:

In 2002 the Bangladeshi Government passed two Acts, **the Acid Control Act 2002** and the **Acid Crime Prevention Acts 2002** (1st and 2nd Act), restricting import and sale of acid in open markets.

Most survivors of acid attacks are women and girls. The most common reasons for attacks on women and girls is the refusal of marriage, the denial of sex, and the sexual rejection of men and boys. It is an expression of control over women's and girls' bodies.

In Bangladesh, where ActionAid works, there have been thousands of acid attacks over the last few years. These include young girls trying to escape forced marriage. In most cases people purposely aim for the face – destroying the eyelids so the eyes remain open – as a woman's face is seen as sacred. Her disfigurement then becomes a public mark of shame, making it hard for her to get married or gain employment.

By harming the face of the survivor, the perpetrator limits their ability to engage in public life and damages their chance of marriage and having children. Acid attacks against women and girls therefore have a multiplied impact because of the reaction of society to the survivor – something that is surely known by the perpetrator prior to the attack.

- **Offence & Remedy**

Punishment for causing death by Acid. (Section 4)

If any person causes death of any other person by acid, such person shall be punished with death or rigorous imprisogment for life and in addition to that shall also be liable to fine not exceeding Taka one lac.

Punishment for causing hurt by acid (Section 5)

If any person causes hurt to any other person in such a way that his– (a) eye sight or hearing power is lost fully or partially or face, breast or sexual organ is defaced or destroyed, such person shall be punished with death or rigorous imprisonment for life and in addition to that shall also be liable to fine not exceeding Taka one lac;

(b) any other organ, ligament or part of the body is deformed or destroyed or any part of the body is injured, such person shall be punished with rigorous imprisonment for not more than fourteen years but not less than seven years and in addition to that shall be liable to fine not exceeding Taka fifty thousand.

Punishment for throwing or attempting to throw acid.(Section 6)

If any person throws or attempts to throw acid to any other person, he shall be punished with rigorous imprisonment for not more than seven years but not less than three years and in addition to that shall also be liable to fine not exceeding Taka fifty thousand though for his such activities the person is not affected physically, mentally or in any other way.

Punishment for abetment.(Section 7)

If any person abets any offence under this Act and the offence abetted is committed or attempt is made to commit the offence, the person abetting or attempting to commit the offence shall be punished with imprisonment provided for committing or attempting to commit the offence.[14]

[14] The Acid Control Act 2002 (Act No. I of 2002) [17th march 2002]
the Acid Crime Prevention Acts 2002 (Act No. II of 2002) [17th march 2002]

❖ CHAPTER-5

DOMESTIC VIOLENCE IN THE LENS OF INTERNATIONAL LAW

5.1 Universal declaration of human right (UDHR):

The international law has prescribed prevention and protection of women from various forms of violence all along, The **Universal Declaration of Human Rights (UDHR)** is a milestone document in the history of human rights. Drafted by representatives with different legal and cultural backgrounds from all regions of the world, the Declaration was proclaimed by the United Nations General Assembly in Paris on 10 December 1948 (General Assembly resolution 217 A) as a common standard of achievements for all peoples and all nations. It sets out, for the first time, fundamental human rights to be universally protected and it has been translated into over 500 languages. The UDHR is widely recognized as having inspired, and paved the way for, the adoption of more than seventy human rights treaties, applied today on a permanent basis at global and regional levels (all containing references to it in their preambles). it has always failed to mandate specific actions from States.Despite the Universal Declaration of Human Rights (UDHR) prescribing human rights for all, it was not until 1993 that women's rights were finally recognized as human rights. The Declaration on the Elimination of Violence against Women recognized the "urgent need for the universal application to women of the rights and principles with regard to equality, security, liberty, integrity and dignity of all human beings." It stipulates for states to "exercise due diligence to prevent, investigate, and in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the State or private persons." I am mentioning some article of (UDHR)

Article 2

Everyone is entitled to all the rights and freedoms set forth in this Declaration,without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political,jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

Article 3

Everyone has the right to life, liberty and security of person.

Article 6

Everyone has the right to recognition everywhere as a person before the law.

Article 7

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination

Article 8

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law. or punishment.[15]

[15]Universal Declaration of Human Rights, G.A. Res. 217 (III) A, U.N. Doc. A/RES/217(III) (Dec. 10, 1948).

5.1 Convention on the Elimination of All Forms of Discrimination against Women (CEADW):

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), adopted in 1979 by the UN General Assembly, is often described as an international bill of rights for women. Consisting of a preamble and 30 articles, it defines what constitutes discrimination against women and sets up an agenda for national action to end such discrimination.

The Convention defines discrimination against women as "...any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field."

By accepting the Convention, States commit themselves to undertake a series of measures to end discrimination against women in all forms, including:

- to incorporate the principle of equality of men and women in their legal system, abolish all discriminatory laws and adopt appropriate ones prohibiting discrimination against women;
- to establish tribunals and other public institutions to ensure the effective protection of women against discrimination; and
- to ensure elimination of all acts of discrimination against women by persons, organizations or enterprises.

The Convention provides the basis for realizing equality between women and men through ensuring women's equal access to, and equal opportunities in, political and public life -- including the right to vote and to stand for election -- as well as education, health and employment. States parties agree to take all appropriate measures, including legislation and temporary special measures, so that women can enjoy all their human rights and fundamental freedoms.

I am mentioning some article of (CEADW)

Article 1

For the purposes of the present Convention, the term "discrimination against women" shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.

Article 2

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 3

States Parties shall take in all fields, in particular in the political, social, economic and cultural fields, all appropriate measures, including legislation, to en sure the full development and advancement of women , for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.

Article 4

1. Adoption by States Parties of temporary special measures aimed at accelerating de facto equality between men and women shall not be considered discrimination as defined in the present Convention, but shall in no way entail as a consequence the maintenance of unequal or separate standards; these measures shall be discontinued when the objectives of equality of opportunity and treatment have been achieved.

2. Adoption by States Parties of special measures, including those measures contained in the present Convention, aimed at protecting maternity shall not be considered discriminatory.[16]

[16] Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).
Adopted and opened for signature, ratification and accession by General Assembly resolution 34/180 of 18 December 1979

5.2 International covenant on civil and political right (ICCPR):

The International Covenant on Civil and Political Rights was adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966. It took another 10 years before the necessary 35 States had become parties to it and it formally entered into force for those States on 23 March 1976, in accordance with Article 49.

This covenant and the **ICESCR** build on the rights in the Universal Declaration of Human Rights. Together, the Universal Declaration and these two Covenants form the **International Bill of Human Rights**

How does it protect people?

The ICCPR aims to ensure the protection of civil and political rights including:

- Freedom from discrimination
- Right to equality between men and women
- Right to life
- Freedom from torture
- Freedom from slavery
- Right to liberty and security of person
- Right to be treated with humanity in detention
- Freedom of movement
- Freedom of non-citizens from arbitrary expulsion
- Right to fair trial
- Right to recognition before the law
- Right to privacy
- Freedom of religion and belief
- Freedom of expression
- Right of peaceful assembly
- Freedom of association
- Right to marry and found a family
- Right of children to birth registration and a nationality

- Right to participate in public affairs
- Right to equality before the law
- Minority rights[17]

Article 7 of the International Covenant on Civil and Political Rights (ICCPR) states that ‘’No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation’’[18]

[17] Availeble at https://www.ohchr.org/en/treaty-bodies/ccpr/background-international-covenant-civil-and-political-rights-and-optional-protocols

[18] The International Covenant on Civil and Political Rights was adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966.

5.3 The unitet nation (UN):

The international conventions and treaties have increased global awareness on the issue of domestic violence. The United Nations (UN) has even taken notice of domestic violence as a growing problem in the world as evidenced through recent UN Conference Documents.20 Perhaps the most significant document emerged from the UN Secretary General's office in 2006.

Violence against women was drawn out of the private domain into public attention and the arena of State accountability largely because of the grass-roots work of women's organizations and movements around the world. This work drew attention to the fact that violence against women is not the result of random, individual acts of misconduct, but rather is deeply rooted in structural relationships of inequality between women and men. The interaction between women's advocacy and United Nations initiatives has been a driving factor in establishing violence against women as a human rights issue on the international agenda. There has been significant progress in elaborating and agreeing on international standards and norms. International and regional legal and policy instruments have clarified the obligations on States to prevent, eradicate and punish violence against women. However, States around the world are failing to meet the requirements of the international legal and policy framework.[19]

[19] U.N. Secretary-General, Ending Violence against Women: From Words to Action: Study of the Secretary General (Oct. 9, 2006), http://www.un.org/womenwatch/daw/vaw/launch/english v.a.w-exeE-use.pdf

5.4 Unicef:

"Violence against women is a manifestation of historically unequal power relations between men and women, which have led to domination over and discrimination against women by men and to the prevention of the full advancement of women..." The United Nations Declaration on the Elimination of Violence against Women, General Assembly Resolution, December 1993.

The definition put forth by the United Nations International Children's Emergency Fund (UNICEF) seems to capture broader issues as well as specific ones. It includes: [V]iolence perpetrated by intimate partners and other family members, and manifested through: Physical abuse such as slapping, beating, arm twisting, stabbing, strangling, burning, choking, kicking, threats with an object or weapon, and murder.22 Sexual abuse such as coerced sex through threats, intimidation or physical force, forcing unwanted sexual acts or forcing sex with others. Psychological abuse which includes behavior that is intended to intimidate and persecute, and takes the form of threats of abandonment or abuse, confinement to the home, surveillance, threats to take away custody of the children, destruction of objects, isolation, verbal aggression and constant humiliation. Economic abuse includes acts such as the denial of funds, refusal to contribute financially, denial of food and basic needs, and controlling access to health care, employment etc.23 This definition is comprehensive and takes into consideration all aspects of violence.[20]

[20] UNICEF, Domestic Violence, (Innocenti Digest no. 5,6)

CHAPTER-6

SUMMARY OF FINDINGS

6. Recommendations:

- I think the root cause of family domestic violence is gander- based violence . Improve access to services for victims of gender-based violence, including by establishing an adequate number shelters accessible to all survivors—at least one in every district— and providing survivors with financial support, housing, legal assistance, support services, counseling, and health and mental health services.
- Safe at home models are premised on the fact that the perpetrator of the violence should beheld accountable for their actions and removed from the family home, thereby not penalizingthe women leaving the violence means having to leave home; Staying at home is not safe forwomen; and The perpetrator of the violence will not leave the family home and The program includes risk assessment, safety planning and upgrading security in the victim's home, court support, liaison with police and other services, referrals to legal advice and counseling toaddress financial and other issues children for the violence against them.
- Develop and implement strategies to recruit and retain more female police officers, prosecutors, and judges
- Shelters and the Continuum of Support. the need to increase social housing options for women in domestic violence relatedhomelessness was the overriding discussion point in most consultations, with options neededin both traditional public housing and also in community housing the role of these serviceshas changed considerably over time. Shelters have developed from small scale services (somewere just a single building, house or flat) to what are now often 'a complex set ofadministrative arrangements, buildings, and support and housing arrangements'. They provide a range of services such as safety planning, offering children's programs, andoffering women's support groups and other specific programs for women such as homesupport and housing advocacy.

- Reform Judiciary Process .Reforms in the Police Department and judicial processes which place constraints on womenfrom accessing justice. Women police should be trained to deal with women facing domesticviolence so that women could feel safe and protected Indeed the presence of a nurse ordoctor in the police department team would facilitate a pleasant environment for the sufferer
- Recreational Programs. Government should develop recreational programs like family parks, and other entertaining places where women along with their family can enjoy and relax.
- Educational programs. in all societies and cultures, both for women and men at the samelevels. There should be enough opportunities of employments and participation in political parties along with security and safety for women and the seat allocation for recruitments of both genders should be considered on equality grounds. More funds should be allocated towomen's development in the country
- Amend the Dowry Prevention Act, 2018 to remove section 6 criminalizing false allegations about dowry demands, or at least reduce consequences for such a charge, and amend section 4—which equally criminalizes both giving and receiving of dowry—such that only receiving dowry is illegal.
- Revise the Child Marriage Restraint Act to set the minimum age of marriage at 18 for women and men with no exceptions. Until this is done, adopt regulations to mitigate harm from the Child Marriage Restraint Act 2017 permitting girls under age 18 to marry under "special circumstances." Draft these regulations in close consultation with organizations working on child marriage and on children's rights.
- Consult with Bangladeshi women's rights activists and legal experts to draft and enact a law to protect victims and witnesses. These measures should include a program for the relocation of at-risk witnesses, non-disclosure or limitations on the disclosure of information concerning the identity and whereabouts of witnesses, and evidentiary rules that permit witness testimony to be given in a manner that protects against harassment, intimidation, or coercion of the witness while upholding the fair trial rights of the accused.
- Provide Separate Courts to Hear DV Cases. This may involve giving a particular magistrate's court sole responsibility for case under the DVPP Act in a particular District. Suggestions have been made for family courts to be given jurisdiction, but doing so may

limit the scope of relief that may be available, based on thereligious laws applicable to the parties. Trying DV cases in a separate court will reduce thetime to process the cases, given the backlog of cases in the magistrate and metropolitancourts.

However, the magistrate court environment is not particularly woman- and child-friendly, unlike the family court. A shift in focus could change that

6.1 Conclusion:

Domestic violence has become a major problem in our Bangladesh due to which many women are forced to take heinous steps like suicide. We all need to be aware of this domestic violence in Bangladesh is a major concern of development interventions as well asin human rights perspectives. The paper confirms than since domestic violence against women impediments women's well-being and over all development, i.e. it has directconse quences for women's health, physical, mental, sexual, and reproductive as well as economic costs, and afterwards adverse effects on psychological development of children.

A coordinated effort for practical and efficient interventions needs to be made to eliminate this problem where men's supremacy over women needs to be challenged. In Bangladesh most of the women experience violence at the hands of an intimate partner or family memberin her life time. To combat against this violence, the present law should be well implemented.Social awareness raising efforts need to be introduced. Educational programs should focus on patriarchal social norms that perpetuate domestic violence. Increased research on domesticviolence can also contribute in addressing the problem identifying crucial factors or interventions.Simultaneously, media has a prominent role to play in preventing the violence. Electronic and print media both need to cover both extreme and general cases and present it in an objective manner.

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