

Eradicating of Domestic Violence against women: a Comparative Study on Legal Framework between Sri Lanka and Bangladesh

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***Abstract:** Violence against Women (VAW), in general, and Domestic Violence against Women (DVAW), in particular, is a significant social problem. The United Nations defines violence against women (VAW) as "any act of gender-based violence that results in, or is likely to result in, physical, sexual or mental harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life". It is one of the most pervasive of human rights violations: denying women equality, security, dignity, self-worth, and their right to enjoy fundamental freedoms. Domestic Violence against Women (DVAW) means the violence by an intimate partner or by other family members. Common forms of domestic violence include battery, rape and even murder at the hands of intimate partners. Other crimes of violence against women include forced pregnancy, abortion or sterilization, and harmful traditional practices such as dowry-related violence, and killings in the name of honor. Women are in excessive risk at home; the home where they should feel secure. DVAW has a long lasting bad impact on women's physical and mental health and even on their children's. DVAW is common almost everywhere in the world and particularly more prevalent in some countries or parts of the world, often in developing countries; for example the associations of dowry violence and bride burning with countries such as Bangladesh and some regions of South-Asian countries so on. Women are half of the population in both Bangladesh and Sri Lanka. Nowadays, women play an important role in a countries economy therefore being unable to secure them from such violence hampers the overall development of the country. There are some laws both in Bangladesh and Sri Lanka for preventing DVAW, for example Domestic Violence (Protection and Prevention) Act 2010 in Bangladesh and Prevention of Domestic Violence Act 2005 for Sri*

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Lanka. But these laws are failing in eradicating the DVAW. This study will try to conduct a comparative legal study between the laws for preventing DVAW of two countries: to find out the loopholes in the laws and to make a way out of this situation briefly in legal framework; however this study may not be focusing on other sociological perspectives of DVAW.

Key Words: Violence, Domestic Violence Against women, Intimate Partner, Legal Framework

I. Introduction:

In both Bangladesh and Sri Lanka; domestic violence against women has occurred at a shocking rate. In Bangladesh, the rate of domestic violence against women is alarming. The Bangladesh Bureau of Statistics (BBS) made a report on Violence Against Women on 2015. The survey said that 72.6% of ever-married women suffered one or more forms of abuse (bodily, sexual, financial, and emotive abuse, and threatening behavior) by their intimate partner at least once in their life.(BBS,2016, P 15)

On the other hand, violence against women is also a problem in Sri Lanka. Domestic violence against women by intimate partner violence (IPV) (both physical and sexual) is considered the most common (Colombini at al., 2018). A new assessment on intimate partner violence in Sri Lanka says that IPV occurrence from 20% to 72%. In the latest survey says that 25–35% of women have experienced domestic violence during their lifetime(Colombini at al., 2018).

It is notable that domestic violence has been straight connected to several kinds of immediate and long-term bodily and mental injury to women. Domestic violence is increasingly being recognized not only as an matter of human rights but also as a grave health anxiety. Both Bangladesh and Sri Lanka are developing countries in the world and its estimated prevalence rate of domestic violence against women is extremely high, therefore it is “an obstacle to the achievement of equality, development and peace”. Doza (2013) reports that domestic Violence against Women is the most obvious gender-specific violation of Human Rights, and is a form of discrimination against women (Doza, 2013).

Comparing legal systems involves, at least to some degree, exploring both similarities and differences (Gerhard, 2006). Comparative research is still mainly about comparing national legal systems, even if different forms of globalization (Hoecke, 2015). By comparative legal research how much a country has been developed and aware in legal sector can be found (Mizanur, 2012). That is why it is important to have similarities between the countries on which the comparison will be made (Mizanur, 2012). To perform the comparative legal research we have fixed some parameters on which we will do the comparison between Bangladesh and Sri Lanka. Those are:

- a) Source of power
- b) Socio Economic Condition
- c) Constitution
- d) Rule of Law
- e) Government
- f) Organs of state
- g) Judiciary

Comparison on	Bangladesh	Sri Lanka
Source of power	People	People
Socio Economic Condition	Developing	Developing
Constitution	Written	Written
Law	Common Law origin.	Common Law Origin.
Government	People's Republic of Bangladesh (Elected)	Unitary semi-presidential constitutional republic (elected)
Organs of State	Legislative, Executive, and Judiciary	Legislative, Presidency, Executive, Judiciary, Supervisory.
Judiciary	Common law	Common law

Figure 1: Parameters of comparison between Bangladesh and Sri Lanka . This table is created by the authors inspired by Dr. Mizanur(Mizanur, 2012).

It is seen that Sri Lanka has many similarities with Bangladesh, therefore it is reasonable to compare Bangladesh with Sri Lanka.

The objectives of the study are as follows:

- a) Focus about the overall domestic violation against women and their situation in both the countries.
- b) Highlight on the laws and legal framework of both Bangladesh and Sri Lanka regarding protection of violation against women.
- c) Compare between the laws of both Bangladesh and Sri Lanka regarding the aforesaid issue.
- d) Give recommendations to both countries to develop laws and legal framework for protection of women from domestic violence.

Methodology:

Study Design and Data Collection:

The research question of this paper is whether existing laws of the country are sufficient to protect the violation against women?

Both qualitative and quantitative approaches are used for completing the research.

Required data are collected from secondary sources. The secondary data are collected from relevant books, journal articles, research reports, official publications etc.

In this study the authors tried to conduct a comparative legal study between the laws for eradicating DVAW of two countries, to find out the reasons of this failing situation of legal framework and to find a way out of this situation by suggesting a solution in a legal framework; however this study may not be focusing on other sociological perspectives of DVAW. This study only focused on Bangladesh and Sri Lanka. Additionally, this study focused the laws and legal systems of both Bangladesh and Sri Lanka relating to protection of violation of domestic violence. This study doesn't focus on the role of other organ's to address or rectify these issues. Domestic violence against women is used as a violence or abuse by an intimate partner to a woman. All kinds of domestic violence will not be discussed here.

Specifically, this paper tried to find out the gap of the laws (*Gap Analysis*) .i.e. defining the legal term in the legislations, jurisdiction of the court, the procedure and so on.

Findings and Discussions :

Generally Domestic violence, also known as “domestic abuse, spousal abuse, battering, family violence, and intimate partner violence, is defined as a pattern of abusive behaviors by one partner against another in an intimate relationship such as marriage, dating, family, or cohabitation. According to (World Health Organization [WHO], 2012) Domestic violence, defined, has many forms, including physical aggression or assault (hitting, kicking, biting, shoving, restraining, slapping, throwing objects), or threats of; sexual abuse; emotional abuse; controlling or domineering; intimidation; stalking; passive/covert abuse (e.g., neglect); and economic deprivation” (Department of Reproductive Health and Research WHO, 2013). Awareness, perception, definition and documentation of domestic violence differ widely from country to country, and from era to era.

Domestic violence and abuse is not limited to obvious physical violence. Domestic violence can also mean endangerment, criminal coercion, kidnapping, unlawful imprisonment, trespassing, harassment, and stalking.

Declaration on the Elimination of Violence against Women is an international instrument. Articles 1 and 2 of the Declaration on the Elimination of Violence against Women provide the most widely used definition of violence against women.

According to Article 1 of the Declaration on the Elimination of Violence against Women (1993), the term "violence against women" means any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.

Article 2 of the Declaration elaborate the scope of the term of violence against women further and is understood to encompass, but not be limited to, the following:

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

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

(c) Physical, sexual and psychological violence perpetrated or condoned by the State, wherever it occur (Declaration on the Elimination of Violence against Women, 1993).

Domestic Violence Prevention and Protection Act (2010) of Bangladesh defined Domestic Violence in its section” 3. According to the Act, Domestic violence can occur in 4 ways:

1. Physical
2. Psychological
3. Sexual
4. Economical (Domestic Violence Prevention and Protection Act, 2010)

According to this Act of 2010 ,domestic violence includes physical cruelty, psychological abuse, sexual exploitation or economic abuse against a woman or a child of a family by any other person of that family with whom the victim is, or has been in a family affiliation. In this purpose, "Physical cruelty" means any act or behaviors which is of such a nature which cause bodily discomfort, injury, or risk to life, limb, or health or harm the health or growth of the victim and comprises physical attack, criminal intimidation and criminal force."Psychological abuse" will include (I) oral abuse including insults, mockery, dishonor, insults or intimidations of any nature; (II) harassment; or (III) controlling behavior, such as limits on movement, communication or individualism."Sexual abuse" means, any behavior of a sexual nature that abuses, chastens, destroys or otherwise interrupts the self-respect of the victim."Economic abuse" comprises, (I) rejection of all or any monetary or economic properties which the victim is eligible under any law or custom and any other competent authority; (II) not allowing the consumption of goods which are of a daily requirement to the victim; (III) deprivation or barring the victim from accessing lawful privileges i.e. stridhan, dower, alimony and any consideration for marriage or any property possessed by the victim; (IV) eliminating authorization of the victim or barring the victim from taking legal rights to any properties whether movable or immovable which are owned by her; (V) deprivation or omission of the victim from getting legal rights to continued access to properties or services which the victim is entitled to consume or enjoy by virtue of the domestic relationship.

On the other hand, in Sri Lanka, the term domestic violence has been defined in section 23 of the Prevention of Domestic Violence Act (2005), “domestic violence” includes (a) an act which constitutes an offence specified in Schedule I;

According to schedule I, following offences will be considered as violence under this Act:

1. All offences delimited in Chapter XVI of the Penal Code.
2. Extortion-Section 372 of the Penal Code.
3. Criminal Intimidation-Section 483 of the Penal Code.
4. Try to commit any of the above mentioned offences.
5. Any emotive abuse committed or caused by a related one within the atmosphere of the home or outdoor and arising out of the personal connection between the aggrieved person and the relevant person.

This section provides insight in the Act and clarifies terms such as, “emotional abuse”, “shared resources” and “relevant person”

According to this section, “emotional abuse” is defined as a design of harsh, merciless, degrading or humiliating act of a grave nature directed to an injured person .“Shared resources” explained movable or immovable property which both the injured person and the accused have usually used or have had access to. “Relevant person” will include the aggrieved person i.e. (I) the spouse; (II) ex-spouse; (III) sharing partner, of an injured person; and others.

Consequences of domestic violence against women:

(WHO, 2012) says the consequences of DVAW encompass from the corporeal to emotional to social and economic realms. Violence can cause massive mental suffering to victims, most often seen in the form of anxiety and sadness (Kumara et al., 2013). It can also harshly confine their ability and desire to join in social and economic life. The cost of violence-related injury to important numbers of young females is still in a slower pace of progress at individual, family and even nationwide levels.

DVAW affects children:

Campbell and Lewandowski (1997) states, violence between parents distresses children in many ways. It scares them to see the father hitting the mother or the mother being ill-treated and harassed by the father. A childhood of an individual who has undergone such shock struggling

against the ache of starvation; dishonor and violence often turn into upsetting and distressed individuals who spend their lives in similar patterns of survival.

DVAW creates physical and psychological problem:

Violence also affect women's' health.

Department of Reproductive Health and Research , WHO (2013) states, death and numerous kinds of injury are the most significant health consequences of DVAW. A amount of diverse physical and psychological signs and even severe illnesses are connected to violence: pelvic infections, abortions, infertility, lingering pains, gastrointestinal illnesses and signs characterized as post-traumatic stress syndrome, including depression and suicide attempts (Department of Reproductive Health and Research WHO, (2013).

Most of the physical wounds suffered by women were bruises and welts which cured rapidly without any medical care (Sheridan & Nash, 2007). However, the psychological consequence on the other hand, was much more deep and harmful (WHO, 2012). With repeated beatings over time sufferers suffer from fear, pain, disgrace, weakness and bitterness against the abuser (WHO, 2012).

Violence during Pregnancy/Motherhood

Women who undergo violence during pregnancy period may indeed experience greater rates of fetal and infant loss than women who do not face such circumstances; for such reasons as delayed seeking of health-care facilities, disregard, and helplessness (Silverman at al., 2007).

Violence against Women and Human Rights

Violence against women is considered as a violation of human rights. In the event a woman has undergone physical or emotional abuse from an intimate partner, she could claim for the violations of the following international human rights responsibilities of States:

- Liberty from gender-based violence (ICESCR ,16 December 1966).
- Discrimination against women (CEDAW, General Recommendation No. 12 , Art 19).
- The right to a family (ICCPR, 1966, Art 18, 19).
- Freedom from torture and right to humane treatment (CAT, Recommendation No.2 and ICCPR, Art 7).

Statistical overview of domestic violence against women both in Bangladesh and Sri Lanka:

In 2015 the Bangladesh Bureau of Statistics (BBS) stated that 74 % of women victimized or were likely to face abuse from an intimate partner at least on one occasion in their life time . According to a survey on Violence Against women in Bangladesh on 2011, around 87% of married women have experienced some type of violence by their current spouse and 77% reported some type of violence faced during the past 12 months from the survey time (Alamgir, 2014, P 1). The highest percentage of the type of violence faced by women is predominantly contributed by psychological violence. Almost 90% of those who have ever been violated by their current husband has had faced their problems in the past 12-months, which implies the persistent nature of violence by the husband. 65% of married women reported that they had experienced physical violence committed by their current husbands during their lifetime (Alamgir, 2014, P1).

At the same survey, it further mentions that, about half of the married women have experienced economic violence while one third of them has experienced it in the past 12 months. The prevalence seems a little bit higher in rural areas than urban. Older women seem to be less likely to have experienced such violence. About one third of women (33.7%) have paid dowry for the current marriage (Alamgir, 2014).

DVAW is happening in Bangladesh in many forms like physical violence, dowry related violence, acid attack by family members, murder and so on.

Comparative Frequency of different forms of violence by year

Year	Acid Throwing	Dowry	Seriously injured	Others
2015	46	6595	277	8652
2016	20	5278	145	7562
2017	5	4125	85	6999

Figure 2: Cases of Reported in Bangladesh on Violence against Women by Categories between 2015-2-17 (BBS,2018, P143-146)

A survey was conducted on 2016 in Sri Lanka. According to that survey, in Sri Lanka, 17% of every married women aged 15-49 have suffered from domestic violence from their intimate partner (Demographic and Health Survey, Sri Lanka 2016). The patterns of the violence are different i.e. offending victim, slapping, beating etc. According to that survey, the most predominant type of violence identified was “belittling or seriously offending the victim” with more than 75% of women who suffered from this form of domestic violence, followed by “Slapped, beaten, or thumped the victim” (45 %), and “pushed or shoved the victim” with 33 % (Demographic and Health Survey, Sri Lanka 2016).

Type of Violence	Daily	Weekly	Monthly	Less often	Total
Slapped/Beaten/Thumped	3.0	4.8	22.3	15.1	45.2
Pushed/shoved	2.4	4.2	12.7	12.7	32.5
Tried to Strangulate	1.8	1.8	4.8	4.8	13.3
Dragged/Pulled	1.2	2.4	5.4	7.2	16.3
Beat with an Object	1.2	2.4	4.2	6.0	13.3
Burned	1.2	0.6	0.6	1.8	3.0
Prevented Leaving Home	-	2.4	6.6	9.6	19.9
Forced to have sex	3	3.0	3.0	6.0	15.1
Belittle/Seriously Offended	10.8	6.6	24.1	33.7	75.3
Any Type of violence	12.7	15.1	47.6	66.9	100

Figure 3 : Percentage of every married women aged 15-49 who have experienced various forms of violence in the 12 months preceding the survey in Sri Lanka, committed by their intimate partner.

(Demographic and Health Survey, Sri Lanka 2016, P 201).

In addition to these, the survey also says, the women from urban area have suffered more violence (20%) than the women in the other counterparts of the country (16% of the rural and 17% of estate counterparts) (Demographic and Health Survey, Sri Lanka 2016)..

Existing Legal framework of Bangladesh and Sri Lanka to prevent domestic violence against women:

To ensure the protection of women's rights, the Convention for the Elimination of All Forms of Discrimination against Women (CEDAW) was adopted by the United Nations on December 18, 1976 and entered as an international treaty on September 3, 1981. The convention aims to promote women's equal status and rights in the areas of domestic violence, reproductive rights, legal and political rights, among others. Bangladesh is one of the 160 countries which signed their commitments to the said convention. On the 6th of November 1984, Bangladesh ratified CEDAW with reservations on Articles 2 (CEDAW, General Assembly resolution 34/180, 1979, Art 2), 13. [a] (CEDAW, General Assembly resolution 34/180, 1979, Art 13 (a) , 16.1[c] (CEDAW, General Assembly resolution 34/180, 1979, Art 16.1(c) and [f] (CEDAW, General Assembly resolution 34/180, 1979, Art 16.1(f) , on the basis of religious sentiments. While the Government feels that these provisions conflict with religious Islamic laws, women feel these reservations infringe upon the protection and promotion of their rights. On 23 July 1997, the Government of Bangladesh notified the Secretary-General that it had decided to withdraw the reservation relating to Articles 13(a) and 16(1) (f) made upon accession.

The 1993 World Conference on Human Rights recognized violence against women as a human rights violation and called for the appointment of a Special Rapporteur on violence against women in the Vienna Declaration and Programme of Action. It contributed to the 1993 Declaration on the Elimination of Violence against Women (Declaration on the Elimination of Violence against Women, 1993).

The 1993 Declaration on the Elimination of Violence against Women became the first international instrument explicitly addressing violence against women and provided a framework for national and international action. The Declaration defines violence against women as any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life (Declaration on the Elimination of Violence against Women, 1993).

The constitution of the People's Republic of Bangladesh is very much in consonance with the principles of equality and non-discrimination between men and women that entail in different articles of the constitution. Article 17 (a) (Constitution of People's Republic of Bangladesh, PART II) speaks for equal access of men and women to free and compulsory education up to the level decided by law. Article 27 (Constitution of People's Republic of Bangladesh PART III) tells about the equality of all citizens before law and equal protection under law.

Article 28 elaborately emphasizes on no discrimination on grounds of religion, race, caste, sex or place of birth 28 (1) (Constitution of People's Republic of Bangladesh PART III), FUNDAMENTAL RIGHTS, Art 28(1) "The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex or place of birth..." (Constitution of People's Republic of Bangladesh PART III) ; equal opportunity for men and women in all spheres of state and public life 28(2) (Constitution of People's Republic of Bangladesh PART III) ; no discrimination on grounds only of religion race, caste, sex or place of birth in providing access to any place of public entertainment or resort, or admission to any educational institution 28(3) (Constitution of People's Republic of Bangladesh PART III) ; and Article 29(1) (Constitution of People's Republic of Bangladesh PART III) highlights on equal opportunity for all citizens in respect of employment or office in the service of the Republic. While for women participation in politics and policy process Article 65(3) states that 45 seats are reserved exclusively for women members in accordance with law.

As a state bound by United Nations Convention on the Elimination of All Forms of Discrimination against Women 1979 (CEDAW) and Convention on the Rights of the Child 1989 and to establish equal rights for women and children to prevent domestic violence, to ensure the protection of women and children from domestic violence and related matters enacted into the law in Bangladesh Government enacted by the law of Domestic Violence (Prevention and Protection Act 2010 (Domestic Violence (Protection and Prevention) Act, 2010 (Act 58 of 2010).

The Domestic Violence (Prevention and Protection) Act, 2010 was enacted exclusively addressing domestic violence in Bangladesh but the law itself recognized its weakness in section 35 of the Act describing that the provisions of this Act shall not in derogation of the provisions of any other law, for the time being in force. From section 35 of this Act it is clear that if this Act

is inconsistent with other statutory laws of Bangladesh then in that case other laws shall prevail over it. Though this law is special in nature and exclusively deals with domestic violence, the very subject matter of this law is unique for the reason that this law works as an auxiliary law with other laws operating as principle laws.

In section 3 the Act of 2010 provides a specific definition of domestic violence against women but the definition is not clear as other statutory laws. According to section 3, physical torture is defined as, “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.”

In chapter VI, the Act illustrates two types of punishment: one is for breach of protection order (Domestic Violence (Protection and Prevention) Act, 2010 (Act 58 of 2010), s30) and another one is for false complaint (Domestic Violence (Protection and Prevention) Act, 2010 (Act 58 of 2010), s32). For breach of protection order by the respondent shall be an offence under this Act and shall be punishable with imprisonment which may extend to 6(six) months, or with fine which may extend to 10(ten) thousand Taka, or with both and repetition of any offence shall be punishable with imprisonment which may extend to 2(two) years, or with fine which may extend to 1(one) lakh Taka, or with both and complaint, shall be punishable with imprisonment which may extend to 1(one) year , or with fine which may extend to 50(fifty) thousand Taka, or with both. But most interesting thing is that the law provides punishment only for the violation of protection order under section 14 of the Act not for committing domestic violence directly. This Act did not provide any direct punishment for committing domestic violence to the victims of domestic violence.

According to section 29 of this Act, the offence committed under this Act shall be cognizable, bailable and compoundable. But there is no specific indication which court will cognize the offences under this Act. In this respect, Government of Bangladesh makes a rule for delegation this power. According to section 36 the Government may, by notification in the Official Gazette, make rules for the purpose of carrying into effect the provisions of this Act. Even today there is no such rule published by the Government.

Chapter-Three (Domestic Violence (Protection and Prevention) Act, 2010 (Act 58 of 2010), Chapter-Three, s 4-9) states duties and responsibilities of police officer, enforcement officer and service provider, Chapter-Four (Domestic Violence (Protection and Prevention) Act, 2010 (Act 58 of 2010), Chapter-Three, s 10-19) describes rights of victim and remedies, Chapter-Five (Domestic Violence (Protection and Prevention) Act, 2010 (Act 58 of 2010), Chapter-Three, s 20-28) discusses disposal of application, trial, and appeal, and finally Chapter-Six (Domestic Violence (Protection and Prevention) Act, 2010 (Act 58 of 2010), Chapter-Three, s 29-32) describes offence and punishment.

Apart from the Domestic Violence (Prevention and Protection) Act 2010, the offences relating to DVAW of Bangladesh is triable by the following laws of the Country-

- i. The Suppression of Violence Against Women and Children 2000 Act, (Amended in 2003)
- ii. The Child Marriage Restraint Act 1929
- iii. The Dowry Provision Act 1980
- iv. The Acid Crimes Control Act 2002
- v. The Speedy Trial Tribunal 2002
- vi. Penal Code, 1860

On the other hand, women rights are also guaranteed by the Constitution of Sri Lanka. Chapter III of the Constitution of Sri Lanka gives the protection of fundamental rights (THE CONSTITUTION OF THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA, Chapter III). Article 12 of Chapter III identifies the right to equality and equal protection of the law as well as the right to protection from discrimination on certain specified grounds, including sex. Any person, whose right to equality is violated, under this Article, by either executive or administrative action, can file a Fundamental Rights Application (FR) in the Supreme Court (THE CONSTITUTION OF THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA, art 12).

Article 12(3) also provides that a distinctive provision to promote fundamental equality can be made by law, regulations, or administrative action for the advancement of women. The only drawback of this clause is that women are not provided the provision independently; instead, it is

inclusive of women, children, and disabled persons(THE CONSTITUTION OF THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA, art 12).

Prevention of Domestic Violence Act, 2005 has 23 sections and two schedules. In its first schedule, the domestic violence has been tried to be clarified (see section 23) and in its second schedule a format of the application has been incorporated (see section 2.3) by which an aggrieved party can apply to the court for a protection order.

In its section 23 the definition of domestic violence has been defined (discussed earlier) and other related definition has been well defined.

According to section 3, it has been definite who will be the aggrieved person under this Act.

One of the important features of this Act is issuing an interim protection order. The Procedure for the issue or refusal of an Interim Protection Order has been discussed in the section 4-11)

,Section 12 of this Act says about Supplementary Orders.

The Act has been tried to clarify the details procedures .i.e. Orders made with consent of parties, Variation or revocation of a Protection Order (Prevention of Domestic Violence Act, No. 34 of 2005, s23-26).

The aggrieved party has also the right of appeal. The Right of Appeal is explained in section (Prevention of Domestic Violence Act, No. 34 of 2005, s23-26).

Chapter XVI of the Penal Code deals with the offences affecting the human body which affecting life, following acts are considered as the punishable offences under the Act:

Culpable homicide (Penal Code, Ordinance No. 2 of 1883, s 293), murder (Penal Code, Ordinance No. 2 of 1883, s 294), culpable homicide by causing the death of a person other than the person whose death was intended (Penal Code, Ordinance No. 2 of 1883, s 295), causing death by negligence (Penal Code, Ordinance No. 2 of 1883), s 298), abetment of suicide (Penal Code, Ordinance No. 2 of 1883), s299), attempt to murder (Penal Code, Ordinance No. 2 of 1883,s 301), attempt to commit culpable homicide.

Comparative Analysis of legal issues between Bangladesh and Sri Lanka:

The authors have tried to figure out some gaps in the existing legal framework for prevention domestic violation against women in both countries. It seems that, both the countries have laws but do have some gaps to a certain extent. The loopholes are discussed below:

- **Regarding the definition of Domestic Violation:** In Bangladesh the Domestic Violence (Prevention and Protection) Act 2010 defines domestic violence. According to the meaning of this Act, domestic violence may be in three forms, it includes physical, psychological, sexual and economical (Domestic Violence (Prevention and Protection) Act, 2010, [Act 58 of 2010], S 3). In Bangladesh, the definition of domestic violence sometimes contradicts the meaning of other related laws of the country. For example, the definition of the offences discussed in the Prevention of Oppression against Women and Children Act 2000, Act No VIII of 2000 are overlapping with the definition of Domestic Violence (Prevention and Protection) Act 2010.

On the other hand, in Sri Lanka, the Prevention of Domestic Violence Act 2005 has defined domestic violence in a similar way (Prevention of Domestic Violence Act, 2005, Act, No. 34 of 2005, S 23). However, the dominion of Sri Lankan Law is clearer than the definition given by the Bangladeshi Law. In Sri Lanka, the concept of “*shared resource*” and “*relevant person*” has been illuminated well.

- **Court:** There is no specific court for the offences relating to DVAW in Sri Lankan Laws. The offences related to domestic violence against women is triable in the regular courts. The composition, jurisdiction and procedure of those courts are regulated by the procedural laws of the country (The Code of Criminal Procedure, 1898, ACT NO. V Of 1898).

However, in Bangladesh there is a special tribunal composed under the provision of Prevention of Oppression against Women and Children Act 2000 (The Prevention of Oppression Against Women and Children Act 2000, Act No VIII of 2000, S 2(d), 19, 20, 21, 22, 23, 24-27). The tribunal is exclusively formed for trailing the offences discussed into this Act. But, according to the provisions of Domestic Violence (Protection and Prevention) Act 2010 there is no separate court for the domestic violence.

Sometimes the nature of the domestic violence is so sensitive and confidential in nature. It requires fullest confidentiality and a speedy trial. Separate court is appreciable here.

- **Punishments Under Laws:** In Bangladesh, for breach of protection order by the respondent shall be an offence under this Act and shall be punishable with imprisonment which may extend to

6(six) months, or with fine which may extend to 10(ten) thousand Taka, or with both and repetition of any offence shall be punishable with imprisonment which may extend to 2(two) years, or with fine which may extend to 1(one) lakh Taka, or with both and complaint, shall be punishable with imprisonment which may extend to 1(one) year , or with fine which may extend to 50(fifty) thousand Taka, or with both. But most interesting thing is that the law provides punishment only for the violation of protection order under section 14 (Domestic Violence (Protection and Prevention) Act, 2010,Act 58 of 2010, s 30) of the Act and not for committing domestic violence directly.

The Act also provides punishment for false complaint. If any person with the motive of causing loss to any other person knowing that there is no cause of complaint under this Act, , shall be punishable with imprisonment which may extend to 1(one) year, or with fine which may extend to 50(fifty) thousand Taka, or with both (Domestic Violence (Protection and Prevention) Act, 2010,Act 58 of 2010,s32).

This Act did not provide any direct punishment for committing domestic violence so the victims of domestic violence.

On the other hand, in Sri Lanka, the only punishment for the persons, printing or publishing any matter relating to the name or any matter which may make known the identity of an applicant or a respondent in an application under this Act; or any matter other than a judgment of the Supreme Court or Court of Appeal, in relation to any proceeding under the Act. And the punishment is imprisonment of either description for a term which may extend to two years or to a fine or to both such imprisonment and fine (Prevention of Domestic Violence Act, 2005, Act, No. 34 of 2005, S 20). Like Bangladeshi Law, this Act did not provide any direct punishment for committing domestic violence.

- **Others:** Both the laws clarify the procedure of Interim order and protection order. In Bangladesh there is a law titled, the Prevention of Oppression against Women and Children Act 2000. The pattern of violence against women has been clearly explained here. The Act identified some offences which are commonly considered as a domestic violence against women i.e. Death for dowry (The Prevention of Oppression Against Women and Children Act 2000, Act No VIII of 2000, S 11). Additionally, the offences under this Act are triable in a special tribunal The Prevention of (Oppression Against Women and Children Act 2000, Act No VIII of 2000, S 2(d), 19, 20, 21, 22, 23, 24-27), established by the provision of this Act.

In Sri Lanka, this type of law is absent.

However, in Bangladesh, people are confused with the provisions of Domestic Violence (Prevention and Protection) Act 2010 and the Prevention of Oppression against Women and Children Act 2000.

Suggestions:

For Bangladesh: Bangladesh has a number of the laws for focusing the issues. Nevertheless, the laws are suffering from specification. Sometimes, the provisions of Domestic Violence (Protection and Prevention) Act 2010 and the Prevention of Oppression against Women and Children Act 2000 are contradictory and confusing. The aggrieved party may be in dilemma, in which law they will get the remedies. For these, the Government can amend the existing laws and clarify the concept and procedure of the laws.

For Sri Lanka: Sri Lanka has only one law for addressing the issue specifically. The language of the Prevention of Domestic Violence Act 2005, Act No. 34 of 2005 should be narrative. The concept of the violence needs to be clearer. They need a special tribunal for trialing the issues. Moreover, evidential procedure needs to be more specific to prove the matter.

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