

Achieving De Jure and De facto Gender Equality: A Tool for Prevention of Violence against Women

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Abstract

Violence against women connotes a violation of human rights and fundamental freedoms of women and impairs their enjoyment of these rights and freedoms. Millions of women and girls suffer disproportionately from violence both at times of peace and war, in the hands of state, in home and in community. Across the globe, women are battered, raped, mutilated and killed. Male violence against women and girls remains a major structural and societal problem. Regardless of positive and significant achievements in legislation and policy making in national and international arena and despite the progress achieved towards de jure gender equality, the realization of de facto gender equality remains to be a challenge with regard to distribution of power and responsibilities, gender pay gap and access to economic, social and cultural resources due to prevailing traditional gender roles resulting in a lack of respect for and protection of women's human rights. This article focuses on the gap between the de jure and de facto gender equality in the context of Bangladesh and recommends for the achievement of a balance between these two factors to be used as a tool or mechanism for prevention of violence against women.

Key Words: De jure and De facto Gender Equality, Violence against Women, National and International Framework

1. Introduction

Sangeeta Mandal, a high school student at Sundali ST School and College at Avoy Nagar upazila in Jessore district in Bangladesh, was

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attacked by Liewton Mandal while she was returning home after completing her tuition. Sangeeta was trapped and became a victim of rape by Liewton at his home. Sangeeta came back to her home and told her parents about the incident. On that night Sangeeta's parents discussed the matter with Liewton's parents and proposed Sangeeta's marriage with Liewton in order to avoid the social stigma of a rape victim. Under such circumstances, being insulted and traumatized of such an utterly disrespectful arrangement, Sangeeta committed suicide on 23 August 2012.¹ This is just one of the ruthless examples among thousands of reported violence against women (hereinafter referred to as VAW). There are other untold stories which take place every day in every corner of the world. Despite the fact that numerous initiatives had been taken during the last three decades to prevent, control and eradicate violence against women, to accomplish equality between men and women and to enhance or to promote women's fundamental human rights, violence is still being encountered by women. VAW is both a cause and a consequence of unequal power relations between women and men.² Dowry-related violence, acid violence, making pornography forcefully, death, rape, rape followed by death, forced or induced abortion, stalking, domestic violence, forced prostitution, sexual harassment, violence at work place and trafficking, forced abortion and sterilization are manifestations of male domination over female.³ The reasons behind VAW is that a women is considered as 'vulnerable and weak' and it is an integral part of our social perception which is evident itself in an imbalance of power and unequal opportunities for women and men. Another reason is lack of effective response to such violence by the state and society; women feel unprotected and hesitate to recourse to justice. For that reason, significant numbers of women are barred from enjoying their human rights fully,

¹ Relief International Bangladesh, *Bangladesh: Combating Violence against Women in Bangladesh through Community Participation, Education and Media Access*, viewed 2 September 2013, from <http://www.ri.org/story.php?ID=92>

² Ackerly, B. (ed.) (2006). *Feminist Methodologies for International Relations*, New York: Cambridge University Press. Or, Gender and development network, *Gender Equality : The key to ending violence against women*, viewed 2 September 2013, from <http://www.gadnetwork.org.uk/storage/csw/Violence%20Against%20Women%20and%20Girls%20-%20Gender%20Equality.pdf> Or,

Council of Europe, *An instrument to promote greater equality between women and men* viewed 2 September 2013, from http://www.coe.int/t/dghl/standardsetting/convention-violence/thematic_factsheets/Equality_EN.pdf Or, UNFPA, *Issue 2 : Gender Based Violence*, viewed 2 September 2013, from http://www.unfpa.org/gender/icl_02.htm

³ UN WOMEN, *Ending Violence Against Women*, viewed 3 September 2013, from <http://www.unwomen.org/en/what-we-do/ending-violence-against-women>

developing their full potential and leading independent lives.⁴ VAW is thus treated as a major obstacle to the full development of women. This article focuses on the prevention of women violence in the context of both de jure and de facto equality. De jure equality i.e. making laws and implementing them is not considered as the only mechanism to combat this problem, there is also a need to change the belief, attitude and tradition of the society regarding women. This article has been drafted into five parts. The first part provides a general overview and explanation of the issue of violence against women, the second part lays down a discussion on the international treaties and conventions and laws of Bangladesh relevant to VAW along with the recent developments, the fourth part focuses on two points, i.e., combating violence against women is not merely a crime control mechanism, but also a dignified mission to achieve real equality between women and men and a change in power dynamics and attitudes of state and society where women are equally valued and respected and exploring the steps that have been taken by the Bangladeshi government in recent time in combating VAW and the concluding part provides some general recommendations that may provide assistance and support in prevention and eradication of VAW by ensuring both de jure and de facto equality.

2. Violence Against Women: A General Overview

In every country, widespread and multiple forms of violence are suffered by women and girls.⁵ Around the world these violence prevents women and girls to live in dignity, violates their fundamental human rights and hinders them from attaining their full potential.⁶ It is treated as one of the most potent obstructions to the advancement of women which has impact on social and economic costs and seriously jeopardizes the progress and

⁴ Council of Europe, *Council of Europe on prevention and combating violence against women and domestic violence(Istanbul Convention)*, viewed 3 September 2013, from http://www.coe.int/t/dghl/standardsetting/convention-violence/thematic_factsheets/Equality_EN.pdf

⁵ United Nations, *UNiTE to end violence against women: United Nations Secretary General Campaign*, viewed 3 September 2013, from <http://www.un.org/en/women/endviolence/pdf/VAW.pdf>

⁶ Restoring dignity, *Say no to violence against women and girls*, viewed 3 September 2013, from <http://restoringdignity.religionsforpeaceinternational.org/learn/different-forms-of-violence-against-women> and, Office of Women Health, US department of Health and Human Service, *Violence Against Women*, viewed 3 September 2013, from <http://womenshealth.gov/violence-against-women/types-of-violence>

prosperity of the world.⁷ This was also recognized in the Millennium Declaration of September 2000, in which the General Assembly of the United Nations resolved that it will combat all forms of violence against women to implement the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).⁸ VAW takes place at home, on the streets, in the schools and workplaces, during conflicts and even in the time of peace.⁹ The United Nations defines violence against women 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."¹⁰ In addition to this definition World Health Organization (WHO) gave definition in three dimensions taking into consideration physical, sexual and mental condition of girls and women. It states that *physical violence* means a woman has been slapped or had something thrown at her, pushed, shoved or had her hair pulled; hit with a fist or something else that could hurt, choked or burnt; threatened with or had a weapon used against her.¹¹ *Sexual violence* means a woman has been physically forced to have sexual intercourse or had sexual intercourse because she was afraid of what her partner might do, or forced to do something sexual she found degrading or humiliating. Though recognized as a serious and pervasive problem, *emotional violence* does not yet have a widely accepted definition, but includes, for example, being humiliated or belittled, being scared or intimidated purposefully.¹² *Intimate-partner violence* (also called "domestic" violence) means a woman has encountered any of the above types of

⁷ Inter-Parliamentary Union, *International Day for the Elimination of Violence against Women*, viewed 3 September 2013, from <http://www.ipu.org/wmn-e/vaw/day.htm>

⁸ United Nation, *Resolution A/RES/55/2.The United Nations Millennium Declaration*, (8 September 2000), viewed 4 September 2013, from <http://www.un.org/millennium/declaration/ares552e.htm>

⁹ Inter-Parliamentary Union, *International Day for the Elimination of Violence against Women*, viewed 4 September 2013, from <http://www.ipu.org/wmn-e/vaw/day.htm>

¹⁰ UN :Division for advancement of women, *Defining and measuring violence against women: Background, issues, and recommendations*, viewed 4 September 2013, from <http://www.un.org/womenwatch/daw/egm/vaw-stat-2005/docs/expert-papers/Tjaden.pdf>

¹¹ World Health Organization, *Addressing violence against women and achieving the Millennium Development Goals*, viewed 4 September 2013, from <http://www.who.int/gender/documents/MDGs&VAWSept05.pdf?ua=1b>

¹² World Health Organization, *Addressing violence against women and achieving the Millennium Development Goals*, viewed 4 September 2013, from <http://www.who.int/gender/documents/MDGs&VAWSept05.pdf?ua=1b>

violence, at the hands of an intimate partner or ex-partner and this is one of the most common and universal forms of violence experienced by women.¹³ But the most significant and wide elaborated definition was given by General Assembly in its Declaration on the Elimination of Violence against Women.¹⁴ The definition is amplified in Article 2 of the Declaration, which identifies three areas in which violence commonly takes place:

- “Physical, sexual and psychological violence that occurs 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;
- Physical, sexual and psychological violence that occurs 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;
- Physical, sexual and psychological violence perpetrated or condoned by the State, wherever it occurs.”¹⁵

But in South Asian countries, VAW are treated as a ‘common phenomenon or normal behavior’ even from the women perspective.¹⁶ The women from these countries become vulnerable to different forms of violence like sexual harassment, sexual assault including rape, murder and grievous hurt, domestic violence, dowry related violence, acid throwing, trafficking, kidnapping and abduction, illegal fatwa and illegal arbitration, minority violence, wage discrimination and social

¹³ World Health Organization, *World Report on Violence and Health*, viewed 4 September 2013, from http://whqlibdoc.who.int/publications/2002/9241545615_eng.pdf?ua=1

¹⁴ United Nation: General Assemble, *Resolution adopted by third committee A/RES/48/104, Declaration on the Elimination of Violence against Women*, viewed 4 September 2013, from <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N94/095/05/PDF/N9409505.pdf?OpenElement>

¹⁵ United Nation: General Assembly, *Declaration on the Elimination of Violence against Women*, viewed 5 September 2013, from <http://www.un.org/documents/ga/res/48/a48r104.htm>

¹⁶ Amirthalingam, K. (2005). ‘*Women’s Rights, International Norms, and Domestic Violence: Asian Perspectives.*’ *Human Rights Quarterly*, Vol. 27 (2). The John Hopkins University Press. https://muse.jhu.edu/login?auth=0&type=summary&url=/journals/human_rights_quarterly/v027/27.2amirthalingam.html

discrimination, health and nutritional deficiency etc. The scenario of Bangladesh is no more different.¹⁷ The Bureau of Statistics of Bangladesh recently conducted a substantial survey titled ‘Violence against Women Survey 2012’ in collaboration with United Nation Population Fund (UNFPA). This survey reveals that 87% women have faced different types of harassment during her marital life and among them 65% encountered direct physical assault, 36% faced sexual harassment, 82% come across mental stigma and another 56% of women who took part in this survey faced economic violence. About 77% women are forced to engage into sexual intercourse with partners against their will. But the real picture of these types of violent activities is yet to be achieved as the victimized women cannot expose their experiences of violence due to pressure from social and family.¹⁸ In spite of the constitutional guarantee of gender equality and legislative and other affirmative interventions, the status of Bangladeshi women is nonetheless very much miserable in the true sense of the term. There is no single method or means of putting an end to violence against women, as VAW occurs in various forms and under various situations. For eradication and combating VAW, it is necessary to take measures that reflect the diversity of national situations and experiences.

3. Existing international and national legal framework for combating VAW:

For the devastating effect of VAW on human advancement, over the past two decades, many states have adopted or improved legislations to prevent and to respond to VAW. Laws increasingly criminalize such violence, ensure the prosecution and punishment of perpetrators, empower and support victims, and strengthen prevention. Victims are

¹⁷ Ain o Salish Kendra, *Category Archives: Violence against women*, viewed 5 September 2013, from <http://www.askbd.org/ask/category/statistics/violence-against-women-statistics>, Or, Odhikar, *Violence against women*, viewed 5 September 2013, from <http://odhikar.org/violence-against-women> Or, Save Bangladesh, *Violence against women: An alarming situation in Bangladesh*, viewed 5 September 2013, from <http://www.savebd.com/human-rights-report/violence-against-women-an-alarming-situation-in-bangladesh>

¹⁸ Ministry of Women and Children Affairs, *Multi Sectoral programme in violence against women*, viewed 5 September 2013, from <http://www.mspvaw.org.bd>, Or, Prothom Alo Bangladesh, *Narira Ghorei Beshi Nirjatito*, January 23, 2013, and Bangladesh Bureau of Statistics, *Millennium development goal*, viewed 7 September 2013, <http://www.bbs.gov.bd/WebTestApplication/userfiles/Image/BBS/MDG%20for%20website.pdf>

also benefiting from civil remedies. States have clear obligations under international law to enact, implement and monitor legislation addressing all forms of violence against women.¹⁹ There are numerous international treaties, human rights instruments, regional treaties and protocols which consider VAW as an infringement of human rights and recognize various dimensions of VAW and consequently gave recommendations to combat the problem. The discrimination on the basis of sex is contrary to the Charter of the United Nations, the Universal Declaration of Human Rights,²⁰ the International Covenant on Civil and Political Rights,²¹ the International Covenant on Economic, Social and Cultural Rights²², the Convention on the Elimination of All Forms of Discrimination Against Women²³, the Convention on the Rights of the Child²⁴, the Convention on the Rights of Persons with Disabilities²⁵ and other international human rights instruments and its elimination is an integral part of efforts towards the elimination of all forms of violence against women. In relation to national legal frameworks, the Committee on the Elimination of Discrimination Against Women (CEDAW) recommended that States parties:

- “Ensure that laws against family violence and abuse, rape, sexual assault and other gender-based violence give adequate protection to all women, and respect their integrity and dignity, and
- Take all legal and other measures that are necessary to provide effective protection of women against gender-based violence, including effective legal measures, including penal sanctions, civil remedies and compensatory provisions to protect women against all kinds of violence.”²⁶

In view of shocking growth in the number of cases of violence against women throughout the world, the Commission on Human Rights adopted a Resolution 1994/45 of 4 March 1994, in which it decided to appoint the

¹⁹ For further information regarding legislation enacted, please visit the United Nations Secretary-General’s database on violence against women available online at: <http://www.un.org/esa/vawdatabase>

²⁰ Resolution 217 A (III).

²¹ See resolution 2200 A (XXI), annex.

²² *ibid.*

²³ United Nations, *Treaty Series*, vol. 1249, No. 20378.

²⁴ *ibid.*, vol. 1577, No. 27531.

²⁵ *ibid.*, vol. 2515, No. 44910.

²⁶ Committee on the Elimination of Discrimination against Women, General recommendation No. 19 (1992) on violence against women, Para. 9.

Special Rapporteur (Ms. Rashida Manjoo South Africa, worked as Special Rapporteur, since August 2009) on violence against women, including its causes and consequences.²⁷ In the same resolution the Commission on Human Rights had *strongly condemned* all acts of violence against women and girls and in this regard *called*, in accordance with the Declaration on the Elimination of Violence Against Women, for the elimination of all forms of gender-based violence in the family, within the general community and where perpetrated or condoned by the State”.²⁸ The Committee on the Elimination of Discrimination Against Women obliged the state parties to enact, implement and monitor legislation regarding violence against women and also recommended to work under its Optional Protocol to the Convention on Elimination of All Forms of Discrimination Against Women.²⁹

Besides the aforementioned international treaties, there are other international human rights treaties which also create obligations for states parties to enact laws addressing violence against women. Among these, Organization for Security and Co-operation in Europe enacted *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (the Palermo Protocol)*.³⁰ This protocol requires that the state parties are obliged to ensure that their domestic legal systems contain measures that offer victims the possibility of obtaining compensation for damage suffered (article 6) and also ensure to adopt or strengthen legislative or other measures to discourage the demand that fosters all forms of exploitation of persons, especially women and children, that leads to trafficking (article 9).³¹ Another international legal framework, *Rome Statute of the International Criminal Court*, provides legal recognition of gender based violence as a crime

²⁷ Office of High Commission for Human Rights: Resolution 1994/45, *Question of Integrating the rights of women into the human rights mechanism of the United Nations and the elimination of violence against women* viewed 7 September 2013, from www.ap.ohchr.org/documents/E/CHR/resolutions/E-CN_4-RES-1994-45.doc

²⁸ Office of High Commissioner for Human rights, *Special Rapporteur on violence against women, its causes and consequences*, viewed 7 September 2013, from <http://www.ohchr.org/EN/Issues/Women/SRWomen/Pages/SRWomenIndex.aspx>

²⁹ UN Women, *Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women*, viewed 9 September 2013, from, [http://daccess-dds-](http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N99/774/73/PDF/N9977473.pdf?OpenElement)

[ny.un.org/doc/UNDOC/GEN/N99/774/73/PDF/N9977473.pdf?OpenElement](http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N99/774/73/PDF/N9977473.pdf?OpenElement)

³⁰ Protocol to prevent, suppress and punish trafficking in persons, especially women and children, supplementing the united nations convention against transnational organized crime, viewed 7 September 2013, from <http://www.osce.org/odihr/19223>

³¹ *ibid.*

under the criminal law. Article 7 of the Rome Statute categorizes ‘rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity’ as ‘crime against humanity’ when it is committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack.³² The Convention on Preventing and Combating Violence against Women and Domestic Violence (Council of Europe Convention: Istanbul Convention) is the most recent international convention which is now open for state ratification gives numerous recommendations to protect and preserve the violence against women and domestic violence. The purposes of this Convention are to:

- protect women against all forms of violence, and prevent, prosecute and eliminate violence against women and domestic violence;
- contribute to the elimination of all forms of discrimination against women and promote substantive equality between women and men, including by empowering women;
- design a comprehensive framework, policies and measures for the protection of and assistance to all victims of violence against women and domestic violence;
- promote international co-operation with a view to eliminating violence against women and domestic violence”.³³

Since 1990, the General Assembly has adopted numerous resolutions and requested the preparation of reports to give guidance on the steps to be taken by states and other stakeholders to strengthen the legal framework for addressing all forms of violence against women. For example, the most significant and influential was the article 4 of the 1993 Declaration on the Elimination of Violence against Women, adopted by the General Assembly and similarly, the Beijing Platform for Action, adopted at the Fourth World Conference on Women in Beijing in 1995.³⁴ Both these documents suggested that the government of the member states should

³² International Criminal Court, *Rome Statute of the International Criminal Court*, viewed 7 September 2013, from http://www.icc-cpi.int/nr/rdonlyres/ea9aeff7-5752-4f84-be94-0a655eb30e16/0/rome_statute_english.pdf

³³ Council of Europe, *Convention on Preventing and Combating Violence against Women and Domestic Violence*, viewed 10 September 2013, from <http://www.conventions.coe.int/Treaty/EN/treaties/html/210.htm>

³⁴ UN Women, *Beijing and its follow up: Beijing Platform for Action*, viewed 10 September 2013, from <http://www.un.org/womenwatch/daw/beijing/pdf/BDPfA%20E.pdf>

“Condemn violence against women and not invoke custom, tradition or religion to avoid their obligations to eliminate such violence, enact and reinforce penal, civil, labour and administrative sanctions in domestic legislation to punish and redress the wrongs done to victims and take measures to ensure the protection of women subjected to violence, access to just and effective remedies, including compensation and indemnification and healing of victims, and rehabilitation of perpetrators.”³⁵

In 2006, the General Assembly adopted a Resolution 61/143 on the intensification of efforts to eliminate all forms of violence against women.³⁶ The Secretary-General’s report on the intensification of efforts to eliminate all forms of violence against women focused in 2007 on efforts undertaken by the United Nations system and in 2008 on efforts undertaken by Member States.³⁷ By agreeing to conform to these international treaties and conventions, a number of steps have already been taken in Bangladesh to improve the situation of women. Apart from the Penal Code, 1860, we have many other laws that have been enacted to provide punishment to the offenders and protect women from violent acts. These laws include the Prevention of Repression against Women and Children (Amendment) Act, 2003, the National Human Rights Commission Act, 2009’, the Acid Control and Acid Crime Prevention Act, 2010, the Nari o Shishu Nirjaton Domon Ain, the Guidelines of the High Court Division passed in 2009 (The High Court Bench directed the government to make a law on the basis of its guidelines until the enactment of which the guidelines would enjoy the status of law), the Dowry Prohibition Act, 1980, the Domestic Violence (Prevention & Protection) Act, 2010, the Pornography Control Act, 2011’, ‘Human Trafficking Deterrence and Suppression Act, 2012’ etc.³⁸ In addition, Bangladesh has also ratified many International Conventions designed to protect women and their rights. Despite all these, women’s rights fail to come out from the circle of failure and violence against women is still being continued.³⁹

³⁵ Ibid.

³⁶ UN Women, *General Assembly: Resolution adopted by the General Assembly on 19 December 2006*, viewed 10 September 2013, from <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N06/503/01/PDF/N0650301.pdf?OpenElement>

³⁷ UN Women, *Violence against Women: Work of the General Assembly on violence against women*, viewed 10 September 2013, from <http://www.un.org/womenwatch/daw/vaw/v-work-ga.htm>

³⁸ Ministry of Law, *CEDAW Bench Book: Ministry of law, Justice and Parliamentary Affairs*, viewed 10 September 2013, from <http://www.legislativediv.gov.bd/legislative1/static/CEDAW%20BENCH%20BOOK.pdf>

³⁹ Ain o Salish Kendra (ASK), *ASK Annual Human Rights Situation in Bangladesh summary 2012*, viewed 10 September 2013, from <http://www.askbd.org/web/wp-content/uploads/2013/04/ASK%20Human%20Rights%20Report%202012.pdf>

4. Schemes to prevent VAW to ensure de jure and de facto equality:

Due to the significant gaps in adopting legal framework and in implementing them at the root level, states throughout the world have almost failed to put into practice their international obligations, national legislations and commitments to prevent and address VAW.⁴⁰ It might be observed that law is only trying to define the crime and the criminals, ensuring the prosecution and give punishment of perpetrators, empower and support victims, and strengthen prevention. All these measures and initiative are called de jure initiative which the law itself confers. To prevent all forms of violence against women, it is time to develop national strategies, translating them into concrete programmes and actions and a more systematic, comprehensive, multi-sectoral and sustained approach, aimed at eliminating all forms of violence against women by creating an environment where the gender equality and the empowerment of women are ensured and by increasing the focus on prevention, protection and accountability in laws, policies and programmes and their implementation, monitoring and evaluation, so as to ensure the optimal use of available instruments.⁴¹ However, de jure actions solely cannot wipe out all forms of violence against women. Rather, it will require a change in mentality and social patterns, a growing awareness of women's rights issues and violence against women. Only one method or action cannot put an end to VAW as various factors are involved and responsible for violence against women. In this paper we are trying to give elaborate recommendation and suggestions towards prevention of violence against women which will require a collective response where everyone has a role to play.

4.1. Prevention of VAW in the context of de jure equality:

States should continue to adopt legislation, in accordance with their international human rights obligations and commitments to prevent VAW in the context of de jure equality. Furthermore, state should also address the issue of violence against women in a comprehensive manner by not only criminalizing violence against women and girls and providing for punishment of the doer, but also by including protection and preventive

⁴⁰ United Nation, *Handbook for legislation on violence against women*, viewed 10 September 2013, from <http://www.un.org/womenwatch/daw/vaw/handbook/Handbook%20for%20legislation%20on%20violence%20against%20women.pdf>

⁴¹ United Nations, *Handbook for legislation on violence against women*, viewed 13 September 2013, from <http://www.un.org/womenwatch/daw/vaw/handbook/Handbook%20for%20legislation%20on%20violence%20against%20women.pdf>

measures, with provisions for adequate funding for their implementation. Legislations should acknowledge violence against women as a form of gender based violence and should also recognize that violence may affect different groups of women differently.⁴² The laws are required to be comprehensive, including provisions regarding prevention of VAW, protection and support of the complainant and in the last stage giving effective punishment of the perpetrator. It is also indispensable to evaluate and assess the impact of current legislations, rules and procedure regarding VAW. The actual scenario of VAW is not being reported; so it is required to dig out the reasons for low rate of reporting. Criminal law and criminal procedure relating to all forms of violence against women may be amended and all laws, regulations, policies, practices and customs that discriminate against women or have discriminatory impact on women which does not comply with international human right obligations, commitments and principle should find their ways towards abolition.⁴³ Legislators should acknowledge the gender sensitive approach that man and women experience different types of violence and that violence against women is a manifestation of historically unequal power relations between men and women. In many countries, VAW is dealt with customary or religious law procedures and measures. The application of such law may be awkward as they do not focus on healing of or providing redress to the survivor. In many instances, the use of customary and/or religious law has been seen to preclude the survivor from seeking redress within the formal justice system. It is therefore important to clarify the relationship between customary and/or religious law and the formal justice system in order to make the survivor's right to be treated in accordance with human rights and gender equality standards under both processes. In order to be fully effective, the adoption of new legislation on VAW should be accompanied by a review and amendment, where necessary, of all other relevant laws to ensure that women's human rights and prevention of VAW are consistently incorporated.⁴⁴

⁴² UN WOMEN, *Passing and Implementing Effective Laws and Policies*, viewed 14 September 2013, from <http://www.unwomen.org/en/what-we-do/ending-violence-against-women/passing-strong-laws-and-policies#sthash.Srl6Pzof.dpuf>

⁴³ The Advocate for Human Rights, *Developing Legislation on Violence against Women and girls*, viewed 14 September 2013, from <http://www.endvawnow.org/uploads/modules/pdf/1355776748.pdf> and Committee on the Elimination of Discrimination against Women, *Forty-eighth session*, 17 January – 4 February 2011

⁴⁴ United Nation, *Good Practices in Legislation on Violence against women*, viewed 14 September 2013, from http://www.un.org/womenwatch/daw/egm/vaw_legislation_2008/Report%20EGMGPLVAW%20%28final%2011.11.08%29.pdf

Law relating to VAW is most likely to be implemented effectively when accompanied by a comprehensive policy framework which includes a national action plan or strategy. For executing these plans, there should be necessary financial support to implement the law relating to VAW and the allocated resources should match the requirements of legislative priorities and policies on violence against women. The development of gender-sensitive budgeting can help in this regard. The budget is implemented by public officials. When public officials involved in the implementation of the law are not comprehensively trained regarding its content, there is a risk that the law will not be implemented effectively or uniformly.⁴⁵ Besides ensuring the training and capacity building of the public officials, it is necessary to strengthen the police force as well to make specialized police unit on VAW and provide adequate funding for their functioning and specialized training of their staff. If such specialized unit on violence against women can be set up, it will be easier to investigate more cases efficiently and effectively. It is therefore crucial that establishment of specialized units be accompanied by adequate funding and trained staff. Above all these, a specialized court on violence against women is nonetheless necessary, as most of the regular courts of developing countries are always overburdened. The officers of the court may not be aware enough on gender-sensitivity or comprehensive understanding of the various laws that apply to violence against women cases. If these types of specialized integrated court on violence against women can be established, the officers and staff will be specialized on gender sensitive issues and laws relating to violence against women. It creates a smooth environment, when these specialized courts can guarantee trial of a complaint on violence against women efficiently and timely.⁴⁶

Statistics show that VAW increased in Bangladesh to severe extent over the last few years. The victims are not getting proper and timely justice. A comparative analysis of national statistics from Police Headquarters shows that a total of 12,832 VAW-related crimes were

⁴⁵ United Nation, *Handbook for legislation on violence against women*, viewed 15 September 2013, from <http://www.un.org/womenwatch/daw/vaw/handbook/Handbook%20for%20legislation%20on%20violence%20against%20women.pdf>

⁴⁶ United Nations, *Achieving Gender Equality, Women's Empowerment and Strengthening Development cooperation*, viewed 15 September 2013, from http://www.un.org/en/ecosoc/docs/pdfs/10-50143_%28e%29_%28desa%29dialogues_ecosoc_achieving_gender_equality_women_empowerment.pdf

reported in the country in 2009, while 21,389 and 20,947 in 2011 and in 2012 respectively.⁴⁷ According to a report of Bangladesh Mahila Parishad, only in January, 2012, a total of 446 women faced violence across the country. Of them, 125 were raped, 30 were gang-raped, 14 were killed after rape and 14 faced sexual harassment. A total of 12 domestic workers also were the victims of repression.⁴⁸ In fact, the rate of violence against women is alarmingly high and has terribly crossed the numbers of previous records. Though several legislative initiatives had been taken in Bangladesh, as discussed earlier, the situation has barely been improved. But according to another statistics by Ain o Salish Kendro, among the reported compliants, most of the perpetrators went unpunished, frustrating the justice-seekers. This dismal picture of the country's judiciary and the law enforcement system indicates that the state has failed to do enough to reverse the growing trend of VAW. If we are trying to prevent VAW in Bangladesh, it is time to enact a single uniform law which will directly focus on the violence against women and draw government attention to the weakness of the judiciary and loopholes in the law enforcement system. It has long been insisted for reinforcing the vigilance alongside toughening the existing laws to put an end to the menace. This makes it clear that mere enactment of laws is not enough to deal with a problem that has many underlying causes. There is no denying that poverty, social insecurity and conflict of ethical values are among the reasons that cause tension between men and women resulting in violence. It is therefore required to identify the root causes first and then look for a better strategy to overcome the problem. None can deny the fact that dealing with a social problem socially is the 'best option'.⁴⁹

4.2. Prevention of VAW in the context of de facto equality:

As stated in the above paragraph, only enactment of laws and effective enforcement mechanism cannot tackle the root engraved social problems. Legislative responses to violence against women tended to focus solely on criminalization and thus did not attempt to address the root causes of VAW.⁵⁰ Effective progress will require a change in mentality and social

⁴⁷ Bangladesh Police, *Crime Statistics: 2011-2012*, viewed 15 September 2013, from <http://www.police.gov.bd/Crime-Statistics-yearly.php?id=284>

⁴⁸ Bangladesh Mahila Parishad, *Annual report 2012*, viewed 16 September 2013, from http://mahilaparishad.org/wptest/wp-content/uploads/2013/12/Annual-Report_2012.pdf

⁴⁹ Action Aid, *Dealing Violence Against Women: The Real steps not sight yet*, <http://www.actionaid.org/bangladesh/campaign/dealing-vaw-real-step-not-sight-yet>

⁵⁰ Human Rights Council, *Report of the Office of the United Nations High Commissioner for Human Rights on good practices in efforts aimed at preventing*

patterns, a growing awareness of women's rights issues and violence against women.⁵¹ The de facto or social changing steps should be started at birth. From the very early age, parent should teach their children on basic human rights, morality and gender equality.⁵² Teaching and learning materials that are used in the schools to tertiary level should be compulsorily address the gender equality issues. Families should be targeted in terms of raising awareness about women's rights and challenging social stereotypes.⁵³ Parental education on women's rights should also be developed. In addition to this, the laws relating to VAW should be easily comprehended by the mass population. There can be awareness campaign to raise awareness among women about their rights.⁵⁴ These campaigns should convey message of 'zero tolerance' against VAW and stress on the activities for the promotion of women's human rights. Training and education programmes should be designed to target boys, men, judges and law enforcement agents to promote respect and awareness to eliminate the problem of VAW from society.⁵⁵

violence against women, viewed 16 September 2013, from <http://www2.ohchr.org/english/issues/women/docs/A-HRC-17-23.pdf> or

United Nation, *Good Practices in Legislation on Violence against women*, viewed 16 September 2013, from http://www.un.org/womenwatch/daw/egm/vaw_legislation_2008/Report%20EGMGPLVAW%20%28final%2011.11.08%29.pdf or,

United Nation, *Handbook for legislation on violence against women*, viewed 17 September 2013, from <http://www.un.org/womenwatch/daw/vaw/handbook/Handbook%20for%20legislation%20on%20violence%20against%20women.pdf>

⁵¹ OECD, *Transforming social institutions to prevent violence against women and girls and improve development outcomes*, viewed 17 September 2013, from http://www.oecd.org/social/poverty/OECD_DEV_Policy%20Brief_March%202013.pdf

⁵² UNICEF, *A Guide to General Comment 7: Implementating Child Rights in Early Childhood*, viewed 17 September 2013, from http://www.unicef.org/earlychildhood/files/Guide_to_GC7.pdf

⁵³ UN WOMEN, *Increase knowledge and awareness*, viewed 17 September 2013, from <http://www.unwomen.org/en/what-we-do/ending-violence-against-women/increasing-knowledge-and-awareness>

⁵⁴ University of Berlin, *International Conference organized by the Centre for Gender Studies, University of Benin with the Theme: Gender Equity in the Developing World: How Far*, viewed 17 September 2013, from http://www.uniben.edu/sites/default/files/news_attachments/gender_conference_proceedings_body.pdf

⁵⁵ Human Rights Council, *Report of the Office of the United Nations High Commissioner for Human Rights on good practices in efforts aimed at preventing violence against women*, viewed 17 September 2013, from <http://www2.ohchr.org/english/issues/women/docs/A-HRC-17-23.pdf> or

Furthermore, training journalists and other media personnel may influence the way in which the incidents of VAW are reported and thereby influence societal attitudes. The women who are victimized by violence need timely access to health care and support services to respond to short-term injuries, protection from further violations and their long term needs are also required to be addressed. Some survivors of VAW lose employment because they missed work due to injuries and other consequences of the violence. Survivors of violence against women incur significant short-term and long-term financial costs related to pain and suffering, reduced employment and productivity and expenditure on services. So there should be law or mechanism that provides various employment and social security rights for survivors of violence including the right to reduce or reorganize working hours and compensation for the costs incurred by them.

Though there have been lack of government and private sector initiatives, training and teaching infrastructure, budgetary contribution, awareness building programme, initiatives to change curricula on VAW, in recent years in Bangladesh Multi-Sectoral Programme on Violence against Women is being implemented jointly by the Government of Bangladesh and the Government of Denmark under the Ministry of Women and Children Affairs. This project supports Bangladesh Poverty Reduction Strategy and is also aligned to the UN Convention on the Elimination of All Forms of Discrimination against Women and Danida's strategy for gender equality. The pilot phase of the project took place from May 2000 to December 2003, the first phase from January 2004 to June 2008 and the second phase from July 2008 to June 2011. The programme is now in its 3rd phase, which will continue until June 2016.⁵⁶ The general objective of the project is reduction in incidences of violence against women and children and improved redress through joint collaboration between relevant ministries and non-government agencies. The specific objective is thus to make integrated services related to VAW improved and consolidated, to increase quality, efficiency and sustainability, building awareness on VAW, to increase institutional capacity of Ministry of Women and Children Affairs and key government

United Nation, *Good Practices in Legislation on Violence against women*, viewed 18 September 2013, from http://www.un.org/womenwatch/daw/egm/vaw_legislation_2008/Report%20EGMGPLVAW%20%28final%2011.11.08%29.pdf
Or,

United Nation, *Handbook for legislation on violence against women*, viewed 18 September 2013, from <http://www.un.org/womenwatch/daw/vaw/handbook/Handbook%20for%20legislation%20on%20violence%20against%20women.pdf>

⁵⁶ http://www.mspvaw.org.bd/index.php?option=com_content&view=article&id=178

agencies resulting in improved and consolidated inter-ministerial coordination and action in relation to VAW. Government of Bangladesh has recently adopted National Action Plan (NAP) for eradication of VAW. This NAP will be focused on six main fields, namely, legal arrangements, social awareness and mental transformation, advancement of women's socio-economic status, protective services, curative and rehabilitation services, inter-sectoral cooperation and community involvement. The Government of Bangladesh is aware of its commitments to prevent VAW (according to the CEDAW Committee Report) and has taken multiple steps to ensure that the human rights of women are respected, protected and fulfilled. Governmental structures have been gradually adopted through legislative reform to ensure the inclusion of violence against women on the agendas. The committee that is monitoring the implementation of CEDAW, following periodic reports submitted by Bangladesh repeatedly expressed its concern about the government's reservation to article 2 and article 16.1[c] of the Convention. Women's organizations, groups and NGO's in Bangladesh are very vocal in their demand to put an end to VAW.⁵⁷

5. Conclusion

As violence against women is not caused by only one reason, it cannot be combated by one mechanism or plan. It is a social phenomenon, an obstacle to the achievement of equality, development and peace, which is considered as a deeply rooted problem in most of the societies. Attitudes and supports that instigate violence are institutionalized in customs and practices maintained at all levels of the society, family, home, community and the state. Therefore, enactment of effective laws or ensuring the de jure equality alone cannot control the problem of VAW from the society. It also requires the change of our mindset, social customs and attitudes towards women. A state which wants to eliminate the problem of VAW should strive to ensure both de jure and de facto equality together. It can take initiatives to enact laws that works, formulate suitable steps to guarantee the implementation of those laws, give training and educate the mass people on VAW, build effective partnership between Government and NGOs and establish a strong institutional framework. Government of Bangladesh has undertaken projects and plans to respect, protect and fulfill the rights of women with a view to eliminating VAW through international conventions, covenants and treaties. A number of initiatives

⁵⁷ Ahmed.F. *CEDAW and Bangladesh, Constitution, Law & National Initiatives: A Comparative Study*. Dhaka, Steps toward Development (2002).

should further be taken to combat this evil which may include review and amendment of the existing laws and procedure for effective remedy and speedy trial of the complaints of VAW, ensuring access to justice and service of the victims, i.e. assisting through medical and financial support, allocation of sufficient resources and various funding, immediate means of rehabilitation and protection of the victim and above all establishing transparency and accountability in order to enforce positive regulations and legislation. To achieve the goal of prevention and elimination of VAW, it is not only important to address its impact and consequences but it is also important to achieve a greater equality between man and women in the eye of both law and society.

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