

DOMESTIC VIOLENCE AND LEGAL PROTECTION: COMPARATIVE STUDY OF INDIA, BANGLADESH, AND NEIGHBOURING COUNTRY

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Abstract

This study looks at how India, Bangladesh, and nearby countries handle domestic violence. Even though these places are close and share cultures, they deal with domestic abuse differently. India has strong laws, like the Domestic Violence Act of 2005, which offers help and protection. But, enforcing these laws is hard because of social attitudes and government issues. Bangladesh has laws too, but they are not well enforced, so they do not work well. Other nearby countries have different ways of dealing with domestic violence. Some are doing better at helping victims, but they still face cultural stigma and weak law enforcement. This research studies how laws have developed in these places, finds problems in current laws, and suggests ways to better protect victims. These include better enforcement, more public awareness, and focusing on victims in legal processes.

Keywords: Domestic abuse, legal protection, India, Bangladesh, neighbouring countries, legislative frameworks, enforcement challenges, cultural stigma, victim's rights, public awareness, Domestic Violence Act, 2005, legal reforms.

1.Introduction

Cases of domestic violence are pervasive international concern that endure despite shifts in social norms and legal advancements, economic, ethnic, racial, and class lines, impacting people around the world.¹ Domestic violence has become a key concern in the development of women, limiting their social and economic growth and keeping them from being in a position to make independent decisions. In reproductive health, more people now recognize the need for change and the connection between the family violence and different Concerns linked to intimate and reproductive well-being, including unplanned pregnancies and infections transmitted through sexual contact, issues related to abortion and contraception, complicated maternal health and poor birth outcomes.²The National Family Health Survey³ , Conducted between 2019 and 2021, the findings indicate that 29.3% of married women in the 15–49 age group have endured physical assault, sexual coercion, or psychological abuse inflicted by their marital partners.⁴ Among married women, 27.5% experience physical violence, making it the most prevalent type of abuse.⁵ Sexual violence is documented in 6.4% of cases⁶and psychological abuse is reported in 14.2% of cases.⁷ Domestic violence prevalence differs from state to state. In Bihar, 45.5% of women who have entered marriage has encountered some form of domestic violence, while in Kerala, this figure stands at 15.9%.⁸ Domestic abuse is a global issue that occurs across various settings. Domestic abuse occurs globally in different locations and at various times. Domestic Abuse in Bangladesh, remains a Pressing Concern, Intimate partner violence (IPLV) is prevalent in Bangladesh and happens to 70% of women throughout their lifetime. It encompasses bodily harm, sexual assault, psychological distress,

¹ Divyansh Bhargava & Bharti Khera, *Comparative Analysis of Domestic Violence Laws in India & US*, 30 *J. L. & Soc. Pol'y (SLS Noida)* (June 2022). (Last visited 12.03.25)

² Heise, L., J. Pitanguy, and A. Germain. 1994. "Violence Against Women: The Hidden Health Bur den." *World Bank Discussion Paper No. 255*. Washington, DC: The World Bank. (Last visited 12.03.25)

³ Ministry of Health and Family Welfare, *National Family Health Survey (NFHS-4), 2015–16, at 1 (2017)*. (Last visited 12.03.25)

⁴ Heidi Bart Johnston & Ruchira Tabassum Naved, *Spousal Violence in Bangladesh: A Call for a Public-health Response*, *J Health Popul Nutr* 2008 Sep;26(3):366–377. (Last visited 12.03.25)

⁵ Tanjir Rashid Soron et al., *Domestic Violence and Mental Health During the COVID-19 Pandemic in Bangladesh*, *JMIR Formative Research*, Vol. 5, No. 9, e24624 (2021), <https://doi.org/10.2196/24624>. (Last visited 12.03.25)

⁶ *Ibid*

⁷ Tanjir Rashid, *supra note 7*.

⁸ Tanjir Rashid, *supra note 7*.

and financial exploitation, as well as domineering conduct. 41% of women were victims of these violence activities in 2024. Combining other forms of Bangladesh-specific violence, these work out to 76% for lifetime exposure and 49% in 2024.⁹ Abuse of women constitutes a major fundamental rights concern and a pressing public health challenge. In 2024, Bangladesh conducted an extensive national survey to assess its impact, engaging 27,476 women aged 15 and older. This was the largest and most extensive study to date ever conducted with a 95.4% response rate having followed up on previous surveys in 2011 and 2015.¹⁰ Despite stringent legal controls, domestic violence remains a major issue. Although such acts are perpetrated by men and women alike, women, particularly in India and Bangladesh, individuals are the most common victims. In India, violence within intimate relationships is a significant concern is generally understood to mean abuse towards women. In Bangladesh, abuse within a close relationship includes physical harm, sexual assault, emotional abuse, harassment, and manipulation by a present or past partner.¹¹ Domestic abuse is a global concern that prevails in most nations across the globe and not just in India and Bangladesh. Domestic violence during pregnancy and childbirth is prevalent in Nepal as 20% of 2,400 pregnant women in a survey mentioned they had been battered during pregnancy.¹² Regional and socioeconomic factors also decide the widespread nature and intensity of domestic abuse represent a significant global concern.

2. Understanding the Legal Definition of Domestic Violence

2.1 This research examines the role in numerous laws in India address domestic violence, the Protection of Women from Domestic Violence Act, 2005,¹³ provides a dedicated legal mechanism to combat and respond to such abuse.

(a). Section 3 of the Safeguard Act for Women Against Domestic Abuse¹⁴, 2005, provides an extensive and inclusive definition of domestic abuse, acknowledging harm in diverse ways, including physical and mental emotional, sexual, and financial exploitation. It defines that any

⁹ Ministry of Women & Child. Affs., Gov't of Bangladesh, 2024 Violence Against Women Survey: Intimate Partner Violence Remains Widespread in Bangladesh (2024). (Last visited 12.03.25)

¹⁰ Ibid

¹¹ Breiding, M. J., Basile, K. C., Smith, S. G., Black, M. C., & Mahendra, R. R. (2015). Intimate partner violence surveillance: Uniform definitions and recommended data elements (Version 2.0). Atlanta, GA: Centres for Disease Control and Prevention, National Centre for Injury Prevention and Control. (Last visited 13.03.25)

¹² Bindu Devkota Sapkota et al., Domestic Violence Against Women in Nepal: A Systematic Review of Risk Factors, 25(4) J. Interprets Violence 2703 (2024). (Last visited 13.03.25)

¹³ Protection of Women from Domestic Violence Act, No. 43 of 2005, § 1, India Code (2005).

¹⁴ Id., S3&R15.

act, default, or omission which injures the life, safety, health, or safety and welfare of the victim is domestic abuse. The legislation addresses acts of physical violence, such as assault and serious injury, as well as sexual misconduct, including rape and harassment. It also encompasses verbal and emotional mistreatment, like insults, threats, and degradation, which have an unparalleled effect on a woman's mental state. Also included in domestic violence is economic abuse, such as denial of money, deprivation of job opportunities, or usurpation of property, with protection against financial autonomy. Dowry harassment is specifically defined to make dowry-related coercion, harm, or harassment illegal to satisfy illegal demands for dowry or property. Further included as abuses are threats and intimidation, which ensure recognition of psychological harm through the law. By considering physical and non-physical violence, the Act builds a comprehensive legal structure for safeguarding women. Nonetheless, difficulties persist in enforcement, because it can be challenging to substantiate claims of mental and financial abuse, and social stigma discourages many victims from reporting. Despite these lacunae, the Act makes a gigantic stride in ensuring women's safety, dignity, and legal rights within domestic settings.

2.2 In Bangladesh, various legal and policy initiatives, including the Domestic Violence (Prevention and Protection)¹⁵ Act of 2010, has been enacted to counteract and eliminate prejudice and abuse towards women.

(a). In this Act, section 3¹⁶ defines “domestic violence” which state that, Family violence under the DVPP Act is defined to encompass physical, mental, Sexual or financial harm imposed on a woman or child within familial relationships. The theory of family relationships has been outlined as any relationship arising out of blood relation, marriage, adoption, or living in a shared family, while "family" would indicate individuals currently cohabiting or who have cohabited together in a common accommodation status as a result of such a relationship under Section 2(11).¹⁷ Abuse under the DVPP Act has been defined as physical, mental, sexual, and economic.¹⁸ Physical abuse comprises activities or conduct which places a person's life, health, safety, or parts of his body into risk and jeopardizes his life, resulting in him taking the victim hostage under section 3(A). Harsh penalties in the form of penal code of 1860¹⁹ and Women

¹⁵ *Domestic Violence (Prevention and Protection) Act, 2010. (Last visited 13.03.25)*

¹⁶ *Id.,S3&R17.*

¹⁷ *Bangladesh National Woman Lawyers' Association, Making Women's Legal Rights a Reality in Bangladesh (MWLR): Project Learning Report (2016). (Last visited 15.03.25)*

¹⁸ *Bangladesh National Woman Lawyers' Association, Making Women's Legal Rights a Reality in Bangladesh (MWLR): Project Learning Report 34 (2016). (Last visited 15.03.25)*

¹⁹ *The Penal code of 1860. (Last visited 15.03.25)*

Repression Act of 2000²⁰ follow the crime of physical abuse. Psychological abuse, however, is hardly accorded its position of being an act of crime within the current framework of the law. As per the Women Repression Act of 2000, sexual abuse is recognized as rape.

3.Objective of the study

- 1.This study evaluates Indian, Bangladeshi, and local violence law in local terms from perspectives of effectiveness and concerns.
- 2.This research examine the role to examines protections like restraining orders, shelters, and victim services.
3. It attempts to the offer policy suggestions to improve legal protection and services to survivors via the determination of gaps in the police force and judicial system.

4.Legal Framework in India on Domestic Violence

India has multiple laws covering various aspects of domestic violence, ensuring legal protection and justice for those impacted.

(1). The Protection of Women from Domestic Violence Act²¹,2005.

Before the PWDVA, 2005, Individuals experiencing domestic abuse had few options available to them and relied solely on Section 498A²² of IPC,1890. The section addressed cruelty towards married women by husbands and their relatives, India has several laws addressing dowry harassment and mistreatment, providing legal protection and justice to affected individuals. But physical, emotional, sexual, or economic abuse was not covered under one statute. Victims were therefore compelled to approach the courts seeking redressal under different sections of the IPC based on the characteristics of violence irrespective of the victim being male or female. The PWDVA, 2005, was enacted for providing comprehensive protection to such women who were victimized by dealing with different forms of domestic violence.²³

The PWDVA, 2005 was enacted the functioning as a legislative safeguard aimed at delivering immediate and adequate protection to women facing domestic violence. The Act's primary goal is to protect victims and ensure that offenders face consequences. The PWDVA, 2005 is the

²⁰ *The Women Repression Act of 2000. (Last visited 15.03.25)*

²¹ *ID., supra note 15*

²² *Id.*

²³ *Chakraborty, Shubhodip. "Law on Domestic Violence [Protection of Women from Domestic Violence Act, 2005]." SCC Online, 27 July 2020. (Last visited 17.03.25)*

statute created to offer of the legal safeguards for women experiencing domestic abuse. Its aim is to rationalize and make the law stricter, improving the procedural as well as the substantive quality. In the case of *Indra Sarma v. V.K.V Sarma*²⁴ (2013), the Supreme Court of India stated that this Act is intended to offer civil remedies to safeguard women against inhuman relationships and curb domestic violence in society. Indian Penal Code²⁵ (IPC) and Criminal Procedure Code (CrPC) also assist women who are in vulnerable positions. The Act mainly focuses on providing the constitutional rights afforded to women and legislation curbing all forms of family violence.²⁶

In India, abuse at home is still a big problem that regulated under the Protection of Women from Domestic Violence Act, 2005 (PWDVA) and Section 498-A²⁷. The PWDVA, implemented in 2005, was the first legislation to legally classify domestic violence as a criminal act. This civil law protects women against all manner of mistreatment, including physical, psychological, sexual, verbal, and financial. On other hand, under Section 498-A of the IPC there is a legal provision that penalizes mistreatment committed by a husband or his family members. Explaining cruelty as behaviour that could drive a woman to end her life or suffer bodily harm or emotional harm or involve mistreatment involving dowry or financial requests. Offenders under this law may be punishable that attracts a maximum sentence of three years' imprisonment and imposition of a fine.²⁸

In case of *V.D. Bhanot v. Savita Bhanot*²⁹, "It was resolved that the PWDVA Act, 2005, may be applicable to past incidents if their consequences persist beyond the enactment of the Act, thus offering enhanced protection to victims. In the case of *Subhas v. Kasturi*³⁰, the Karnataka High Court held that a prolonged period of separation will not preclude a woman from seeking assistance under the PWDVA Act, 2005, emphasizing its role in safeguarding women's rights. Similarly, in *Smt. Khushboo Shukla v. District Magistrate, Lucknow & Ors.*³¹, the Allahabad High Court ruled a widow was permitted to live in her marital house, restraining her in-laws from evicting her and enforcing legal safeguards for widows under the PWDVA, 2005.

²⁴ (2013) 15 S.C.C. 755 (India). (Last visited 17.03.25)

²⁵ Indian penal Code, 1890

²⁶ Chakraborty, Shubhodip. "Law on Domestic Violence [Protection of Women from Domestic Violence Act, 2005]." *SCC Online*, 27 July 2020. (Last visited 18.03.25)

²⁷ Indian Penal Code, No. 45 of 1860, India Code (1860).

²⁸ "Domestic Violence in India" by Kruthika Varada. (Last visited 18.03.25)

²⁹ (2012) 3 SCC 183. (Last visited 18.03.25)

³⁰ *SCC Online Kar 470*. (Last visited 21.03.25)

³¹ *Misc. Single No. 16212 of 2021*. (Last visited 21.03.25)

Collectively, these decisions demonstrate the judiciary's dedication to safeguarding women's safety and rights in legal cases involving the instances of domestic abuse.

(2) The Dowry Prohibition Act of 1961³² prohibits the exchange of dowry of any kind associated with marriage at any stage and either prior to, during, or following the marriage because it is directly related to the ill treatment of women. The law aims to prohibit both offering and accepting dowry, as it contributes to the abuse and oppression of women.³³

3). Before the enactment of the Bharatiya Nyaya Sanhita (BNS) Act, 2024, IP governed criminal laws in India. However, after the 2024 Criminal Law Revision, the BNS Act, 2024 replaced the IPC, bringing changes to various sections.

(a) Section 498A³⁴ of IPC has been replaced with 86 of BNS Act, 2024 which state that in relation as per the provisions of this section 85, “cruelty” means

Any intentional act that may lead a woman to take her own life or suffer harm that cause her significant harm, or endanger her physical or emotional state is defined as cruelty. This definition also includes the mistreatment of a woman with the intent of coercing her or her family to fulfil illegal demands for money, assets, or valuable items, along with the harassment resulting from her or her relatives' refusal to adhere to such requirements.

(b) Section 304³⁵ of IPC, 1980 has been substituted by section 80 of BNS Act, 2024, If a woman dies due to burns, physical injury, or under the uncommon conditions within seven years of her wedding. If a woman passes away under suspicious conditions within a stipulated time after marriage, and evidence shows. She endured abuse or mistreatment from her husband or his relatives regarding dowry expectations, the death shall be deemed a 'dowry death,' rendering the husband or relatives subject to legal liability.³⁶

In the case of *Suvetha v. State*³⁷, declared that mental cruelty is a subjective experience which varies on depending on the level of endurance capacity of an individual towards it; some bear

³² *The Dowry Prohibition Act of 1961*

³³ *Neena Bohra et al., Violence Against Women, 57 Indian J. Psychiatry (Suppl. 2) (2015), <https://doi.org/>. (Last visited 21.03.25)*

³⁴ *Section 498A of the Indian Penal Code, 1860, criminalizes cruelty by a husband or his relatives towards a wife. It includes any willful conduct likely to drive her to suicide or cause grave injury, and harassment for dowry demands.*

³⁵ *Section 304 of the Indian Penal Code, 1860, deals with punishment for culpable homicide not amounting to murder.*

³⁶ *Section 80 of Bharatiya Nyaya Sanhita, No. 45 of 2023, INDIA CODE (2023). (Last visited 22.03.25)*

³⁷ (2009) 6 SCC 757. (Last visited 22.03.25)

it with bravery, some bear it silently or even die by suicide in case they are overwhelmed. Clauses of Section 498A³⁸ are clear as crystal: (a) The individual needs to be a woman who is married, (b) She must have endured abuse or mistreatment, and (c) The abuse must have been inflicted by her spouse or his family members. In *Gopal Chakraborty v. State*, 1996³⁹, the defendants were charged with harassing the deceased to the extent of taking their own lives. They were convicted under sections 306 and 498A. The conviction was, however, deemed inappropriate on the grounds that there was a lack of evidence proving ill-treatment on the husband's side or death caused by self-immolation. Legal action under Section 482 of the CrPC was ended to avoid the abuse of the judicial system. Such a discontinuance was not warranted in situations where the wife was burned alive, and charges in the FIR were not deemed unlikely. In another case of *State v. Regulagadda Anandarao*,⁴⁰, despite the hostility of the witnesses, a woman complained toward her husband and his family for abuse and mistreatment. The court gave the decision by stating that the testimony remained valid, as evidence that the husband's cruelty was proven, and he was convicted on the basis for cruelty.

In case of *Bibi Parwana Khatoon v. State of Bihar*⁴¹, the accused were held guilty according to Section 304 IPC for dowry death of a woman. The defence argued that the accused were separated from the victim and had no involvement in the offense. The Supreme Court could not establish direct evidence that linked them to the offense and concluded that simply being related to the victim was not enough to hold them guilty. The Court, therefore, acquitted the accused, arguing that convictions in dowry death are to be based on strong and clear evidence and not speculation. In case of *Rajesh Sharma & Ors. v. State of U. P*⁴², The Supreme Court examined the wrongful exploitation of Section 498A of the IPC by the spouse or his relatives for mistreatment and laid down protection against frivolous complaints and unwarranted arrests. The Court ordered establishment of Family Welfare Committees (FWCs) in each district to screen the complaints before initiating a legal proceeding. It even ordered not arresting as a routine and cooperative accused persons to be released on bail. The direction was issued with the view to rescue bona fide victims without resorting to legal harassment of innocent parties. It was condemned for purportedly creating additional challenges for genuine domestic violence victims to bring their cases to court.

³⁸ *Id.*, *Supra* Note 27

³⁹ CrLJ 3358 (P&H). (Last visited 22.03.25)

⁴⁰ 1996 CrLJ 4503 (AP) (Last visited 25.03.25)

⁴¹ (2017) 6 SCC 792.) (Last visited 25.03.25)

⁴² (2017) 8 SCC 746.) (Last visited 25.03.25)

4. Statutory and Institutional Mechanisms Governing Domestic Abuse in Bangladesh.

Domestic abuse is a widespread issue facing thousands of people worldwide. In Bangladesh, it has become embedded in cultural, legal, and economic contexts such that it is difficult to resolve or eliminate it. The majority of physical, emotional, sexual, and psychological offenses against women are committed by male perpetrators. Domestic violence was neglected or tolerated earlier on the basis of religious and cultural traditions. Nowadays, however, it is gaining momentum as an essential social issue. Based on data from the Bangladesh Bureau of Statistics "approximately 72% of women have encountered form the domestic abuse at some stage during the life cycle, ranging encompassing physical, emotional, and sexual abuse, along with reflecting how widespread the issue is. Abuse prevalence may be influenced by a woman's age, education, and economic status. Despite Bangladesh having Its unique issues, yet it shares similarities with other South Asian nations.⁴³ Women endure different types of abuse in intimate relationships at different stages of life, i.e., adolescent girls, pregnant women, and older women. Women often face diverse acts of cruelty encompassing physical assault, sexual abuse, emotional trauma, and verbal harassment. A prevalent example causes of anger for a partner is jealousy or a woman receiving healthcare services in secret without her partner's knowledge. Approximately 84% of women have asserted the experience of emotional violence by a partner. Insults (teasing or mocking), threat of beating up someone, threats of abandonment, threats of divorce, and remarriage threats are all considered as emotional violence. Physical violence includes slapping, object-throwing, pushing, beating, kicking, strangulation, or even use of weapons such as knives or guns. These violent acts harm women seriously and deprive them of a safe and healthy life.⁴⁴

Bangladesh has implemented various legal provisions to combat domestic abuse, including The Domestic Violence (Prevention and Protection) Act, 2010,⁴⁵ The Penal Code, 1860,⁴⁶The Nari o Shishu Nirjatan Daman Ain, 2000 (Women and Children Repression Prevention Act,

⁴³ Arik Morshed, *Domestic Violence in Present-Day Bangladesh and Its Social Impact*, 12 IJCRT (Int'l J. Creative Res. Thoughts) (2024). (Last visited 27.03.25)

⁴⁴ *Ibid*

⁴⁵ *Id.*, *supra* note 17.

⁴⁶ *Id.*, *supra* note 21.

2000)⁴⁷ and The Dowry Prohibition Act, 1980.⁴⁸ These legal steps aim to prevent violence, protect the victims, and impart justice to those affected by domestic violence.

4.1 The Constitution of the People's Republic of Bangladesh 1972⁴⁹

Bangladeshi laws that tackle gender-based violence and enhance working conditions have their roots in the Constitution itself.

- i). According to Article 19(3) of the Constitution, the government must ensure that women have equal opportunities and can take part in every aspect of life across the country. Article 19(3)⁵⁰ of the Constitution of Bangladesh is a copy of Article 15(3)⁵¹ and 39(d)⁵² of the Indian Constitution.
- ii). Article 28(1)⁵³ of the Constitution of Bangladesh promotes an atmosphere of equality and fairness. Article 28(2)⁵⁴ specifically mentions that equal rights are afforded to women in every aspect of public and governmental affairs are provided to men. Yet, simply stating this is not enough. Consequently, the Constitution includes specific provisions for women. Article 28(4)⁵⁵ reads that it is imperative that special programs by the government for women, children, or the weaker sections of society be allowed with a view to promoting equity and advancement.⁵⁶

In *BNWLA v. Government of Bangladesh and Others*⁵⁷, the apex court of Bangladesh examined the legal response to sexual harassment within professional and educational environments. It established guidelines to prevent such misconduct, ensuring a secure and respectful environment for women.

⁴⁷ *Id.*, supra note 22.

⁴⁸ *The Dowry Prohibition Act, 1980*

⁴⁹ *Id.*, supra note 41.

⁵⁰ *Const. of the People's Republic of Bangladesh, 1972, art. 19(3).*

⁵¹ *India Const. art. 15(3)*

⁵² *India Const. art. 39(d)*

⁵³ *Id.*, supra note 28(1) & R44

⁵⁴ *Id.*, A28(1)

⁵⁵ *Id.*, A28(1)

⁵⁶ *Anika Nower Suvraa, Legal Protection Against Gender-Based Domestic Violence in Bangladesh: Scope and Limitations, UNESCO Madanjeet Singh S. Asian Inst. Advanced Legal & Hum. Rts. Stud., U. Asia Pac. (July 11, 2023). (Last visited 28.03.25)*

⁵⁷ *Writ Pet. No. 5916 of 2008, (2009) 29 BLD (HCD) 415, ILDC 3088 (BD 2009). (Last visited 28.03.25)*

In another case of the Sharmin Murder Case is a historic criminal case of Bangladesh. Munir Hussain, a successful industrialist, was found guilty of murdering his wife, Sharmin Rima, in 1989. The case was widely publicized by the media, and it brought to light the issue of domestic violence among wealthy families. Munir Hussain was given a death sentence, and the ruling was a show of the judiciary's dedication to combating domestic abuse.

4.2 The Domestic Violence Protection and Prevention Act of 2010⁵⁸

In Bangladesh, prosecuting husbands for domestic violence is challenging for women, partly because a significant number of Muslim marriages, possibly up to 50%, are not officially registered⁵⁹. Police consider domestic violence a social or personal issue, rather than criminal, and they have no explicit mandate to enter households to ask questions⁶⁰. Demands for marital gifts are a primary trigger of household violence. Approximately 70% of wife murders are attributed to dowry demands⁶¹. While dowries were traditionally provided by the groom's family, the practice has increasingly shifted to the bride's family bearing the financial burden, with expenses continuing to rise.⁶² If the bride's relatives are unable to provide the entire amount, women are subjected to abuse, harassment, or even murdered by their husbands or their relatives. Some are beaten, burned, or forced into suicide through dowry violence⁶³. In a span of several months in 1989, 813 complaints of harassment were filed with the Ministry of Women's Affairs, most caused by dowry. But the vast majority of these remain unreported and unpunished.⁶⁴ Prior to 2010, the majority of Bangladeshi domestic violence legislation was primarily criminal and punitive in character with minimal protection. Physical violence was criminalized under the Penal Code of 1890⁶⁵ but overlooked the concept of marital rape, consequently permitting sexual violence in marriage. The Dowry Prohibition Act of 1980 made giving and receiving dowries illegal, a main causative agent of domestic violence. Nevertheless, prior to the DVPP Act, 2010, women had very few options in the law. Women

⁵⁸ *Domestic Violence (Prevention and Protection) Act of 2010, Act No. 58 of 2010, Bangladesh.*

⁵⁹ *Salma Khan, The Fifty Percent: Women in Development and Policy in Bangladesh (University Press Ltd. 1988).* (Last visited 29.03.25)

⁶⁰ *Rubia Bhuiyan, Aspects of Violence Against Women (Institute of Democratic Rights 1991).* (Last visited 29.03.25)

⁶¹ *Jahanara Huq, The Socioeconomic Status of Women in Bangladesh: Some Selected Indicators, in Shaping Bengali Worlds, Public and Private (Tony K. Stewart ed., Michigan State University, Asian Studies Centre 1989).* (Last visited 29.03.25)

⁶² *Sarah C. White, Arguing with the Crocodile: Gender and Class in Bangladesh (Zed Books Ltd. 1992).* (Last visited 29.03.25)

⁶³ *Bangladesh Observer (Dhaka), Dec. 6, 1990, at Check Women's Repression.* (Last visited 29.03.25)

⁶⁴ *Country Reports on Human Rights Practices for 1991, U.S. Dep't of State (1992).* (Last visited 29.03.25)

⁶⁵ *Id.*, supra note 21

could choose divorce under the Dissolution of Muslim Marriages Act, 1939,⁶⁶ which provided for divorce founded on physical or mental cruelty. Nevertheless, divorce placed women in vulnerable financial and societal standing. Women could seek maintenance and custody of children under the Family Courts Ordinance of 1985⁶⁷, but these were rights-based and not protection against domestic violence. No law specifically allowed women to remain in their matrimonial homes, leaving them vulnerable. The judiciary provided no civil relief such as protection orders, compensation, and shelter prior to the DVPPA. Both criminal and civil proceedings involved lengthy judicial processes with uncertain outcomes, failing to extend timely and adequate redress to victims of domestic violence.⁶⁸ After months of deliberation on the proposed law, the Domestic Violence (Prevention and Protection) Act was officially enacted on October 5, 2010. To bring into force, Pursuant to the Act's provisions, the issuance of a government notification was required for the establishment of procedural regulations, which concluded with the adoption of the Domestic Violence (Prevention and Protection) Rules in 2013.⁶⁹

Section 3⁷⁰, the law comprehensively describes different types of mistreatments categorized as domestic violence, including physical, psychological, sexual, and financial harm. For the first time, the Act deliberately acknowledges various forms of violence which women routinely experience by their family members were never prohibited by any law so far until DVPPA.⁷¹ Nevertheless, this Act fails to reference men and transgender individuals. This legislation classifies physical abuse as acts inflicting body hurt, Damage or injury to life, body, or health. Harassment, control, or verbal abuse is synonymous with psychological Misuse. Sexual mistreatment includes any form of sexual conduct, and economic abuse is money resource deprivation, withholding use of basic needs, or transferring victim's rights or property to someone else against their will.⁷² On the brighter side, economic abuse has been duly explained by CRPC. Section 488 provided a wife's entitlement to initiate divorce proceedings if her husband does not fulfil his duty of support and the provision was repealed in 2007. Family

⁶⁶ The Dissolution of Muslim Marriages Act, 1939

⁶⁷ *Ibid*

⁶⁸ Manjeet Bhatia, *Domestic Violence in India: Cases under the Protection of Women from Domestic Violence Act, 2005*, *South Asia Research*, 32 (2012), at 103, 105. (Last visited 30.03.25)

⁶⁹ Taslima Yasmin, *The Law on Domestic Violence in Bangladesh: A Comparison with Laws of India and Pakistan*, 25 *DHAKA UNIV. STUD. PART F* 53 (June 2014). (Last visited 30.03.25)

⁷⁰ *Id.*, *supra* note 52 & R 53

⁷¹ *Id.*, *supra* note 52.

⁷² Jannatul Fardosh, *Domestic Violence Against Women in Bangladesh: Discovering Two Sides of a Coin*, *IGS Working Paper Series No. 09/2013* (June 2013). (Last visited 30.03.25)

Court Ordinance of 1985 stated, on the other hand, that requesting dower and maintenance from a husband also constitutes economic deprivation.⁷³ Section 20 of the legislation offers multiple civil solutions to safeguard the affected individual.

5. Statutory provisions under the Bangladesh Penal Code, 1860.⁷⁴

In Bangladesh, the 1860 Penal Code addresses violent criminal acts, abuse against women and children, as outlined in the Nari o Shishu Nirjatan Daman Ain 2000⁷⁵ and the Domestic Violence (Prevention and Protection)⁷⁶ Act 2010.

- a. Section 320 of the Penal Code describes "grievous injury" as follows: It includes the loss of reproductive ability, permanent blindness in one eye, or permanent hearing loss in one ear. The term also covers the amputation of any limb or joint, significant damage or enduring dysfunction of a limb or joint, and permanent scarring or disfigurement of the head or face. Furthermore, fractures or any form of skeletal or dental dislocation are classified as grievous injuries. Any injury that threatens life, causes severe suffering for 20 days, or prevents the individual from performing routine tasks is also included under this provision.
- b. Section 323 specify that anyone who, except as outlined in section 334, intentionally inflicts harm, shall face a penalty of detention of any kind subject to a limitation of one year, a monetary penalty of up to one thousand taka, or both.
- c. Section 351 state that an assault is When an individual makes a movement or prepares in a manner that causes someone to believe they are on the verge to be hit. Explanation: Words alone do not constitute assault, but with gestures, they do.
- d. Section 354 declare that anyone who engages in an assault or applies unlawful force against another person, without a sufficient and immediate provocation, can to encounter imprisonment for a maximum of three months, a penalty of up to 500 taka, or both. Explanation: Immediate and adequate provocation does not lessen the severity of the punishment. If caused by the

⁷³ Md. Hayder Ali, *Domestic Violence in Bangladesh: A Critical Analysis* (unpublished LL.B. dissertation, Daffodil Int'l Univ., Dep't of Law, 2023). (Last visited 30.03.25)

⁷⁴ *The Penal Code 1860*. (Last visited 30.03.25)

⁷⁵ *Nari O Shishu Nirjatan Daman Ain, 2000, Act No. VIII of 2000, Bangladesh*.

⁷⁶ *Id.*, supra note 52.

perpetrator, exercised in legal authority, by a public servant, or in defence of self. The question of fact is whether the provocation was sufficient and immediate enough to lessen the offense.

While these sections encompass various types of domestic violence, there isn't a dedicated section exclusively for it. Instead, the law incorporates different forms of abuse within multiple provisions, each focusing on distinct elements of domestic violence.

In the case of *Shamim vs. State*, 2023, the conviction of cruelty based on dowry under Section 304B of the Penal Code, 1860⁷⁷ (dowry death) was upheld. The court upheld the sentence imposed on the offender who caused the demise of the deceased due to harassment on a dowry basis.

6. The Nari o Shishu Nirjatan Daman Ain, 2000 (Women and Children Repression Prevention Act, 2000).⁷⁸

The initial statutory framework introduced in Bangladesh to prevent acts of violence against women was the Cruelty to Women (Deterrent Punishment) Ordinance of 1983. This was subsequently repealed by the Nari-O-Shishu Nirjatan (Bishesh Bidhan) Ain in 1995, which repealed the previous ordinance. The Nari-O-Shishu Nirjatan (Daman) Ain of 2000 was then enacted and subsequently amended in 2003.⁷⁹ The legislation was duly enacted by the legislature with the objective of addressing offenses committed against children and women to overcome the deficiencies of the previous law and react to the growing occurrence of such crimes. It prioritized the stringent punishment for crimes including rape and dowry, which are prevalent social ills and liable for the subordination and exploitation of women.⁸⁰

i). Section 4⁸¹ of the Act states that a person who tries to kill or kill a woman or child using a burner, caustic, or any injurious material, they will be subject to either the death penalty or life incarceration, accompanied by a fine of up to 100,000 taka. If the eye, ear, face, breast, or sex organ of a woman or child is injured or disfigured, then the punishment will be sentenced to either capital punishment or lifetime incarceration, along with a fine not exceeding 100,000 taka. If any limb or joint of the body or any part of the body is disfigured or injured, the offender

⁷⁷ *Id.*, supra note 21

⁷⁸ *Id.*, supra note 67.

⁷⁹ *Mandatory Sentence in Nari O-Shishu Nirjatan Daman Ain, 2000 by Shiskar Manir*. (Last visited 31.03.25)

⁸⁰ *Id.*, supra note 67

⁸¹ *Id.*, S4

will be punished with at least 7 years and a maximum of Fourteen years of strict imprisonment accompanied by a fine not exceeding 50,000 taka. If an individual hurls or attempts to hurl a harmful substance, such as a burner, caustic, or toxic material, at a woman or child, resulting in any form of injury be it physical, mental, or otherwise the perpetrator shall undergo strict and shall be sentenced to imprisonment for a term of no less than three years and no more than seven years, in addition to a fine up to 50,000 taka.⁸²

ii). Section 9 defines the punishments for raping. When a person rapes a female or child, they may face either capital punishment or a life sentence accompanied by a monetary penalty. When the victim is killed because of the rape, Capital punishment or life incarceration, accompanied by a fine of up to 100,000 taka, is imposed. When more than one individual is raping and the victim is harmed or killed, all of them will be punished equally. Attempting to kill or injure after rape also carries very harsh punishments, such as death or imprisonment for life. Those who attempt to rape are punishable offence attracts a sentence of five to ten years of imprisonment along with a fine. When the act of rape is committed against a woman while in the custody of law enforcement authorities, it constitutes an aggravated offence under the penal code.⁸³

iii). Section 11 attempts on the punishment of dowry death. Where the individual is guilty of a death, the death penalty could be given. Where there is attempt to murder, the penalty could be life imprisonment with a fine. Where there is grievous hurt, the punishment could be a lifetime prison sentence or a term of 5 to 12 years of strict imprisonment accompanied by a fine. In cases of minor injury, Punishment may carry a sentence of up to three years in prison, but at least one year, along with a financial penalty.⁸⁴

The of case of State vs. Md. Abdul Malek (2020) – Conviction for severe domestic violence as per Section 4 of the Women and Children Repression Prevention Act, 2000,⁸⁵ the offender was found guilty of inflicting bodily harm on his wife, with the verdict highlighting the severity of the violence.

⁸² *Id.*, S4

⁸³ *Id.*, S9

⁸⁴ *Id.*, S11

⁸⁵ *Id.*, supra note 67 & R4

7. The Dowry Prohibition Act 2017 is a sequel to the earlier Share Dowry Prohibition Act of 1980, and its amendments. This act imposes a '14-year' rigorous imprisonment and penalties on any person who induces a young woman to commit suicide due to dowry. It also provides for a '12-year' life imprisonment for causing injury to a woman as a result of dowry.

7. An Overview of Domestic Violence Laws in Neighbouring Countries

1. Nepal: The Domestic Violence Act 2009, recognizes abuse that takes place at home as defined by law and protects against such abuse. The act is all-embracing: it mentions physical, mental, sexual and, simultaneously, financial abuse that may be caused by any member of the victim's family. Physical abuse-related injury is applied force that causes pain or damage to the body, whether pain, confinement, or something more serious such as death. Mental abuse, including threats, emotional abuse, or discrimination due to religion, culture or personal belief. Sexual abuse would include any activity humiliating a person, degrading them from having healthily sexual relations or interference with having healthy sexual relations. Economic abuse can take the form of withholding a persons' rightful ownership, income, or support. The law is meant to be a protective law mainly to the victim, that is here, an abused person, However simultaneously to punishes the abuser in the result of a domestic case. it talks about bodily harm inflicted on the victim but also entails emotional and economic harm in the home. This will thus be a stepping stone toward safety and more equality at home.

2. The principal statute governing matters related to domestic violence in Sri Lanka is the Prevention of Domestic Violence Act, No. 34 of 2005.⁸⁶ The statute enshrines stipulations under the framework of the court orders providing protection from all types of abuse: physical, emotional, and economic. Safeguards are provided through temporary orders, protective orders, and housing orders. The Penal Code includes certain offenses regarding domestic violence, yet, critics have noted that the PDVA does not actually address or solve the root causes of the issue; nor does it ensure effective enforcement. Sri Lanka has also pledged to eliminate corporal punishment, which goes along with the worldwide campaign to protect children from violence. However, challenges still remain in implementation and enforcement of the law, and

⁸⁶ *The Prevention of Domestic Violence Act No. 34 of 2005. (Last visited 31.03.25)*

efforts are needed continually to improve victim-protecting mechanisms and hold perpetrators accountable.

8. Cross-Border Perspectives on Domestic Violence Laws: A Comparative Study of India and Bangladesh

The legal safeguards for women in domestic abuse cases in India and Bangladesh exhibit certain parallels, particularly when comparing the legal provisions in the BNS Act 2024 (India) and the Bangladesh Penal Code 1890. In both countries, certain sections, such as those related to grievous hurt, sentence for willfully causing pain, criminal force, and assault, show parallels in addressing domestic violence. However, a major difference is because, in India has Section 498A of the IPC, which is solely concerned with domestic violence, Bangladesh does not cover such a section in its Penal Code. Instead, Bangladesh addresses domestic violence through the Domestic Violence Protection and Prevention Act of 2010, which outlines punishments for cruelty and abuse. Furthermore, Bangladesh has enacted The Nari o Shishu Nirjatan Daman Ain, 2000 (Women and Children Repression Prevention Act, 2000), which covers crimes related to rape, murder, and domestic violence, while India addresses these issues in separate acts, including the PWDA, 2005. The key difference lies in the timing of the legal frameworks: India passed its domestic violence law in 2005, whereas Bangladesh enacted its domestic violence law in 2010. This delay in Bangladesh's legal response is attributed to the earlier neglect or tolerance of domestic violence due to religious and cultural traditions. However, after numerous women became survivors of household abuse, the Bangladesh Ministry of Women and Children's Affairs introduced the Domestic Violence Protection and Prevention Act of 2010, aiming to offer legal protection to women facing such abuse. In India, Domestic violence regulations are usually enforced strictly by the courts, with clear guidelines for the interpretation of each section. Judicial bodies hold a vital responsibility in delivering justice, particularly in delicate cases of domestic abuse, which frequently involve the spouse's relatives. The apex court has established directives concerning the detention of husbands in such matters. Although the legislation aims to safeguard women, it is essential to acknowledge instances where domestic violence laws have been misapplied, with some individuals lodging fraudulent claims to extract financial gains from their spouses. Nevertheless, much progress remains to be made in improving the system and ensuring justice for victims. In Bangladesh,

the legal framework for domestic abuse, encompassing physical violence, is in place. However, the implementation of these laws is weak, largely due to cultural and religious factors in the country, where traditional practices still hold significant sway. This is evident in practices like child marriage, which continues to occur despite legal prohibitions. In recent years, cases of young girls being raped have made headlines, highlighting the persistent issues of gender inequality and the inadequacy of the justice system in ensuring complete protection for women. While women's rights are acknowledged in theory, they are commonly not effectively implemented in practice. When comparing India and Bangladesh, both countries have legal frameworks to address domestic violence, but India's laws are more robust and enforced more strictly. In Bangladesh, even with the laws in place, cultural and religious factors remain a barrier to effective implementation, and social norms often overshadow legal protections for women. Both countries need continued reform, with a stronger emphasis on enforcement, public awareness, and addressing the deep-rooted cultural issues that sustain gender disparity and abuse against women. India and Bangladesh both articulated similar legal codes to address domestic violence, with legislation on physical, mental, sexual, and economic abuse. The Domestic Violence Act of 2005 in India grants civil relief in the form of protection and residence orders but not criminality of domestic violence outright unless coupled with other criminal code like Section 498A of IPC, which criminalizes cruelty with up to a three-year maximum imprisonment. The IPC Section 304B also addresses dowry death, with severe punishment like life imprisonment or death. India also provides extensive support in the form of shelters, legal assistance, and telephone hotlines, with organizations such as the National Commission for Women (NCW) actively intervening. Bangladesh's Domestic Violence (Prevention and Protection) Act of 2010 also includes provisions comprising judicial remedies such as protection orders, residence directives, and compensatory relief, and severe punishment for excessive violence like life imprisonment or death. Bangladesh Penal Code also criminalizes dowry violence, replicating India's legal strategy. Bangladesh delivers fewer victim services such as shelters compared to India's more extensive network for the support of domestic violence victims. Both nations have achieved considerable advancements in addressing domestic violence but are still hampered by implementation challenges. In India, social awareness has increased, in part with the help of initiatives such as #MeToo, resulting in greater numbers of cases in courts. Bangladesh, on the other hand, remains hampered by cultural attitudes and police challenges to the effective utilization of legal protection and victim support. There are, however, attempts on the part of both countries to sustain

safeguarding women's rights and preventing household abuse ,though they are in need of enhancements in infrastructure, awareness, and police to build safer worlds for women.

8 Conclusion

Indian and Bangladeshi legislative changes are wonderful steps towards redressing domestic violence; however, the effectiveness of the law is dependent on its enforcement and availability to the victims. The most critical issue is the disparity between the law's provision and the state of enforcement, especially in the rural and poor belts. Most of the victims do not know their rights or encounter financial difficulties in pursuing remedy to the law, emphasizing the need for a better system of legal aid centres and state-funded schemes. South Asian nations further could re-initiate efforts against preventing domestic violence by regional solidarity and cross-basin exchange of best practices. The same laws have been enacted in other South Asian nations, such as Sri Lanka and Nepal, but enforcement and socialization success varied extensively. Comparison between countries would provide interesting results on the most effective interventions, such as community public awareness campaigns, domestic violence specialist courts, and rehabilitation programs using customized interventions on victims and offenders. Besides the interventions, non-government organization (NGO), civil society, and grassroots movement activities become essential determinants in bridging the legal mechanism-victim requirements gap. Enhancing the government department-civil society interface can ensure the victim-centered approach by empowering survivors with holistic assistance extending beyond legal services. Overall, while the Indian and Bangladeshi legal systems remain evolving, multi-dimensional strategy involving legal reform, training programs, social action, and economic empowerment remains key to realizing sustainable gains in combating domestic violence.



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