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8 September 2011

### BGD103807.E

Bangladesh: Domestic violence, including legislation, state protection, and services available to victims (2007-July 2011)

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### Situation

According to Human Rights Watch, domestic violence in Bangladesh is "a daily reality for many women" (2011, 3; Human Rights Watch 2010, 4). The 2007 Bangladesh Demographic and Health Survey reported that 53 percent of the ever-married women surveyed had experienced some form of physical and/or sexual violence by their husbands (NIPORT et al. Mar. 2009, 201). In 2010, the Bangladesh Police registered 16,210 cases of "[c]ruelty to women" (Bangladesh n.d.a), a term that, under the Prevention of Cruelty Against Women and Children Act, includes rape, trafficking, dowry-related violence, acid throwing, and other forms of violence, but that does not necessarily include domestic violence since "there is no separate provision to seek justice for domestic violence" (UN 24 Mar. 2010, 28, 89).

Women's and human rights organizations report that violence against women, including domestic violence, is underreported in Bangladesh (UN 24 Mar. 2010, 88; CiC-BD July 2010, 49; *New Age* 2 July 2011; US 8 Apr. 2011, 32). Reasons cited for low reporting rates include the attitude that domestic violence is a "private issue" (UN 24 Mar. 2010, 88); cultural acceptance of wife-beating (CiC-BD July 2010, 49); social stigma (US 8 Apr. 2011, 32; *Odhikar* 1 Jan. 2011, 64); fear of retaliation from the perpetrator (ibid.; UN 11 Sept. 2009); and lack of resources and understanding of the legal system (ASF n.d.b).

### Acts of violence

Acid attacks, in which assailants throw acid into the faces of victims to disfigure or blind them, have been identified as a persistent problem in Bangladesh (US 8 Apr. 2011, 34; Freedom House 2011), although the number of recorded attacks has been declining since 2002 (ASF n.d.a) when the Acid Crime Prevention Act was passed (Freedom House 2011). The Acid Survivors Foundation (ASF), a non-governmental organization (NGO) in Bangladesh that collects data and provides support to survivors of acid attacks (ASF n.d.c; ASF n.d.a), reports that 115 attacks occurred in 2010 and that 72 percent of the victims were female (ASF n.d.a). The United States' (US) Department of State reports that such attacks are often connected to suspicions of spousal infidelity (US 8 Apr. 2011, 34). In addition to marital disputes, other common motivators identified by the ASF include property or financial disputes, family disagreements, refusal of marriage or sex, and dowry-related issues (n.d.a).

According to *Odhikar*, a human rights NGO in Bangladesh that collects data from daily newspapers and a network of contacts among human rights workers, 556 incidents of rape were reported in 2010, including 308 against children; 91 women or children were killed after being raped (1 Jan. 2011, ii, 64).

Although dowries were banned in 1980, the practice of demanding a dowry

continues (UN 11 Sept. 2009). As a result, dowry-related violence remains prevalent (ibid.; Freedom House 2011). Odhikar reports that in 2010, 378 women were subjected to violence by their husband or in-laws because of a refusal or inability to pay dowry; of these women, 234 were murdered; in 2009, 319 women experienced dowry-related violence (1 Jan. 2011, 67).

Acts of extrajudicial punishment, what the US state department calls "vigilantism" against women (US 8 Apr. 2011, 33-34), based on *fatwa* (religious edicts) continue to occur in rural areas (ibid.; UN 13 Aug. 2010; CNN.com International 29 Mar. 2011), despite having been banned by the Supreme Court since 2001 (ibid.; US 8 Apr. 2011, 33-34). These punishments, including whipping and stoning, are typically imposed by *shalishes*, village ruling councils (UN 13 Aug. 2010), using "traditional dispute resolution methods, in the name of fatwas ... issued by Islamic scholars" (Human Rights Watch 6 July 2011). The fatwa are reportedly used by wealthy elites to exert control over their communities (UN 13 Aug. 2010) or to punish women for "alleged moral transgressions" (US 8 Apr. 2011, 33), particularly women from poor families (UN 13 Aug. 2010).

## Legislation

According to the Citizens' Initiatives on the United Nations (UN) Convention on Elimination of All Forms of Discrimination Against Women (CEDAW) - Bangladesh (CiC-BD), a coalition group consisting of 38 Bangladeshi and international women's and human rights organizations, Bangladesh maintains reservations against articles 2 and 16.1.c of the CEDAW -- which oblige state parties to eliminate discrimination against women in all legislation, public institutions and existing laws or practices, including marriage and family relations - on the grounds that these articles conflict with Sharia law (CiC-BD July 2010, 6, 16-18).

The Prevention of Cruelty Against Women and Children Act 2000 prohibits rape, acid throwing, and dowry-related crimes, among other forms of gender-based violence (UN 24 Mar. 2010, 28). Separate legislation also exists to control the unlicensed sale and use of acid (ASF n.d.b). However, lack of awareness and weak enforcement of these laws has limited their effectiveness (US 8 Apr. 2011, 32, 35; UN 5 Jan. 2009).

The CiC-BD states that both the enforcement of laws and the implementation of policies and programs are inadequate:

Judgements directing administrative action have often not been circulated to stakeholders, which leads to a recurrence of [incidents] of discrimination or violence against women. Institutional failure and administrative lapses, whether through lack of commitment or inadequate capacity, have been fundamental enablers of women's rights violations in the country. In this context, [CiC-BD notes] with concern both the rise in incidents of stalking and sexual harassment, and the apparent inability/unwillingness of the state to bring to justice perpetrators of gender-based crimes. (July 2010, 8-9)

In October 2010, Bangladesh passed the Domestic Violence (Protection and Prevention) Act, which criminalizes domestic violence (US 8 Apr. 2011, 32; *New Age* 2 July 2011). The legislation defines domestic violence as physical, emotional, or sexual abuse, as well as financial damage, inflicted on a woman or child by any member of the family (Bangladesh 2010, Art. 3; *New Age* 2 July 2011). It does not specifically prohibit spousal rape (US 8 Apr. 2011; Bangladesh 2010, Art. 3).

Women who have experienced domestic violence can submit complaints to the courts (*Daily Star* 29 Oct. 2010; *New Age* 2 July 2011) or to local protection officers (ibid.). If the court finds that an incident of domestic violence has occurred or is likely to occur, it can issue orders for the cessation of violence and/or harassment to protect the security of the victim and her right to remain in her place of residence; it may also make arrangements for the victim to be relocated to a shelter (at the expense of the perpetrator, if deemed appropriate) or temporarily evict the perpetrator if no convenient safe shelter is available (Bangladesh 2010, Art. 14-15).

However, the US Department of State reports that skepticism exists about the effectiveness of the legislation (8 Apr. 2011, 33). For example, the Executive Director of the Bangladesh National Women Lawyers' Association (BNWLA) has argued that the focus of the act is on prevention rather than prosecution (*Daily Star* 20 June 2011). Although the law came into effect in December 2010 (*New Age* 2 July 2011), it is reportedly not yet being enforced (*ibid.*; *ibid.* 28 June 2011). No petitions have been filed with the courts as the government has yet to formulate the rules necessary for its implementation and to appoint officials for its enforcement (*ibid.* 2 July 2011).

## State Protection

The Ministry of Women and Children Affairs (MoWCA) oversees the Multi-Sectoral Programme on Violence Against Women (MSPVAW), which is supported by the Government of Denmark and which collaborates with seven other government ministries to consolidate and improve public services for women facing violence (Bangladesh *n.d.b*). It also runs public awareness campaigns (*ibid.*), which include awareness training for media, religious leaders, government and non-governmental officials; anti-violence messaging in media outlets (UN 24 Mar. 2010, 92), and promotion of its services (Bangladesh *n.d.b*).

## Police

The 2010 National Household Survey conducted by Transparency International Bangladesh found that 75.6 percent of rural households and 58 percent of urban ones were forced to pay bribes to the police in order to receive services (Dec. 2010, 11). Further, Freedom House states that police "rarely enforce existing laws protecting women" and that they accept bribes to disregard rape cases (2011). Odhikar reports at least six incidents of rape by law enforcement officials in 2010 (1 Jan. 2011).

In a 2008 study on the services provided in Bangladesh at police stations and health facilities to survivors of rape, researchers found that the surveyed police officers were unfamiliar with official protocol for managing rape cases and most did not receive additional training on the issue (Population Council Sept. 2008, i, 9). The Population Council study states that 82 percent of respondents indicated that women reporting rape were interviewed in public interrogation rooms (*ibid.*, 10). The study also found that police were not sensitive to the needs and care of survivors of rape, displaying a lack of sympathy, blaming the victim, and emphasizing the shame brought to the woman's family (*ibid.*, ii).

The Police Reform Project, initiated by the Government of Bangladesh in 2005 and extended to 2014, aims to improve the effectiveness of the Bangladesh Police, including by increasing understanding of gender and human rights issues and improving responsiveness to female survivors of violence (UN 24 Mar. 2010, 92-93). An action plan has been developed to make female police officers mainstream and to recruit an additional 3,000 women (*ibid.*, 93). However, the CiC-BD notes that the impact of gender-sensitivity training on law enforcement personnel and public prosecutors is limited because of "low coverage and ineffective modules" (July 2010, 50).

The MoWCA has also implemented pilot programs on gender responsive community policing, in which police officers work with community members to maintain law and order and to increase access to justice for the poor, particularly women and girls (UN 24 Mar. 2010, 93).

## Judiciary

Since July 2010, the Supreme Court has issued three orders declaring the illegality of extrajudicial punishments against women in the name of fatwas, criticizing the inaction of the Bangladeshi government in the face of persistent violations, and urging the government to take action to discourage and educate against such crimes (Human Rights Watch 6 July 2011). The Bangladeshi human rights organization Ain o Salish Kendra (ASK) has identified the weak judicial system in Bangladesh as a key

reason for the lack of enforcement of anti-violence laws (UN 13 Aug. 2010).

An Acid Tribunal Court has been established to allow cases related to acid violence to be heard within 90 days (ASF n.d.b). However, according to the ASF, conviction rates in such cases remain low; a total of 115 cases in 2010 resulted in seven convictions (n.d.a).

## Support Services

The MSPVAW program began establishing one-stop crisis centres (OCCs) in 2001 in medical college hospitals in different parts of the country (CiC-BD July 2010, 48). The purpose of these centres is to provide all necessary services to women and children who are victims of violence in one place (Bangladesh n.d.c; UN 24 Mar. 2010, 62). The free services provided include medical treatment and examinations, DNA testing, police and legal assistance, and psychological support (Bangladesh n.d.c). Women are admitted through the emergency or outpatient services of the associated hospital (ibid.). Official statistics show that as of November 2009, 8,653 women and children had received assistance at the OCCs (ibid.). The MSPVAW also runs free 24-hour emergency hotlines to provide advice to women (UN 14 Dec. 2010).

The government operates six divisional women support centres, providing shelter and training to female victims of violence for six months; the women can be accompanied by up to two children under the age of 12 (Bangladesh 25 Jan. 2011, 16). The Department of Social Service runs six divisional safe custody homes for female survivors of violence and witnesses; each home has a capacity to shelter 50 persons and provides food, shelter, health care and legal aid (UN 24 Mar. 2010, 92). The CiC-BD reports, however, that there are not enough shelters and support facilities to meet the needs of women facing domestic violence, and that, further, these facilities suffer from resource constraints (July 2010, 50).

The US Department of State reports that, although the practice is prohibited by law, in situations where women require 'safe custody' - usually following an incident of rape, human trafficking, or domestic violence - they are sometimes made to share the detention facility with criminals (8 Apr. 2011, 12).

Several NGOs in Bangladesh provide legal services to women and victims of domestic violence, including ASK, the Bangladesh Legal Aid and Services Trust, BNWLA, Bangladesh Mahila Parishad and the ASF (We Can n.d.). There are also several NGOs that provide shelter and other services to women victims of violence (UN 15 Dec. 2010).

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.

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