



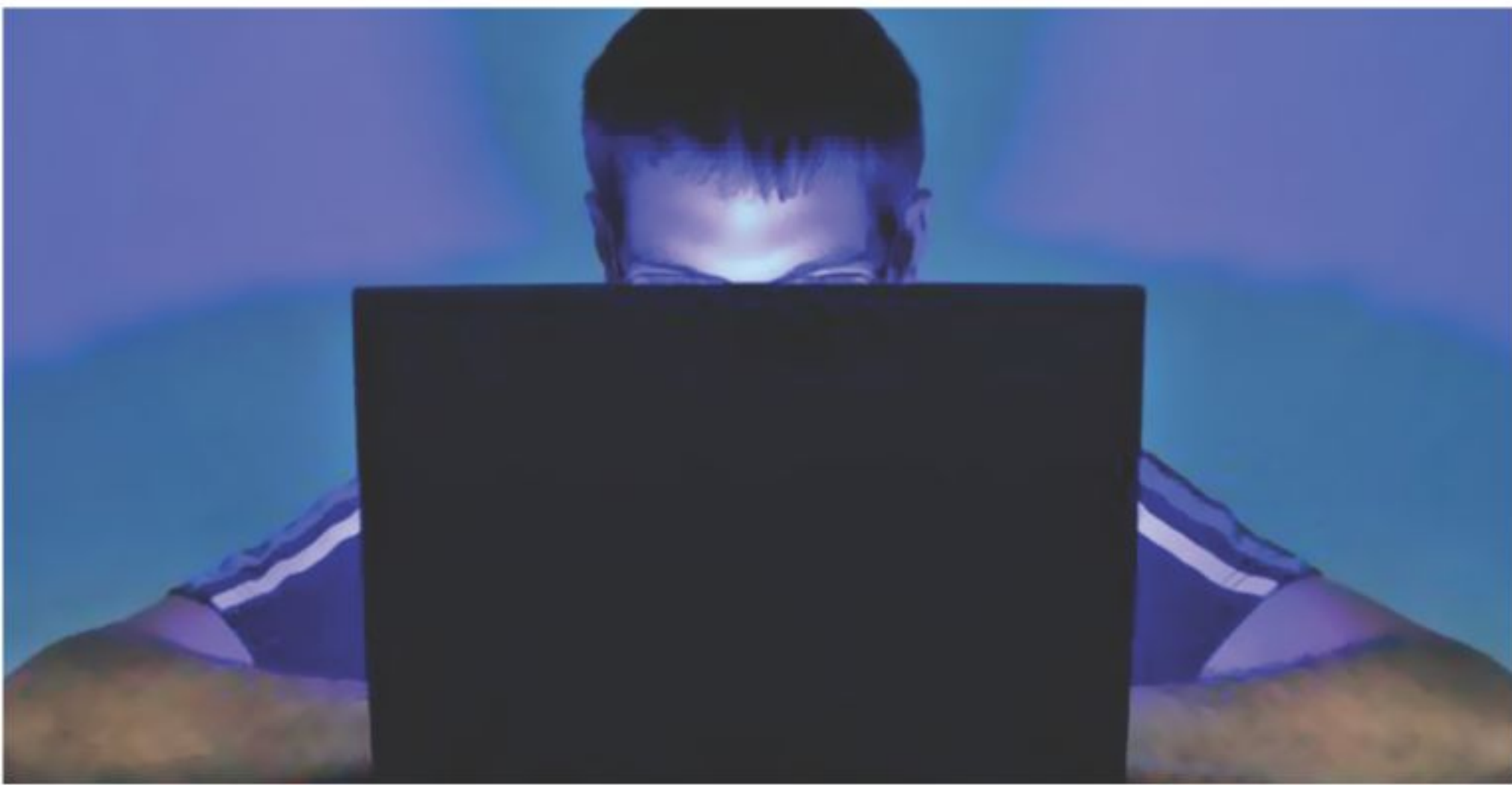
## CYBERCRIMES

# Are women the main target?

QUAZI MH SUPAN

**D**EFINITIONS of most crimes committed in worldwide real space are gender neutral although a significant number of crimes are committed mostly against women. The scenario remains the same regarding the crimes committed in cyber space. There are no distinct crimes known as cyber crimes against women and consequently there is no compact definition of cyber crime against women. Like the real space crimes, women are the main target of many cyber crimes.

Most cyber crimes are of general nature and they target men and women alike. But there are certain cyber crimes that are more likely to target women than their male counterparts. These include cyber stalking, cyber harassment, morphing and obscene publication, email/profile hacking, spoofing, cyber pornography including revenge porn, internet voyeurism, cyber defamation, cyber bullying, e-mail harassment, cyber blackmailing, threatening, emotional cheating by impersonation, intimate partner violence through internet



and abetment of such offences.

Women's rights in the cyber space are abused in many ways in Bangladesh and use of internet and mobile phones to stalk, abuse, intimidate and humiliate women is rampant. Women especially the young girls who have been newly introduced to the internet are comparatively inexperienced in cyber world, and consequently they are most susceptible to falling into the bait of cyber criminals and bullies. Morphing, cyber stalking and cyber pornography including revenge porn are the most common cyber crimes that target women in Bangladesh. These attacks against women are carried out to destroy their personal reputation, create fear for physical safety and also monetary losses.

Morphing means changing smoothly from one image/video to another by small gradual steps using computer animation techniques. As various morphing tools are widely available in internet, offenders often download girls' pictures from various social websites through real or fake profiles and then morph them. The morphed images may be used to blackmail the girl or her family by threatening to publish the morphed images.

Cyber stalking involves following a girl's movements across the internet by posting messages on the bulletin boards, discussion groups and entering the chat-rooms frequented by the girl, constantly bombarding the girl with emails, often threatening and abusive. Cyber

stalkers target and harass their victims via websites, chat rooms, discussion forums, open publishing websites and email. A cyber stalker relies upon the anonymity afforded by the internet to allow them to stalk their victims without being detected. The harassment can take on many forms, but the common denominator is that it is unwanted and often obsessive. Cyber stalking is often perpetrated not by strangers, but by someone a girl knows. It could be an ex, a former friend, or just someone who wants to bother a girl or her family in an inappropriate way. Cyber stalking can be terribly frightening. It alarms, torments, and terrorizes a girl. It can destroy friendships, careers, self-image, and confidence. If coupled with real-space stalking, cyber stalking can lead the victim into far greater physical danger including suicide attempts.

Cyber pornography refers to portrayal of sexual material on the web. Criminals often rape or molest a girl, capture the incident by webcam or mobile phone and spread the video over internet. These incidents are becoming alarmingly common even in the rural areas of Bangladesh.

We have several laws to deal with cyber

crimes and among them two enactments are important for practical purposes: the Information and Communication Technology Act, 2006 (ICTA) and the Pornography Control Act, 2012 (PCA). Cyber pornography can be prosecuted by section 8 of the PCA and also by section 57 of the ICTA. It will be extremely difficult to prosecute an act of morphing if the morphed image/video does not fall within the meaning of pornography. Acts of cyber stalking will probably continue to be immune from legal process as these laws do not specifically define them and our trial judges will rationally be reluctant to convict a person for acts not defined as crimes.

Beyond the general definitions of cyber offences we need to use very specific definitions for most common cyber crimes against women in a technology-neutral language. To successfully prosecute a digital offence we need to produce digital evidence in a court of law, but alas, we still do not have any established digital evidence protocols in place. For these reasons we are yet to see in Bangladesh a successful trial of a cyber crime in its true and real sense. The Government, private sectors especially the ISPs and mobile networks and NGOs need to work together to stop the menace. The Digital Bangladesh vision will not achieve its cherished goals if we fail to secure a safe and creative cyber space for our girls.

THE WRITER IS AN ASSOCIATE PROFESSOR OF LAW, UNIVERSITY OF DHAKA.

## LAW INTERVIEW

# Women should speak up against any abuse



*Ms. Taslima Yasmin is the Assistant Professor in the Department of Law at the University of Dhaka. She is a Chevening scholar and currently a PhD researcher at Brunel University, UK. This young and inspirational researcher worked mostly on the issue of woman and child rights. Sakina Huq from Law Desk talks with her on the following issues.*

**Law Desk (LD): Are there adequate laws to combat violence against woman in Bangladesh?**

**Taslima Yasmin (TY):** Compared to the other countries, good number of laws exist in Bangladesh, specifically addressing violence against woman. Creation of special laws are more often results of prolonged movements and struggles of civil society and reflect popular demands. However, after creating these special laws, our priority should be on the implementation of such laws and building mass awareness on the provisions and their applications. Promulgating a law, although very significant, is only the first step of the ladder. Struggle for ensuring that the benefits of making such laws reach to real people, only begins from there.

**LD: Do you think that women are sufficiently aware of the fact that they have the right to fight against violence they often face?**

**TY:** I think there is generally a lack of adequate access to legal information, and that is true for any other laws as well. To take the example of the recent law on domestic violence, its innovative provisions and remedies are still unknown to many and without mass awareness on any law, successful implementation cannot be expected. I have always advocated for a Public Legal Education scheme and I believe giving wider access to legal information and knowledge is absolutely essential to create greater awareness on the rights of women.

**LD: Talking about domestic violence, what are the crucial factors that work behind it?**

**TY:** The Domestic Violence Act gives women victims of domestic violence a number of civil remedies like entering the matrimonial house of a woman to take back her belongings and valuables (with the help of police and district women affairs officer) if she is thrown out of it by husband or in-laws. It protects women not only against physical abuses but also against mental, verbal, sexual or economic abuses committed by any family member, not only by the husband or in-laws. It is an extremely important legislation to address violence in home, but awareness of its existence needs to be created to increase its use by the victims. Creating awareness of a law would also, I believe, help change the common social perception that abuse within home is acceptable and should remain private.

**LD: How would you find the justification of government of Bangladesh regarding**

**the reservation of CEDAW provisions?**

**TY:** Withdrawal of the reservations from CEDAW would certainly be an ideal goal to achieve equal status for women in Bangladesh. However I believe we should also draw our focus on the existing avenues of laws - in particular of the personal laws and seek how they can be applied or moulded in a way which would assure greater equality for women within the existing legal parameters.

**LD: How can we address the issue of dowry that is prevalent even in the modern days?**

**TY:** Despite of legal intervention in prohibiting dowry, demand for dowry is still an existing phenomenon that we need to battle against. In addition to ensuring stricter implementation of the existing dowry prohibition law, I think a change in the deep rooted patriarchal ideology, where marriage is viewed as the only goal to achieve for a woman, needs to be addressed strongly. Again economic empowerment of women is important to enable them to take a strong stand against such practices on individual levels.

**LD: Even though the empowerment of women increased but do you think women are also contributing towards decision making in their professional spheres?**

**TY:** These days we do see women achieving success in professional careers and reaching up to important positions. However, we also need to be aware that they represent a very small section of women, mostly based in the urban areas. We also need to be thoughtful of the women in rural Bangladesh, who in fact comprises the majority of the women population, when we talk about 'empowerment'. All interventions and struggles for ensuring women empowerment must be inclusive of this majority women and must address their vulnerabilities.

**LD: Being a professional do you feel any sense of fear and insecurity to flourish your career as a woman?**

**TY:** Being in an academic profession I am fortunate that I personally never felt challenged being a woman. But from my personal experiences as an activist in rights issues, I am aware that it is much more difficult for a woman to achieve success professionally. It is important that a woman, both in professional life and personal life should always speak against any abuse how small it may be and respect her own identity as a woman.

**LD: Thank you so much.**

**TY:** Thanks.

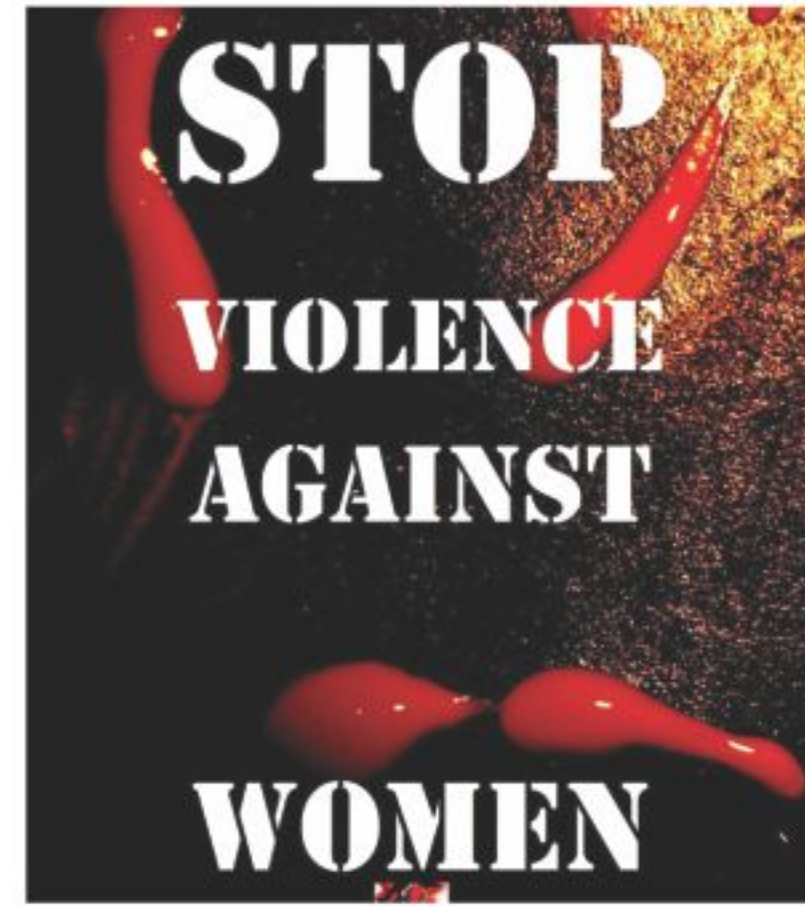


## Preventing VAW beyond Law

MOHAMMAD MAMUNUR RASHID

**V**IOLENCE against women (VAW) is marked as misdeed committed against the female members of the family, colleagues at office, and classmates in the educational institution and so on. The prevalent incidents of VAW disregard the values of human rights. The reasons behind VAW amongst others are as follows:

- Female, being bride has to face serious problems to acquaint with so many other members and affairs of the bridegroom's family is joint headed by patriarchal leadership. Regrettably, members of husband's family hardly understand these difficulties of bride and it leads to the commission of VAW.
- By virtue of unjust behavior derived from Polygamy, women also encounter chaos in family.
- Few incidence of VAW occurs due to chaos among youngsters resulting from non-permission of extra-marital or pre-marital relationships.
- Maid servants have not been defined as workers or laborers in any law. Due to absence of special law, they are becoming the victims of persistent violence.
- Women have been guaranteed for employment preferably under the constitution of Bangladesh. Nevertheless, female employees are being harassed at work place by their colleagues. With the same tuning, female student are being stalked by their class mates in the educational institutions.



Observing the frequency and expansion of VAW, there has been continuous discussion about the enactment of law in this regard. Special law has been enacted for preventing domestic violence. No law has been enacted yet to prevent VAW at workplace. In 2009, HCD has issued few directives (BNWLA Vs Bangladesh, 14 BLC HCD 694) which have been treated as law to ensure security of women at work place in absence of any special law. Now we would see why those laws are not enough and which may be way forward in this regard.

The Nario o Shishu Nirjaton Daman Ain, 2000 has been enacted to protect women and children from private and public offences committed against them whereas it applies to domestic violence relating to dowry. The title of this Act is seriously misnomer in this sense.

The special law for protecting and preventing domestic violence in Bangladesh is the Domestic Violence (Protection and Prevention) Act, 2010. India has enacted this type of law in 2005 and Pakistan enacted in 2012. Measures provided under the Act of 2010 have certain levels of complexities in application. Section 4 of the Act of 2010 allows the victim to inform the police officer what the aggrieved party encounters. Secrecy might break if any information is disclosed to the police officer. Here, an informal measure (i.e. ADR) the authority may be recommended at first instance.

Besides this, Act of 2010 authorises the courts to give order for separate residence, or safe custody. But from pragmatic point of view, victims may feel a sense of alienation which keeps them away from social cohesion. So in order to undertake these measures, proper caution should be taken.

Constitution, special law, and directives of the HCD do not protect women properly. Female have to encounter harassment from domestic arena to work place in different manner. Mere measures would not ensure women safety. We need to create an environment of respecting, loving and evaluating women. Here, religion, social norms, education and behavioral patterns of social and communal relations may play great role. Hence, the aged people, preachers of religion and parents should teach our next generation to develop human conscience towards women, girl, daughter, wife, sister, maid servant, female colleague and class mate, female passer by and so on.

THE WRITER IS SENIOR LECTURER OF LAW, EASTERN UNIVERSITY.

## HUMAN RIGHTS RIGHTS ADVOCACY

DR. NAHID FERDOUSI

**D**ESPITE of woman's participation in the socio-economic and political development, woman has less access to enjoy their money, especially in their property rights. Instead, woman and her family continue to be deprive and victim of violence. The most important event in a woman's life is marriage in our country which is surrounded by various financial transactions including dower and dowry.

Dower is a woman's right to marital property. In practice, often a woman in Bangladesh does not receive her legal right of dower from husband due to various reasons, such as: dower is controlled by husband and social custom, unregistered marriage, non specification of the mode of payment of dower in the Kabinnama, lack of awareness of laws on dower, fixation of a smaller amount of dower by the groom's party, the traditional concept of usool (paid) by jewelry or other items at the time of marriage, the customary practice to waive dower in the wedding night, hidden intention to deprive the bride from property rights, lack of husband's sense of responsibility towards the payment of dower, dower is being curtailed by turning a talaq case into khula where the woman has to sacrifice her right of dower in exchange for a divorce etc. In this way, the cases of dower are influenced by social practice and the question of payment arises only at the time of divorce. Consequently, a woman loses her property rights which she is entitled to both under the Shariah and statutory laws.

Similarly, dowry however, is the woman's property that she brings into the marriage when she gets married. Dowry is not supported by any personal law and prohibited by statutory law though it exists strongly throughout the country. The strongest incentive behind



paying dowry demand is the daughter's security, happiness, and a timely marriage. Sometimes, dowry often exceeds dower amount. If dowry is demanded, most of the times dower money is adjusted to it. Sometimes parents provide dowry willingly and most of the time husband's family demand and give pressure to provide dowry. Thus, dower and dowry is a property of woman but they cannot easily access to enjoy and implement the property rights.

In practice dower comes in a written form in marriage contract and wife can claim for the recovery of dower at any time. Unfortunately, there is no written document to recover the amount of dowry from husband. In addition to that, if a woman is incapable to fulfill the payment of the demanded dowry, she faces humiliation, mental torture, verbal and physical abuse, even murder by her husband and in-

laws. Moreover, greed and commercialisation of marriage, lack of ethical practice and social values, lack of decision making power of woman in family, less economic power of woman to control the family, narrow mentality of groom's family, negative male attitude towards the female are the reason to struggle for woman to pay dowry.

The Dowry Prohibition Act 1980 provides, demanding dowry a punishable offence. Section 3 of the Act provides that the penalty for any person giving or taking dowry shall be imprisonment from one to five years, or a fine or both. Consequently, the court can reduce the sentence; and imprisonment is equated with a fine.

However, a fine is not fixed or properly clarified. Thus, sanctions appear vulnerable to judicial bias and any higher socio-economic status of the husband. Given the alarming

increase of dowry incidents, this discretionary power must be removed.

In addition, the Act fails to recognise the gravity of the crime and the immorality involved in 'taking dowry' by placing dowry giver and dowry taker on an equal plane. It fails to take into account the unequal power balance in operation. Dowry-takers are more blameworthy as they are motivated by greed and utilise the groom's superior bargaining position. To make the Act of greater benefit and utility to women, section 3 should be amended to penalise only the takers or abettors of dowry.

There is no noticeable change in the dowry practice since the enactment of the law. Mainly for lack of cooperation from the family members, women do not get the required support from the law. Some victims do not want to continue the legal battle against their husbands for reprisal. They cannot afford to fight legal cases. However, at present, the Domestic Violence (Prevention and Protection) Act, 2010, is another positive initiative by the government for addressing domestic violence against women. In case of physical or psychological abuse for dowry women can take resort to the Act.

Laws alone cannot purge society of the dowry system as well as enforce dower practice. Beside laws, we need more social awareness and effective social measures. The registration of marriage should be made compulsory. The concept and the principle of responsibility should be promoted through national curriculum which impacts everyday life of citizen. Women and men all have to be more conscious and aware about the women's right of property.

THE WRITER IS AN ASSOCIATE PROFESSOR OF LAW, BANGLADESH OPEN UNIVERSITY.