

RIGHTS WATCH

Bangladesh needs to address domestic violence against women to achieve SDGs

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In 2015, UN member of States adopted 17 Sustainable Development Goals (SDGs) for transforming the world into a place that is free from poverty, inequality, violence, and manmade natural disasters for the current and future generations and set out a 15-year long plan to achieve the goals. To realise these goals, the UN Secretary-General called for action in three levels – 1) Global Action (securing excellent leadership, innovative solutions) 2) Local Action (bringing about the needed transition in policies, budgets, institutions, and regulatory frameworks of governments, cities, and local authorities); and 3) People Action (generating a strong popular movement for the bringing in the required transformations among all levels of people in the society, including youth, civil society, the

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media, the private sector, academia, and other stakeholders). Since the adoption of the goals in September 2015, the 193 individual UN Member States have begun developing and implementing SDG plans at the national levels. Bangladesh, as a member state of the UN, also has pledged to achieve the SDGs.

Among the 17 goals, eliminating all

forms of violence against women and girls in public and private spheres was adopted under the overarching Goal 5.2 on gender equality and women's empowerment. Here, violence in private spheres refers to intimate partner violence/domestic violence. According to WHO (2021), in the private sphere worldwide, one in three women experiences Domestic Violence (DV) in an intimate relationship in lifetime. A report from UN Women states that 35 percent of women worldwide have experienced DV by an intimate partner, and some national studies show that up to 70 percent of women are the victims of DV. According to Prothom Alo, as of March 10, 2021, the ratio of violence against women, including DV, is the highest in six countries, including Bangladesh. According to Bangla Tribune report (April 1, 2021), 107 women were the victims of DV in the last three months. Among them, 76 women were murdered and 13 committed suicide on account of DV.

In 2020, Action Aid Bangladesh reported that gender-based violence, including domestic violence, has alarmingly increased. Furthermore, as highlighted by Sustainable Development Goals Bangladesh Progress Report 2020, one of the immediate causes of women's suicide in the country is DV.

Three of the critical parts of the SDG development agenda are: (i) SDG 3: Ensure healthy lives and promote wellbeing for all at all ages; (ii) SDG 5: Achieve gender equality and empower all women and girls; and (iii) SDG 16: Promote peaceful and inclusive societies for sustainable development, provide access to justice for all, and build effective, accountable, and inclusive institutions at all levels which are linked to domestic violence. SDG 3 concerns the health of DV victims. Because of DV, a woman's health may be impacted in various ways:



physically, mentally, and sexually. Even death may occur either through homicide or suicide. A child also undergoes mental health problems, by experiencing or observing violence during the childhood. Furthermore, DV impacts the state apparatus through tremendous health costs, impacting national budgets and the country's overall development. A medical review study found that a woman is more likely to suffer from DV than from medical conditions such as diabetes, depression, or breast cancer and is a contributing factor for causing various medical conditions, including chronic conditions, such as asthma, stroke, and chronic pain. But interestingly, in spite of all these concerns, SDG goal 3 has not specifically highlighted a DV victim's health.

SDG 5 and SDG 16 are linked to the causes of DV. There are many causes

and factors of DV which researchers have already underscored. Gender inequality is one of the leading reasons for DV. Also, lack of access to justice, lack of alternative options, and lack of access to resources and support services are the factors that contribute to causing or increasing the incidents of DV. Two levels of action are needed (as mentioned above): Local Action (state-level action) and People Action.

State-level Action refers to protecting a DV victim by developing policy, legislation, plan, and institution. Bangladesh has already taken some steps to combat DV at the state level, which includes enacting a law named Domestic Violence (Prevention and Protection) Act in 2010 and establishing support services such as One-Stop Crisis Centre (OCC), Victim Support Centre (VSC), and Shelter Homes for DV victims in

all six divisions. In these centres, a woman can get both short and long-term shelter along with other services. There is a National Helpline 10921, which works 24 hours and provides information and advice about the existing support services. However, although the National Women's Advancement Policy (NWAP), 2011 partly addressed violence against women including DV, there is no specific DV policy. Also, support services desperately need coordination, a robust structure, as well as a systematic data collection process.

People Action refers to the prevention process of DV. It is an essential step to prevent DV from occurring in the first place. For this, the state action needs to include community accountability, encompassing all the people in the community standing together against DV. That is why awareness about DV must be generated in the whole community and among individuals in different community settings such as educational institutions, local communities, sports, and the media. Furthermore, a comprehensive awareness program with focus on the intricacies of intimate partner violence, violence within family, and protection of DV victims, may lead to sustainable change in the community's traditional attitude.

Most importantly, we have to think of innovative ideas to solve our problems according to our culture and social environment. We need to conduct more research about the factors of DV, and set a policy according to that in order to combat the same. Such a course of action can put Bangladesh on the path towards achieving DV prevention while meeting the requirements of SDGs 3, 5, and 16.

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LAW OPINION

ROAD ACCIDENTS IN CONTEXT Urgency of compulsory motor vehicles insurance in Bangladesh

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In Bangladesh, owners of motor vehicles need to take insurance policy that expires in one year as a non-life policy that costs different amount for different types of vehicles. As per the provisions enunciated in the Motor Vehicles Ordinance, 1983 (hereinafter referred to as the MVO, 1983) taking a motor vehicle insurance was mandatory for the owners of motor vehicles except for the ones owned by the government. The newly enacted Road Transport Act, 2018 has made it optional for the owners to take insurance policy. Therefore, at present, there is no statutory obligation for the owners to take insurance policy and as a result, they can run their vehicles without any insurance policy as such. Circulars issued by the Bangladesh Road Transport Authority (BRTA) and Insurance Development and Regulatory Authority (IDRA) in reference to the new Act of 2018 instructed the concerned authorities to curb the practice of issuing and verifying obligatory insurance certificates.

As per the provision of section 60 of the new Act, transport owners can ensure the passengers if they "wish" to do so. Also, the Act is silent about the insurance of the drivers and other staff members. Even in various sections on insurance incorporated in the new Act, the issues regarding conditions, limitations of liability, mitigation of claims, validity and transferability of insurance certificate etc. of motor vehicle insurance are not made clear. These issues have rather been kept to be enunciated in details by Rules yet to be made.

Now a vital question is - who will bear the compensation? Innocent passengers and sometimes strangers e.g. passers-by may be found as third-party victims as consequence of a road accident. In Bangladesh, motor vehicle owners' liability has been recognised by the higher judiciary as a form of tortious liability arising out of actions or inactions of persons working under them e.g. drivers. The Act of 2018 directly holds the drivers responsible in this connection, while exempting transport owners from shouldering liabilities. In addition, compensation for emotional injury is granted by the higher judiciary of the country and that may sometimes rise up to a huge amount, on different heads, which may or may not be possible for the drivers to pay.

In the past, two policies were in place - act liability (basic) and comprehensive. Most of the owners used to take act liability obligatory insurance certificates from government or non-government insurance companies only for complying with the law. Since 1983, the owners have been paying the amount for vehicle



insurance, but hardly had they received any amount as claimed compensation from the insurance companies; hence so far, it almost looked like a one-party contribution. Some of the owners however took comprehensive insurance policy which has limited liability as per contract. In *Catherine Masud v Kashed Mia and others* [reported in 67 DLR 527], the owner of the vehicle had a comprehensive insurance policy with Reliance Insurance Company. In that case, an issue was raised as to whether the insurer had any liability to pay compensation beyond the limit, which was a demand of the party to the case under indemnity clause of the policy as admitted by the insurer, and if so to what extent? The Court however could not impose more liability because the parties to the insurance policy had a contract with fixed liability that was limited in amount and already paid by the insurance company.

In the MVO, 1983 Chapter IX under the heading of insurance of motor vehicles against third party risks contained a provision of application to be made within 6 months from the date of an accident. It had to be made to the assigned Tribunal under section 128 of MVO, 1983 having jurisdiction over the area in which the accident occurred.

After the repeal of the MVO, 1983 it appears at present that the victims of road accidents do not have access to any special judicial fora to make demand for compensation as the newly enacted Act provides for no such remedy rather prescribes to take resort to the general criminal justice mechanism.

It is pertinent to note that the draft Road Transport Act, 2018 had provided that the transport owners, companies, operators or their

representatives must bear the treatment costs of the injured victims. But the finally passed Act does not make anyone of them liable as such. It transpires that the new law is soft on the transport owners and leaves the matter of taking insurance policy to the sweet will of them.

The new Act proposes that the government will raise a fund for the injured and family members of the dead, to be overseen by a trustee board with representatives from different government agencies and other stakeholders such as highway police, transport owners and workers' associations etc. The funds will be raised with taxpayers' money and contribution from transport owners and workers as well as from a portion of fines to be realised from traffic offenders. However, it is, at best, an alternative way but can never be as apt as compulsory insurance.

As the mandatory insurance policy provision is omitted in the new Act, now the ultimate question to answer is - to what extent owners will be interested to take insurance policies to cover probable risks. Therefore, it is necessary to make a provision regarding mandatory insurance policy which has to be designed in such a way that covers the maximum risk of financial liability. Formulation of a comprehensive policy with provisions for compulsory motor vehicle insurance with a fixed mandated standard premium covering both property and physical damage is a crying need. Only then, can the highest standard road safety be ensured in Bangladesh.

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LAW VISION

The right to repair: A solution to the problem of E-waste generation

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"Consumerism" refers to a set of practices or ideas that encourage the sustained purchasing of goods and services in ever increasing amounts. It creates a "culture of consumption" that benefits manufacturers and producers through increasing flows in revenue often at the expense of public welfare. Unfettered consumerism has significantly contributed towards humanity's problem of waste generation. The traffic flows both ways, however: the frenetic rise in demand for goods and services has led to manufacturers and producers to produce and provide at a feverish pace leading to over-exploitation of resources. From the other end, manufacturers and producers design products that come with expiry dates. To compound the problem, manufacturers and producers make it difficult for end consumers to obtain repairs for the products which they own. This may be done (among other means) through agreements with retailers and after-service providers to not sell extra parts to end consumers; through making parts available only to specific or authorised providers of after-sales services; by providing repairs at prices that are so high that consumers more often than not will consider purchasing a brand-new product instead. This phenomenon is known as "Planned Obsolescence."

Planned Obsolescence is a leading cause of Electronic Waste (e-waste) generation. Estimates hold that around 50 million metric tonnes (approximately 7 kilograms per capita) of e-waste is generated every year. It is speculated that by the year 2030, e-waste generation will be a staggering 75 million metric tonnes (approximately 9 kilograms per capita)! Asia alone generates around 25 million metric tonnes of e-waste. Of this figure, only around 11 percent is documented e-waste. Imagine tall mountains of electronic waste leaking noxious fluids into the soil and water, all because you had to throw away an electronic product that was purposefully designed to be virtually irreparable once it gets damaged. A viable means to combat planned obsolescence is to ensure that the end consumer has access to products meant to last longer, and if broken, they should be able to repair their products. This entails that products should be designed for repair and that support for repairers of all kinds should be readily available. This is known as "right to repair."

Legislation is currently in the process of being passed in the United Kingdom that will allow consumers to have the right to repair the goods they buy and own. Under

the legislation, manufacturers will be legally obliged to make spare parts for products available to consumers for the first time. The European Parliament is considering granting EU consumers a right to repair. Community legislation is in the works to encourage sustainable consumer choices and re-use culture. If passed, the legislation aims further to make information regarding repair readily available. In the United States of America, the pursuit of the right to repair has taken on the form of a movement that is convincing federal and national lawmakers to consider making new laws and updating existing laws that extend the right to repair with regard to a wide variety of electronic products ranging from farming equipment, refrigerators, cell-phones, and even life-saving machinery like hospital ventilators. Tech giant, Apple Inc. is currently in the process of settling a class action law-suit against it that alleged that it is quietly slowing down older phones to promote the sale of new products. The settlement amount is up to 500 million USD.



Having legislation and policies in place that support the right to repair may arguably strengthen existing consumer protection laws and practices. It is a tenet of such legislation to ensure that consumers have access to products that are durable. Tactful circumvention of this rule by making products designed for obsolescence at the introduction of a new product should under no circumstances be allowed. At the same time, the "throwaway economy" begins to be steadily replaced by a "circular economy" that makes good and sustained use of its e-waste by allowing for easily available repairs that may extend the life-cycle of a product owned by an individual. Legislation and policy respecting the right to repair and banning planned obsolescence could prove to be an invaluable weapon in humanity's fight against the effects of its own destructive endeavours and greed, in order to make earth a more livable planet for future generations.

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