



IMPLEMENTATION CHALLENGES OF THE DOMESTIC VIOLENCE PREVENTION AND PROTECTION ACT 2010

An analysis of its sections 14-17

The Domestic Violence Protection and Prevention (DVPP) Act 2010 (also known as the Domestic Violence Act, DVA) has been enacted to combat domestic violence by incorporating both preventive and protective measure in the Act. The DVA has been referred to as a quasi-civil and a quasi-criminal law since offences of domestic violence under the Act are not punishable per se but only attract punishment in case of certain breaches. The Act attempts to keep the door open for reconciliation between the parties instead of incorporating punitive measures to redress the grievance of the victims.

Context of the Study

The Constitution of Bangladesh as well as the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) 1979 guarantees women’s rights to equality and non-discrimination that encompasses the right to be free of and protected from violence. With a view to reflecting constitutional mandate and complying with international obligations, the Government of Bangladesh enacted a good of number of laws including the DVA. The Act defines domestic violence in terms of physical, psychological, sexual or economic abuse against a woman or a child of a family by any other person of that family with whom victim

is, or has been, in family relationship. While dealing with the perpetrators or violators under this law, the Act prefers to establish a reformatory aspect instead of imposing harsher punishment to the accused. The noble purpose behind this is to maintain the stability of the family and at the same time change the mindset of the accused through reformatory measures. The measures include protection orders, residence orders, compensation orders and safe custody orders for children. The Act along with the rules provides comprehensive guidelines to execute the aforesaid orders. The present study attempts to assess the implementation status of the abovementioned orders.

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Key findings along with the implementation challenges

- **Culture of reluctance in applying the DVA:** People still are reluctant to use this law while redressing the cases of domestic violence. They tend to impose punitive measures to the offender instead of rendering reformative measures prescribed under this Act. Though the cause of action of most of the cases is covered by the DVA, however, people file false cases under the Prevention of Women and Children Repression Act 2000 or the Dowry Prohibition Act 2018. The purpose is to ensure the arrest of the offender and take revenge against the offender which ultimately hampers the stability of the family.
- **Patriarchal norms along with cultural hegemony:** The patriarchal ideology which is being internalized through the 'imposed religious teachings' of men also endanger the equality of women in the society. Cultural norms and rituals are also being used to justify domestic violence. Even the educated women feel reluctant to report domestic violence cases since they consider it as dishonour to the family. In some cases they feel insecure to report and take action against domestic violence because that might put them in a worse situation.
- **Mediation as an alternative forum of dispute settlement:** Some of the domestic violence cases are resolved through mediation with the help of local government members. Such mediation helps to maintain the stability of the family without resorting for divorce attempt. The findings reveal that for the sake of uniting the family, women in most cases have to compromise with the sufferings arising out of domestic violence. Local government members often attempt to impose their decisions even if they go against the interest of the women.
- **Evading the payment of dower ¹:** There is a misconception in our society that if divorce cases are filed by wives then the husbands are not required to pay the amount of dower and for that reason husbands impose pressure to file divorce petition by the wives. Husbands while evading the payment of dower often resort to commit domestic violence that compels the wives to go for divorce petition.
- **Indifferent attitude of the law enforcing agencies:** The overall image and confidence over law enforcing agencies is very low which makes the victims indifferent to file complaint. Members of the law enforcing agencies show indifference to receive domestic violence cases. They believe that domestic violence is a family matter and it should be resolved within the family without intervention of the thana or court.
- **No existence of enforcement officer:** The key implementing stakeholder under the DVA is the enforcement officer who is supposed to serve in every Upazila. The government is required to appoint one or more enforcement officers in order to implement the procedural guarantees under the Act. The findings show that there is no existence of such enforcement officer. The non-existence of the key implementing stakeholders shows infrastructural inadequacy making the implementation of the law more challenging. The local administration is also unaware of the provision of enforcement officer.

1. The dower is a sum of money or other property which becomes payable by the husband to the wife as an effect of marriage. Though husbands are under obligation to pay dower, however, in most of the cases husbands want to evade the payment of dower.

Policy Implications

The DVA has been designed for a social fabric which is missing in our context. It is necessary to revisit the law considering the socio-economic context of the society. It is also essential to develop the infrastructural facilities required to implement the Act.

Actions to be taken by the Government

- **Mass awareness campaign:** Country wide mass awareness campaign should be launched to familiarize the provisions of the DVA. The campaign should undertake special measures for the unlettered segments of the society.
- **Appointment of enforcement officers:** The enforcement officer should be recruited immediately as per the law.
- **Building capacity of the stakeholders:** Extensive training programmes should be undertaken to enhance the capacity of the implementing stakeholders including police officials and enforcement officers.
- **Making local government accountable:** The members of local government should be made accountable for their activities at the local level. Proper trainings should be taken to make them aware about the relevant laws and policies as well as about their responsibilities for the community. Violence against Women (VAW) committee at the local level should function effectively with the help of local government. The budgetary allocation of local government should be increased.



Photo : Noor Ahmed Gelal



- **Exemplary punishment for filing false cases:** Exemplary punishment should be imposed for filing false cases. The court should act pro-actively to dispose the false cases. Lawyers should be made responsible for facilitating false cases.
- **Punitive measures under the DVA:** The DVA should contain punitive measures along with reformatory measures to deal with the offenders of domestic violence.
- **Empowering Family Court:** Since the domestic violence incidents are occurred mostly within the family, the family court could be given jurisdiction to try the complaints of domestic violence.
- **Improving infrastructural facilities:** Shelter homes required under the DVA shall be established in every Upazila. The shelter homes shall be made accessible to the victims of domestic violence. Medical centres should be equipped with necessary instruments and facilities.
- **Accessible legal aid services:** Legal aid services should be made accessible at the

Upazila and Union level so that the victims of domestic violence can easily avail such services.

Actions to be taken by NGOs

- NGOs can collaborate with the government initiatives in undertaking awareness campaign regarding the DVA. NGOs can provide training to the implementing stakeholders of the DVA. NGOs can also facilitate mediation session to resolve domestic violence disputes.

Actions to be taken by other Civil Society members

- Civil society has a big role in creating opinion pressure to revisit the DVA in order to modify it considering the actual fabric of the society. They can also engage in the awareness campaign undertaken by government and non-government agencies in order to familiarize the benefits of DVA

The aforesaid recommendations if implemented properly shall facilitate to remove the implementation challenges of the DVA.



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