



# Reluctance of seeking legal remedy in dowry violence cases in Bangladesh: An analysis of influencing factors



Mohammad Abu Taher\*, Siti Zaharah Jamaluddin

Faculty of Law, University of Malaya, 50603 Kuala Lumpur, Malaysia

## ARTICLE INFO

Available online xxxx

### Keywords:

Dowry violence  
Law enforcing agency  
Legal action  
Reluctance  
Victimised women

## SYNOPSIS

This paper aims to identify and analyse the reasons that hinder women, who are victims of dowry violence, to seek and adopt legal action against the perpetrators. Although stringent legal provisions with stern punitive measures have been undertaken, the number of dowry violence is steadily increasing. Conversely, only a small number of cases are reported to the law enforcing agency. In this study it was observed, although most of the victimized women are aware of statutes, they are unwilling to resort legal mechanism. Further, some victims were found to have attempted to receive legal remedy in their cases. However, due to problems with the law enforcing agencies they have lost interest to further follow-up on their cases.

© 2015 Elsevier Ltd. All rights reserved.

## Introduction

Generally the term 'dowry' means the financial and material property that a bride brings with her at the time of her marriage (Teyas, 1991; 29). With this, Nasrin (2012; 7) defines 'dowry' as "cash money, goods, valuable items or property that the bride's family gives to the groom's family upon marriage." Although the dowry is usually paid before or at the time of marriage, the payment may take place even well after the marriage. The dangerous aspect concerning dowry is that in case of non-payment or inadequate payment, women may face the actual, or, threat of, abandonment, divorce and physical as well as mental torture (Huda, 2006; 260). Sometimes women prefer to commit suicide when they do not find any prospect of getting support from the parents or guardian (Rozario, 2009; 48).

In response to the growing incidence of dowry violence in Bangladesh, the Parliament enacted the Dowry Prohibition Act in 1980. This Act has described demanding or taking and/or giving dowry as a criminal offence punishable with a maximum

penalty of one year imprisonment or with a fine or with both. To prevent the increasing dowry related cruelty, the Cruelty to Women (Deterrent Punishment) Ordinance of 1983 was enacted, but was then repealed and substituted by the Repression against Women and Children (Special Provision) Act of 1995. This Act provided severe punishment for crimes of dowry violence against women. In 2000, another law namely, was passed by the Parliament which was subsequently modified in 2003 to combat violence against women and children including dowry related cruelty. The Act of 2000 has repealed the Act of 1995. Thus, presently, any woman that faces ill treatment owing to dowry by her husband and/or in-laws can seek legal remedies under section 11 of the Act, 2000.<sup>1</sup> In accordance with the provision of this section the highest punishment is the death penalty and the minimum punishment is five years imprisonment with fine.

Although stringent provisions have been adopted, the violence relating to dowry is increasing,<sup>2</sup> and is "partaking of ingenious forms beyond one's usual imagination" (Hque, 2011; 20). Existing literature suggest that only few incidences reach to the law enforcing agencies and, many go unreported (ASK, 2000; 133; Taher & Jamaluddin, 2014). On the other hand, reported cases on dowry violence are relatively sparse.<sup>3</sup> Thus,

\* Corresponding author at: Faculty of Law, University of Malaya.

E-mail addresses: [abutaher1984@yahoo.com](mailto:abutaher1984@yahoo.com) (M.A. Taher), [szjamil@um.edu.my](mailto:szjamil@um.edu.my) (S.Z. Jamaluddin).

all these indicate that either the victims do not report the incidences to the police or that they face the problems to address their grievances to the law enforcing agency. Based on detailed fieldwork, this paper is an attempt to identify and analyse the reasons for not taking legal action by the victims against husbands and/or in-laws.

## Methodology

The nature of this study is qualitative. In this study, fifty victimized women were interviewed on their perceptions and experiences regarding law and law enforcing agencies e.g. police, court and lawyers. The victims were selected from Rangpur, one of the northern districts of Bangladesh. They represented a variety of backgrounds rural, poor and middle-class as well as experienced with dowry related violence. Field work was conducted from November to December 2012. Assistances were taken from one gatekeeper from that locality and the local office of BRAC<sup>4</sup> for selecting the respondents easily and conducting the fieldwork smoothly. After selecting, the victimized women were urged to give interviews. In response to this, some of them were agreed and interviewed as volunteer. They agreed to sign the consent form and the interviews were carried out through open discussion based on the questionnaire. It appears that the method of interview was semi-structured. Assistance was taken from one of the research assistants to complete the interview.

## Problems encountered

Some problems were faced during carrying out of this research. First of all, a readily available and easily identifiable sample does not exist. Another problem was the challenge to interview victims of dowry related violence. It was discovered that to interview a woman at home becomes a difficult situation as the in-laws' presence made it uncomfortable for the women to disclose their thoughts and information openly. In addition, some women were also forbidden from being interviewed by their husbands. Consequently, some interviews had to be conducted at the local office of BRAC.

## Factors contributing for not seeking legal remedy

Before starting interview, I thought that the 'lack of knowledge of law' would be the main reason for not seeking legal remedy. But after completing interview, I surprisingly discovered that more than half of the respondents (approximately 63%) are aware about the laws concerning dowry related violence. However, despite having the knowledge of law, the victimized women are reluctant to resort legal mechanism. In identifying the reasons of their reluctance, I found the following factors that are contributing for not taking legal action:

### *Fear of further mistreatment*

One of the reasons that the victimized women do not want to take legal action against their husbands and/or in-laws is that they are scared of further abuse. In some cases women think if they take legal steps against their husbands, it will

make them angrier, 'which could lead to more physical abuse' (Ariyathilaka, 2010; 7). The court proceedings in Bangladesh take a long time until final decision is made. This means, after filing the case and waiting for legal action the women are in a vulnerable position and might experience severe torture. Rowshan a 30 year old victim underlined this with saying that, 'who will guarantee that I will not face further violence by my husband and in-laws.'

ASK<sup>5</sup> highlighted in their 'Human Rights Report 2005' that 40% of women were reluctant to seeking legal help. The reasons included not only cultural tolerance of the violence but also the fear of further violence (ASK, 2005; 206–207). In this respect lawyer Elina Khan emphasized that, "some women do not want to pursue legal battles against their husbands fearing the consequences" (Islam, 2013). Arzina after facing torture lodged an F.I.R. (First Information Report)<sup>6</sup> to the police station. According to her, filing the case increased mistreatment. Thus, fear of further threat of abuse forced many victims to remain silent after being violently attacked.

### *Fear of dissolution of marriage and eager to maintain the family tie*

It is suggested that under Islamic law the husbands enjoy almost unfettered right to divorce their wives (Hossain, 2003; 101). In this study it was observed that most of the victims of dowry related violence are reluctant to report their cases because they think, if they take legal action, their husbands will divorce them.

Roksana a 30 years old dowry victim said:

If I file the case against my husband he will divorce me, then what will happen to me and my children. I know, my parents will not accept me as they are living with my brothers' family whose financial condition is also not so good. So, it is better to stay with my husband by enduring some abuses.

Another respondent named Zesmin Ara, who was married to Akber Ali two years ago, expressed that she was tolerating her husband's torture for the last year. His family claimed TK 40, 000 (US\$516) during marriage and her father paid only half of that amount. When I asked why she is not going to the police station she replied, 'when my husband will come to know that I am considering taking legal action against him, I know he will divorce me.' Thus, she found it is better not to file any case or complaint against her husband. The situation of Sabina, another dowry victim is even more critical. She is a 34 years old lady and is married to Hanifur Rahman for the last 14 years. Earlier, after her marriage she faced physical torture. But now, her children have grown up and her husband does not torture her physically anymore. But she is still facing mental torture for not paying of dowry. She told me that there was a possibility of dissolution of our marriage if she would take any legal action. "I cannot think of divorce or dissolution of marriage" she further said, "as it is difficult for a divorcee to survive in the society." With this, 'for any woman, the decision of divorce is a crucial often an agonizing, one and always a difficult one' (Ghosh, 1984; 65). Shamima Akter knows the law but did not file the case because she thinks that if she takes legal action her marriage may be resolved which is not good at all for her. Consequently, she tries to adjust with her in-laws family. This highlights that 'stability of

Download English Version:

<https://daneshyari.com/en/article/6852953>

Download Persian Version:

<https://daneshyari.com/article/6852953>

[Daneshyari.com](https://daneshyari.com)