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International Law v. Traditional Norms Community and State Response to Domestic Violence in Bangladesh and Pakistan

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International Law

v.

Traditional Norms

Community and State Response to Domestic Violence in Bangladesh and Pakistan

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Graduation: May 2013
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“Submitted in Partial Fulfillment for the Degree of Master of International Affairs at the City College of New York”
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Abstract:

This thesis investigates the implementation of international human rights norms and treaty laws regarding domestic violence in Bangladesh and Pakistan and how compliance is hindered by traditional norms, which exist within communities and at the state level. While the focus of this thesis is on Pakistan and Bangladesh, the findings and lessons can be applied to countries who are suffering from patriarchal norms which facilitate domestic violence. Domestic violence is a worldwide epidemic that discriminates against woman regardless of her color, education, or social class. Domestic violence is a form of gender-based violence which exploits and hinders women from enjoying their rights and freedoms. The argument of this thesis is that traditional patriarchal norms at the individual and community level hinder the implementation of international laws.
Chapter 1: Introduction

Violence against women both violates and impairs or nullifies the enjoyment by women of their human rights and fundamental freedoms...

In all societies, to a greater or lesser degree, women and girls are subjected to physical, sexual and psychological abuse that cuts across lines of income, class and culture.

—Beijing Declaration and Platform for Action, paragraph 112

A country's true greatness cannot only be measured by its success in finance, medicine or technology, but by its success in securing human rights and dignity. A nation is not truly developed if it is unable to secure the rights of its people. Throughout time, groups of different people have been targeted and victimized because of their differences. One could look at a nation's history to determine how long a nation allowed certain injustices to persist, why it persisted and what was the impetus for change.

Change is usually the result of impending financial crisis, civil revolution, or global pressure. The threat of secession between the Union of the United States of America and the confederates resulted in the freedom of slaves, the civil disobedience of Indians, Pakistanis and Bengalis ousted the British government from South Asia and international scrutiny and criticism crushed Apartheid in South Africa. Interestingly, there is one group that has been habitually victimized, women. Historically, women all over the world have been victims of unequal treatment based solely on their gender. This unequal treatment has been a common phenomenon in the history of various countries. While it is common, unequal treatment often leads to violence towards groups of people. For women, these types of violence have been coined the term “gender-based violence.”
Gender-based violence, according to the UN General Assembly, is violence, which causes “physical, sexual, or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivations of liberty, whether occurring in public or private life.”

In October 2006 at the 51st session of the General Assembly, it was concluded that “violence against women is one of the most widespread and gross violation of human rights.” Despite international law pressuring nation states to be accountable, nation states have wide ranging cultural differences and their own way of resolving issues. According to Ku and Diehl, international law advances values, such as the protection of individual rights. This intervention in the protection of human rights is challenged by traditional notions of state sovereignty. State sovereignty often limits the ability of other states and international organizations to intervene in state affairs. This concept of sovereignty dissipates when states collaborate and ratify international treaties and declarations which protect women from acts of violence. Countries such as Bangladesh and Pakistan have agreed to several of these international laws and declarations which would protect women from violence. While these acts of violence are legally and morally viewed as crimes against humanity, it is difficult for these countries to implement international law because

regional and state law has for so long followed traditional norms of patriarchal power in the public and the private sector.⁴

**Research Argument and Hypothesis**

I argue that implementing international law at the state and domestic level is hindered by traditional gender norms. The focus of this research is to provide evidence of this practice by concentrating on one specific type of gender-based violence in Bangladesh and Pakistan: domestic violence. Domestic violence is one form of abuse which consists of various forms of gender-based violence, physical, sexual, and psychological abuse within family, child sexual abuse, dowry related violence, marital rape, female genital mutilation, rape and sexual abuse, and even trafficking. This wide range of gender-based violence can be categorized under the term domestic violence, making the term interchangeable.

This topic is important because victims of domestic violence do not receive legal, emotional or physical aid. This inadequacy is due to the cultural views of the society which negatively impacts the implementation of international law regarding gender-based violence. Although nation states are required to provide victims of domestic violence with aid and implement the international laws in their regions, this belief is not recognized throughout certain groups of people. International law can only be implemented if the country, as a whole, holds the same beliefs concerning gender roles in the society. The lack of recognition of victims of domestic violence politically and socially shows the absence of support that women receive.

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Why is this topic important?

Gender-based violence, specifically domestic violence, results from unequal power relations within families, communities, and states. International communities are dedicated to preventing and eliminating gender-based violence however, states themselves are impacted by traditional gender norms. States have unenforceable laws for violence against women. There are also issues such as law enforcement agents who violate women, lack of prevention and treatment of women who are exposed to violence and the sanctioning and reinforcement of unequal gender relations. The reason I chose Bangladesh and Pakistan is because these two countries have a geographic and cultural similarity, yet each has various methods of dealing with domestic violence. It is critical for governments to implement international law regarding domestic violence because doing so will allow these countries to fully operate domestic violence not only causes personal issues for the victims themselves, but also threatens the development of a country. In most developing and underdeveloped countries women are the major workforce, carrying out the most productive labor, and the direct and indirect costs of GBV, or domestic violence, leads to nations’ productivity to be threatened. My paper argues that countries such as Pakistan and Bangladesh should implement international

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law in the state and local system regarding domestic violence. This would become beneficial for the country as a whole. 8

What is gender?

Sex is different from gender, which refers to the biological differences between males and females rather than the socio-cultural differences. 9 UN Women states that relationships, attributes and opportunities are socially constructed, creating the definition of gender, thereby creating the roles of men and women in society. The role of women in society is conditioned by traditional and cultural norms. Gender roles in the private sphere impact the public sphere. 10 According to Habermas, the public sphere is a critical process of public communication, which leads to democratization of major institutions. However, one criticism of Habermas would be that the public sphere where democracy is attained is often only open to males. This leads to the exclusion of the private sphere, which is female oriented. 11 Since the public and private sphere is male dominated, various forms of gender violations go unnoticed as discriminatory or as challenges to human dignity. 12 Charlotte Bunch states that nation states neglect women’s experiences

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11 Jürgen Habermas, The Structural Transformation of the Public Sphere: An inquiry into a category of bourgeois society (studies in contemporary German social thought), Cambridge, MA: MIT Press, 1991, Page 20
and views from the public sphere.\textsuperscript{13} The divide between the public and the private sphere allows the government to “clean its hands of any responsibility for the state of the private world and depoliticize the disadvantages that women face.”\textsuperscript{14} While the public sphere is considered to be where there is political authority and contestation, the private realm is associated with family and home, which separates it from political authority and regulation.

The private sphere for women is the institution of the family. Women play a critical role in the welfare of the family, with various aspects of it, such as maternity, motherhood, and upbringing of the child. These various roles often go unrecognized. Political authority is understood as the government’s duty to be accountable to all its citizens, but in a traditional private realm the patriarch of the family exercises sovereign power over the household. A woman’s role within the household depends on her social and economic status, her access to education, health care, right to own property and job opportunities. If she lacks a role in the public sphere, then men will be able to have more influence over decision-making and policy formation within the private sphere.\textsuperscript{15} This lack of recognition of her role, according to Sally Engle Merry is a “major cause of the feminization of poverty and other social problems disproportionately affecting women.

\textsuperscript{http://eric.ed.gov/PDFS/ED361235.pdf}

\textsuperscript{14} Susan Boyd, “Challenging the Public/Private divide: an overview” in Challenging the Public/Private divide: feminism, law, and public policy, Canada: University of Toronto Press Incorporated, 1997, p.1
\textsuperscript{http://books.google.com/books?hl=en&lr=&id=g4LEkytLOerC&oi=fnd&pg=PA3&%22Challenging+the+Public/Private+Divide:+An+Overview.%22&q=%22Challenging+the+Public/Private+Divide:+An+Overview.%22&ots=3LXuemgwKX&sig=ubYoPkg8OFbkzQoemqOHieWQzg#v=onepage&q=%22Challenging%20the%20Public%20Private%20Divide%20%20%22&f=false

\textsuperscript{http://jstor.org/stable/41261078}
and girls.” Women's lack of influence in the public and the private sphere often leads to social problems such as gender-based violence.

What is Gender-based Violence?

While violence against women is considered as the “the most pervasive yet least recognized human rights abuse in the world,” it is still a global epidemic. Gender-based violence “reflects and reinforces inequalities between men and women and compromises the health, dignity, security and autonomy of its victims.” The traditional aspects of masculinity have changed from employment, land ownership, bride price, to alcohol and drug abuse, perpetrating violence against women, and other forms of abuse, such as trafficking in persons. According to the UN Population Fund, every one in three women has been beaten, coerced into sex, or abused in some way, most likely by someone she knows. Gender-based Violence (GBV) is any act or threat of harm inflicted on an individual because of their gender. GBV encompasses sexual violence, marital violence, forced early marriage, sexual harassment, sexual exploitation, and more. These forms of violence result in physical, sexual, and psychological suffering, depriving women of freedom and liberty. According to USAID gender violence is “embedded in the context of cultural, socio-economic and political power relations... [which] reduce women to economic and emotional dependency, the property of some male protector.”

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organized around gendered, hierarchical power relations give legitimacy to violence against women."21 Although men are often affected by violence, violence against women is extremely different. Violence against men occurs in streets, brawls, where men are attacked and killed by stranger or acquaintances. However women are subjected to violence at home and outside.

There are various debates concerning the forms of violence that are considered gender-based violence. The G-77 suggests that GBV is, “rape, sexual abuse and exploitation, violence deriving from cultural prejudices… violence resulting from racism or racial discrimination, xenophobia, pornography, ethnic cleansing…and terrorism.” While the Holy See states that GBV is “prostitution, pornography, trafficking, sexual and other types of exploitation.”22 The last definition combines both definitions by stating that gender-based violence is:

Battering and other types of violence, sexual violence, sexual slavery and exploitation, international trafficking in women and children, forced prostitution and sexual harassment, as well as violence resulting from cultural prejudice, racism, and racial discrimination, xenophobia, pornography, ethnic cleansing, armed conflict, foreign occupation, religion and anti-religious extremism and terrorism are incompatible with the dignity and worth of the human person and must be combated and eliminated. 23

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22 Sally Engle Merry. P. 40
23 Ibid, p.41
These definitions however only deal with the physical aspect of violence, disregarding the emotional/psychological aspects, non-contact forms or even the threats of violence. This paper will adopt the definition created by the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against women, which was adopted in June 1994. This definition states that:

...violence against women shall be understood as any act or conduct, based on gender, which causes death or physical, sexual or psychological harm or suffering to women, whether in the private or the public sphere... these types of violence is any

A. that occurs within the family or domestic unit or within any other interpersonal relationship, whether or not the perpetrator shares or has the same residence with the women, including, among others, rape, battery, and sexual abuse.

B. that occurs in the community and is perpetrated by any person, including among other, rape, sexual abuse, torture, trafficking in persons, forced prostitution, kidnapping, and sexual harassment in the workplace, as well as in educational institutions, health facilities, or any other place; and

C. that is perpetuated or condoned by the state or its agents regardless of where it occurs.  

All of these various definitions explore different aspects of violence, acknowledging the impact that non-physical forms of violence have on women. These types of violence occur in four different levels: domestic, societal, national and

24 Francine Pickup, S. Williams, and C. Sweetman, p.23.
international. The type of gender-based violence, which occurs at the domestic level, is physical violence, mental abuse, economic abuse and marital rape. Domestic violence against women contravenes human rights because it affects the victim’s physical and mental ability to perform in society. Economic abuse deprives a woman of economic control, which allows her financial benefits to be controlled and used by men. While the types of violence in the community level are different, girls still face sexual harassment, acid attacks, violence at school and the workplace. This prevents women from reaching their fullest potential in society due to fear of violence. Also violence changes due to modernization and globalization resulting in violence at the international level such as trafficking of women and girls.\textsuperscript{25} Domestic violence occurs at the state level because the state condones it and does not implement laws to end impunity of the perpetrators.

What is International Law?

In order to understand how international law is implemented, it is necessary to understand international law. International law is a primary tool used by international organizations, nongovernmental organizations, state agencies, and even individuals to support international relations and politics. According to Charlotte Ku, international law provides a framework for the international system to operate effectively.\textsuperscript{26} Cornell University Law School defines international law as:

Law which consists of rules and principles governing the relations and dealings of nations with each other, though recently, the scope of


\textsuperscript{26} Charlotte Ku, Paul F. Diehl (Eds.), page 15
international law has been redefined to include relations between states and individuals, and relations between international organizations.\textsuperscript{27}

The primary sources of international law are written conventional international law and customary law. Conventional international law derives from international agreements. These agreements create law for the nation states who have ratified them and these states are only ones who are bound by it. International treaties include:

- Multilateral treaties, international declarations, resolutions, and recommendations, which have been adopted by the United Nations or by other international organizations. It also consists of the decisions and actions taken by UN organs or other international bodies such as Security Council resolutions, General Assembly resolutions, and UN Commission on Human Rights resolutions and other actions.\textsuperscript{28}

Customary law occurs when states follow certain common norms and practices out of a sense of legal obligation. Article 38.7 of the International Court of Justice states that customary international law is a generally agreed law, which is demonstrated by states conforming to an alleged rule because they believe that they are under a normative obligation to comply with that law. It is important to note that customary international law is binding upon all nations, without regards to whether or not they have expressed consent.\textsuperscript{29} Customary and conventional law works together to regulate state behavior. Although the international community does not have an international legislature which

\textsuperscript{27} Legal Information Institute, “International Law,” Cornell University Law School http://www.law.cornell.edu/wex/International_law


\textsuperscript{29} Ibid, 2001. P. 10
directly binds all countries, states tend to establish legally binding obligations amongst themselves. It is critical to note that international law is also viewed as a source which advances particular values, such as the protection of individual rights.  

A critical branch of international law which has grown over the years is the international human rights law. International human rights law consists of legal principles and institutional arrangements which are designed to protect certain groups of human beings. The major foundation behind this law is the Declaration of International Rights of Man which was adopted in 1929. This declaration states that nation states must recognize all individuals without distinction of nationality, sex, race, language and religion. All individuals should also have the right to life, liberty, and prosperity. This thesis will focus on the role of international law in protecting women from gender-based violence. The enforcement of international law will be perceived using two theoretical perspectives, liberal legal theory and cultural relativism.

Liberal theory regarding international law states that democratic states, or rather countries with representative governments, are more likely to accept laws and regulations presented to them by the international community. Since Bangladesh and Pakistan are both democratic countries this theory would imply that international laws would be accepted by not only the government but also the people themselves. However, liberal theorists also states implementation of international law depends on the nation states’ domestic politics and the internal push within the nation state to accept and implement

30 Charlotte Ku, Paul F. Diehl (Eds.), page 2
www.lcil.cam.ac.uk/Media/lectures/doc/cambridge12601.doc
Regardless of the importance that international human rights law has, there are many who oppose the international norms regarding GBV using cultural relativism theory as an argument.

Cultural relativists state that cultural differences should be recognized in thought, value and action. It also goes a step further because it states that this is how judgments and evaluations should be made. Cultural relativism began to take root in the 19th century to go against racist Eurocentric notions of progress and what many know as the White Man’s burden. John Tilley stresses that it is critical to understand that cultural relativism is not a test for moral validity and does not identify valid moral judgments. Many use the cultural relativism argument to state that various cultures should maintain their own specific cultural values without international legislations controlling their actions. An apparent concern for these countries is that the United Nations Declaration of Human Rights and other similar human rights documents reflect an ethnocentric bias. This causes a dilemma for many of the international organizations who promote implementation of international legal documents, however, doing so might often be perceived as ethnocentric and disrespectful of other’s cultural and traditional practices.

International law and gender-based violence

The UN describes gender-based abuse as:

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36 Alison Dundes Renteln, P. 67
Violence which affects the lives of millions of women worldwide, in all socio-economic and educational classes. It cuts across cultural and religious barriers, impeding the right to women to participate fully in society… Secretary General Boutros Ghali states that the violence against women is a universal problem that must be universally condemned. The Beijing Platform for Action states that ‘violence against women constitutes a violation of basic human rights and is an obstacle to the achievement of equality, development and peace.’

The large amount of female-targeted violence worldwide led to the acknowledgement of gender-based violence in December 1993, when the UN General Assembly adopted the Declaration on the Elimination of Violence against Women. This declaration was a step forward to recognizing and acknowledging the devastating results of gender violence. Before this declaration violence towards women was considered private and between individuals, something that a government has no right to intervene in.

The primary international legal documents which protect victims of gender-based violence are:

1. The Universal Declaration of Human Rights
2. The International Covenant on Economic, Social and Cultural Rights
3. The international Covenant on Civil and Political Rights
4. The Convention on the Rights of the Child
5. The Convention on the Elimination of all forms of Discrimination against Women (CEDAW)

37 Maya Steinitz, Page 22
6. Optional Protocol on the on the Elimination of all forms of Discrimination against Women

While these international documents are created to recognize and acknowledge women, governments are organized around gendered, hierarchical power a relation, which then gives legitimacy to violence against women. Traditional biases create disadvantages because it makes it hard for women to organize and articulate a voice which will be heard. If the marginalized group does not have a voice, any complaint or claim they make will be denied legitimacy. These traditional biases influence laws at the state level, causing the lack of compliance of international law concerning gender-based violence.

The traditional norms create a feeling of shame amongst many victims. They cloak the acts of violence in shame and therefore these acts become hidden in secrecy. The perpetrators are allowed to continue and no one holds that perpetrator accountable for his actions. It is possible to end this silence by promoting implementation of international laws which will result in creating a prosperous and stable nation.

Methodology

This thesis will use a qualitative analysis and case study approach. The research will mainly focus on international laws and their implementation in two different case studies. I will primarily rely on what is written and then analyze it according to my hypothesis. Occasionally I will use quantitative data, mainly when comparing the rates of social equality of Pakistan and Bangladesh over the previous decades. Since the thesis will be focused on the implementation of international laws concerning gender-based

violence, specifically concentrating on domestic violence. I will also use newspaper articles with various cases of how the national government and judicial system dealt with certain cases.

The questions that my thesis will ask:

1. What is GBV? Why is it a critical issue?
2. What are traditional norms which causes harm to women?
3. How do states support traditional norms?
4. Do traditional norms hinder implementation of international law?
5. Is international law necessary when dealing with GBV?
6. Why is it necessary to implement international law?
7. Does the ridding of traditional norms concerning women and implementing international law benefit countries?
8. Does implementing international law prevent GBV?
9. What does domestic violence cost countries?
10. Are traditional norms the real cause of GBV, since even in "developed" countries GBV still exists?

Outline of Thesis paper

A. Chapter 1- Introduction
   
   a. Gender
      
      1. What is gender?
      2. How is gender defined in society?
      3. What are gender norms
      4. What is gender-based violence?
b. International Law

1. What is international law
2. How is it implemented
3. Theories concerning GBV
4. International Law & Gender-based Violence
5. Which international laws are focused on gender-based violence?

c. Methodology & thesis questions

B. Chapter 2- Literature Review

C. Chapter 3- International treaties on Domestic Violence and women’s rights

a. Which international laws are focused on Domestic Violence

i. What does each treaty mean

D. Chapter 4- Domestic Violence in Bangladesh and Pakistan

1) What is Domestic Violence?
2) Human Trafficking as a form of Domestic Violence
3) Cultural and traditional norms concerning women
4) Bangladesh

   a. Domestic Violence

      i. Marital abuse

      ii. Early marriage

   b. Communities response to domestic violence

   c. International Laws regarding Domestic Violence In Bangladesh
i. Which international laws have Bangladesh signed

d. Government’s role: How are international laws implemented
   i. New laws concerning Domestic Violence
   ii. What does each international law mean for the country
   iii. Are international laws implemented

5) Pakistan

a. Domestic Violence
   i. Marital abuse
   ii. Early marriage

b. Communities response to domestic violence

c. International Laws regarding Domestic Violence In Pakistan
   i. Which international laws have Pakistan signed

d. Government’s role: How are international laws implemented
   i. New laws concerning Domestic Violence
   ii. What does each international law mean for the country
   iii. Are international laws implemented

E. Chapter 5- Cost of Domestic Violence

1. Why should States implement international laws
   a. What does domestic violence cost Bangladesh
   b. What does domestic violence cost Pakistan

F. Chapter 6- Policy Recommendation and Conclusion

GBV, especially domestic violence, is impacted by cultural values and norms which in turn influence state laws; state laws should adopt and implement
international laws which would lead to higher productivity in the states bringing about a “prosperous nation.”

a. Domestic Violence policy recommendations
Chapter 2: Literature Review

This literature review will include research regarding books, articles and online resources, primarily from the 1990s to present. Most of the research on domestic violence prior to the 90s has been focused on the historical perspective rather than individual/experience based. The books and articles were found using the keywords domestic violence, gender-based violence, cultural norms in Bangladesh/Pakistan, community attitudes to domestic violence, international law in Bangladesh/Pakistan. The term domestic violence is considered as a major form of gender-based violence in most of the literature. Majority of the definitions for terminologies were found in the websites of various UN organizations.

This literature review will be in four parts: the first part states how domestic violence is a major component of gender-based violence and how it is harmful towards women. This will set up the background for the rest of the research. Second part will include how communities play an important role in supporting domestic violence and how their cooperation is necessary to prevent domestic violence. The third part will focus on international law as a source that would create a universal human rights norm. Yet there are opposing beliefs regarding the importance of implementing international law. The fourth part will discuss why domestic violence threatens the development of a country, focusing on the loss of productivity and costs of domestic violence. It will compare the findings between Bangladesh and Pakistan and state the importance of these research studies for the development of the nation.

39 Sally Merry Engle, 2006; UNFPA, “Using cultural sensitive…”; Nata Duvvury, 40 Sally Merry Engle, 2006
41 Rebecca Cook, 1993  
42 UNIFEM, “Investing in Gender Equality”;
What is domestic violence?

Domestic violence is a major form of gender-based violence that kills, tortures and abuses women—physically, psychologically, sexually and economically.\(^{43}\) Theorists state that it is abuse that occurs in the private sphere, which is associated with family and home.\(^{44}\) According to Habermas, the public sphere is a critical process of public communication which leads to democratization, yet this democracy is only open to men. However, opposing his theory are other theorists who state that this belief about the public sphere is what leads to the exclusion of women.\(^{45}\) Rebecca Cook, Charlotte Bunch, Susan Boyd and Mahood and e-Nayab state that this allows the government to neglect women, allowing the violations towards women to go unnoticed and unrecognized.\(^{46}\) This lack of recognition is what causes women to be exposed to poverty and other social problems.\(^{47}\) The lack of acknowledgement in the public sphere also exposes women to gender-based violence in the private sphere, also known as domestic violence.\(^{48}\) The terminology, gender-based violence, has various meanings depending on the researcher’s perception of gender-based violence. Based on these various meanings of gender-based violence and domestic violence, it is understood that every form of gender-based violence occurs in domestic violence varying from child marriage to honor killings, marital abuse, and in some cases even human trafficking.\(^{49}\)

\(^{43}\) Sally Merry Engle, 2006; UNFPA, “Using cultural sensitive…”; Nata Duvvury; UNICEF, 2000; Andrew Morrison and Maria Orlando, 2004’ Francine Pickup, S. Williams, and C. Sweetman, 2001;  
\(^{44}\) Susan Boyd, 1997; Charlotte Bunch, 1991; Habermas, 1991  
\(^{45}\) Rebecca Cook, 1993; Susan Boyd, 1997; Charlotte Bunch, 1991;  
\(^{46}\) Sally Engle Merry, 2006; Rebecca Cook, 1993  
\(^{47}\) Sally Engle Merry, 2006; UNIFEM, “Investing in Gender…”; UNFPA and UNIFEM, 2005; Francine Pickup, S. Williams, and C. Williams, 2001; World Bank, “Gender and Development...”  
\(^{49}\) Sally Engle Merry, 2006; Charlotte Bunch, 1991; Rebecca Cook, 1993; Thelma Kay, 2007
The articles and chapters written by these specific theorists have supported the interpretation of domestic violence as written in this thesis. However, in articles which will be mentioned later on in the thesis, the term domestic violence primarily refers to intimate partner violence, especially regarding the literatures concerning the case studies done by governments. This inability to view various forms of domestic violence as abuse which follows women across their entire lives was problematic as a researcher.

Communities’ role in domestic violence

Nation states often neglects women’s experience from the public sphere and use the separate spheres argument to justify separating women from the public sphere. These gendered spheres allow patriarchal power relations to give legitimacy to violence against women. The patriarchal power relations create traditional biases and continue to exist due to the patriarchal traditional norms in society. The act of domestic abuse and other forms of gender-based violence have persisted due to the fact that these customs are deeply rooted in the patriarchal culture. While these theorists state that cultural norms have allowed men to continue to perpetuate violence against women, author Jyotsna Chatterji disagrees.

Jyotsna Chatterji focuses on religions and the status of women in India, but her research can also be applied in the case of Bangladesh and Pakistan. Theorists state that religious or customary law gave more privilege to men, allowing discrimination to persist. Chatterji states that it is not religious texts that should be blamed, but rather the discrimination which emerged from improper misinterpretation of religious text which

50 Susan Boyd, 1997; Charlotte Bunch, 1991; Rebecca Cook, 1993
51 USAID; Hazel Revees and Sally Baden, 2000; Francine Pickup, S. Williams, and C. Sweetman, 2001;
52 Hazel Reeves and Sally Baden, 2000; Steinitz, 2001
53 UNFPA, “Ending Widespread Violence...”; Francine Pickup, S. Williams, and C. Sweetman, 2001;
54 Hazel Reeves and Sally Baden, 2000; Steinitz, 2001; Rebecca Cook, 1993;
led to unjust laws. Chatterji was the one of the references which explained the meaning of religious texts and practices and compared them with the interpretation and practices today. She also explained the rights of marriage and divorce within the Quran and how it is misinterpreted to give advantage to men in many societies today.

It is critical for international policymakers to understand the societal perspective about certain beliefs and their willingness to accept cultural perspective of human rights rather than the international human rights perspective. Sally Engle Merry states that international human rights must be adapted into local terms to be accepted and implemented. Communities play an important role in supporting domestic violence and, on the flip side they are required to prevent domestic violence.\textsuperscript{55} International law alone cannot make national laws accept international human rights principles forcefully. It is necessary to have internal discourse (community acceptance) regarding human rights in order for international human rights to be accepted as the norm.\textsuperscript{56}

International law

In order for international law to be implemented, it should be understood what international law is. International law is rules and principles governing the relations between states, individuals and international organizations. International human rights law consists of rules and laws designed to protect right to life, liberty, and prosperity of human beings.\textsuperscript{57} Democratic countries, according to liberal theorists, are more likely to accept international human rights law, not only the governments, but also the citizens themselves.\textsuperscript{58} Emilie Hafner-Burton argues that this is not the case especially if the

\textsuperscript{55} UNFPA and UNIFEM, 2005; Sally Engle Merry, 2006
\textsuperscript{56} Rebecca Cook, 1993; UNFPA and UNIFEM, 2005;
\textsuperscript{57} Charlotte Ku and P.F. Diehl, 2009; Legal Information Institute; Mary Steinitz, 2001
\textsuperscript{58} Charlotte Ku and P.F. Diehl, 2009; T, Beurgentahl, 2009; Thelma Kay, 2007;
country lacks an internal push to accept international human rights law. 59 This internal push to accept international law is often opposed by cultural relativists. Cultural relativists state that cultural differences should be accepted and recognized.60 But for citizens in various countries international human rights law is perceived as ethnocentric and disrespectful of their own cultural practices.61 Both of these perceptions of international law are necessary for policy makers when they are making policies or programs. They need to be aware that international human rights law is not going to be embraced all societies, especially ones who accept cultural relativists’ perspective of international law. However, framing international law within the norms of the local culture will allow a path of acceptance of international human rights law.

The Cost of Domestic Violence

Many of the theorists state that gender-based violence threaten the development of the country due to the loss of productivity and the costs that occurs as a result of domestic violence.62 While studying the costs that domestic violence has on Bangladesh and Pakistan, I have found that Bangladesh has done more extensive studies on the costs than Pakistan. The article written by COVAW, CARE-B studied the costs that domestic violence has on Bangladesh. This study had a sample size of about 483 families from three different districts. This article states that about 30 to 40% of families suffer from domestic violence costing the country about 2.05% of the GDP, which is about 14,084.56 million taka, a large amount that is wasted annually on a social evil.63 Supporting this

59 Rebecca Cook, 1993; UNFPA and UNIFEM, 2005; Emilie Hafter-Burton, 2010
60 Alison Dundes Rentelin, 1998; John Tilley, 2000
61 John Tilley, 2000; Sally Engle Merry, 2006
62 Lori Heise, 1994 and Andrew Morrison and Maria Orlando2004
evidence was the article by Asif Mohammad Shahan which focuses on intimate partner violence study done by Fahmida Khatun. This article states that there was no study which measured the economic costs associated with marital abuse in Bangladesh, causing Dr. Khatun to do a detailed study of marital abuse and the direct and indirect costs of it, and calculating the physical and psychological cost it might cost a victim. Asif’s report was also more detailed due to the various costs being split up into monetary amounts such as physical and psychological, cost of being abandoned or displaced, holding a shalish (informal court), money required for justice from the legal system, also extra money required for seeking justice, and the number of lost working days.\(^\text{64}\)

While the report done by COVAW included the cost of the medical treatment in case of injury, not counting the psychological treatment that would be necessary, the total cost for holding a shalish, cost of transportation and food to courts, and the cost that the perpetrator has incurred.

The extensive research done on Pakistan, however, led me to conclude that there is a lack of quantitative research about the actual cost that domestic violence has on Pakistan’s economy. While AusAid presented the overall country data and the article by Sadaf Zahra provided with the number of women in the country and status of the women in society, it lacked the actual costs of domestic violence. The research done lacked monetary data to support its findings.\(^\text{65}\) The assessment concerning what the costs of


domestic violence was more or less based on interviews concerning attitudes and beliefs that people had concerning domestic violence.\textsuperscript{66} The “Between Hope and Despair” article provided a better understanding of poverty through analysis of the poor which would basically enable policymakers to make effective policies and actions.\textsuperscript{67} Although it is difficult to accurately measure domestic violence, it would be difficult for policy makers to propose new policies if quantitative values are lacking in the data concerning direct and indirect costs.

The research mentioned have all emphasized the importance of community participation in policies and programs regarding domestic violence. While implementing international law is critical to end domestic violence, violence will continue to exist if the patriarchal power relations and lack of community participation persists. Both of these allows patriarchal traditional attitudes towards women and domestic violence to remain, regardless of national law changes to prevent and protect women, as it does in the case of Bangladesh and Pakistan.

Chapter 3: International treaties on Domestic Violence and women’s rights

Historically, women’s presence has been nonexistent in the public world. The issues that women faced were often not considered critical, forcing them to disappear into the private sphere. Their confinement was often supported by various biased beliefs, which rose from culture, tradition, and even religion. Unfortunately, these beliefs have been established regardless of ethnicity, culture, race, or social class, becoming a worldwide phenomenon. Charlotte Bunch states that this universality explains why the movement to recognize violence towards women as a human rights violation has become more of an international issue.\(^\text{68}\)

Recognizing gender-based violence has been a major human rights issue over the past decades in the international arena. It has gained awareness due to its effect on women themselves but also resulting as a development issue for many countries. The United Nation’s Universal Declaration of Human Rights, which was proclaimed in 1948 after World War II, recognized the “inherent dignity and of the equal and inalienable rights of all members of the human family.” This declaration is said to be the "...common standard of achievement for all peoples and all nations, to end that every individual and every organ of society...secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction."\(^\text{69}\)

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\(^{69}\) UN General Assembly, “Universal Declaration of Human Rights,” Preamble
Article 2 states that “everyone is entitled to all the rights and freedoms set forth in this declaration without distinction of any kind, such as race, color, sex...etc.” However, it did not specifically identify women's rights, and gender-based violence continued without any response from member states. Even in the second World Conference on Human rights, women’s rights were not recognized. It was not until 1993, during the World Conference in Vienna, did the international community begin to recognize women’s rights as human rights, causing gender-based violence to gain attention from the international human rights community.

The Vienna Declaration was a result of a gathering of participants from 171 governments who advocated "human rights for women as a priority for governments.” All of the participants created a global campaign to work for women's rights, in which they sought to redress gender-based discrimination and internationally condemn gender-based abuse as a "devastating reality.” However, this was not an abrupt act, but rather a result of collected efforts of organizations such the Center for Women's Global Leadership, which developed the idea of *16 days of Activism against Gender Violence* in 1991. This campaign was the driving force that allowed GBV to be recognized as something that requires immediate action. The active lobbying which occurred during this phase for the "inclusion of women in the Vienna conference” was the first step taken by the United Nations as an international organization to identify gender-based violence and consider it a human rights issue. It formulated the various conventions and international legal documents which exist today, playing an active role.

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70 Ibid, article 2  
71 (Bunch and Reilly 1994, 2)  
72 Ibid.  
73 Ibid, 3.  
74 Ibid, 7.
in promoting, protecting and establishing the importance of women's rights all over the world.

Listed below are the laws which recognize gender-based violence that women encounter as human rights abuses.

1) UN International Covenant on Civil and Political Rights

This convention is important because it is one that receives a large amount of funds, due to the attention that people give to civil and political rights. While this convention does not clearly define GBV, it states that each member state has the responsibility to:

...respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, color, sex...\(^75\)

Not only does the state protect and ensure women’s rights, they also have the “inherent right to life.”\(^76\) The inherent right to life means that human beings are not subjected to “torture or to cruel, inhuman or degrading treatment or punishment.”\(^77\) What is gender-based violence, be it domestic violence or human trafficking, if not torture resulting in degrading treatment? It is because of the frequent number of victims of degrading treatment that such acts are given the name GBV. Article 7 states that “no one shall be subjected to torture or to cruel, inhumane or degrading treatment or punishment.”\(^78\)

\(^{75}\) UN International Covenant on Civil and Political Rights, article 2
\(^{76}\) Ibid, article 6
\(^{77}\) Ibid, article 7
\(^{78}\) Ibid.
Article 8 is focused on slavery and forced labor. It states that no one shall be held in slavery, in servitude, and perform forced or compulsory labor. Essentially, it is any form of exploitation of people which perceives trafficking as just another form of slavery, requiring victims to perform forced labor.79 According to the UNODC, trafficking is a modern form of slavery in which sexual exploitation is the most common form of human trafficking (79%), followed by forced labor (18%). These are just two of the commonly identified forms of human trafficking. Other forms which are under-reported tend to be: “domestic servitude, forced marriage, organ removal, exploitation of children in begging, the sex trade, and warfare.”80 Forced marriage is a major issue, because not only is it a method of trafficking, but also a form of domestic violence. Article 23 states that, “no marriage shall be entered into without the free and full consent of the intending spouses,” and the member states also have the responsibility to take steps to “ensure equality of rights and responsibilities of spouses as to marriage, during marriage and at its dissolution.”

As members of this specific covenant, states have the responsibility to provide remedies for those whose rights were violated. As stated previously GBV is clearly a crime which distinctly victimizes women, causing some to seek legal remedies. Article 2 states that members of the covenant must:

(a) ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity;

79 UN General Assembly, Covenant on Civil and Political rights, article 8
(b) ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy;
(c) To ensure that the competent authorities shall enforce such remedies when granted. 81

While this article clearly states what citizens of the states should be provided with, it is article 26 that emphasizes the fact that all people “are equal before the law and are entitled without any discrimination to the equal protection of the law.” It also states that the law should “guarantee to all persons equal and effective protection against discrimination on any ground such as...sex...” 82 However, in many developing countries, such as Bangladesh and Pakistan, "judicial, administrative or legislative authorities" are male, making them biased when handling with GBV cases. 83

2) UN Convention against Torture

World War II has taught the international community of the extent of torture and violation of human rights many people had to suffer while the state showed its incapacity in guaranteeing protection of civilian human and absolute rights. This led to the creation of the UN Convention against torture and other cruel, inhuman and degrading treatment or punishment. While this convention does not directly deal with gender-based violence, most acts of violence fall under what is defined as torture in the convention.

For the purposes of this Convention, torture means any act by which severe pain or suffering, whether physical or mental, is intentionally

81 UN International Covenant on Civil and Political rights, article 2
82 Ibid, article 26
83 Bunch and Reilly, p. 61
inflicted on a person for... punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind...  

Gender-based violence often means the victim has to suffer from severe physical or mental pain. In the case of domestic violence, most women are abused because of an “act she has committed or is suspected of having committed and the use of coercion and/or intimidation is frequently used.” A sadistic person can also blame the woman for something just as an excuse to beat her. Amnesty International states that habitual domestic abuse “falls within the ambit of the Convention against Torture and other Cruel, Inhumane or Degrading Treatment or Punishment.”  

In most cases, gender-based violence occurs due to discrimination towards women “forcing them into a subordinate position compared with men.” Human trafficking is a form of gender-based violence, since it exploits women, subjugating them to forced physical, sexual and psychological violence.  

3) UN International Covenant on Economic, Social, and Cultural Rights  

This Covenant affirms that all humans have the right to enjoy their economic, social and cultural rights. These rights will be exercised “without discrimination of any
kind as to race, color, sex...” 89 Often times the exploitation that women suffer from is a result of gender-based violence. Exploitation can occur in the public and private sphere; which would prevent the victims from enjoying their economic, social and cultural rights. They have also lost their biggest possession, their rights to their bodies. Violence in the private sphere often takes the form of domestic abuse. Domestic abuse often means that the woman has no economic or social power in the relationship, making it further difficult to enjoy her economic, social, and cultural rights. 90

4) UN International Convention on the Rights of the Child

This treaty, recognizing anybody under the age of 18 as a child, implements certain principles which protect them, regardless of their race, color, religion, social origin, disability, or sex. 91 It gives the state the responsibility to ensure that children are protected and considers the best interests for the child, and most importantly ensures that

<table>
<thead>
<tr>
<th>Phase</th>
<th>Type of violence</th>
</tr>
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<tbody>
<tr>
<td>Pre-birth</td>
<td>Sex-selective abortion; effects of battering during pregnancy on birth outcomes.</td>
</tr>
<tr>
<td>Infancy</td>
<td>Female infanticide; physical, sexual and psychological abuse.</td>
</tr>
<tr>
<td>Girlhood</td>
<td>Child marriage; female genital mutilation; physical, sexual and psychological abuse; incest; child prostitution and pornography.</td>
</tr>
<tr>
<td>Adolescence and Adulthood</td>
<td>Dating and courtship violence (e.g. acid throwing and date rape) economically coerced sex (e.g. school girls having sex with “sugar daddies” in return for school fees); incest; sexual abuse in the workplace; rape; sexual harassment; forced prostitution and pornography; trafficking in women; partner violence; marital rape; dowry abuse and murders; partner homicide; psychological abuse; abuse of women with disabilities; forced pregnancy.</td>
</tr>
<tr>
<td>Elderly</td>
<td>Forced “suicide” or homicide of widows for economic reasons; sexual, physical and psychological abuse.</td>
</tr>
</tbody>
</table>

(Source: “Violence Against Women,” WHO., FB1/WHD/97.8)

89 UN International Covenant on Economic, Social, Cultural Rights, article 2
90 Charlotte Bunch and Niamh Reilly, Demanding Accountability, p. 70
http://www1.umn.edu/humanrts/instree/k2crc.htm
children has the right to life, survival, and development.\textsuperscript{92} UNICEF, in its article on Domestic Violence against Women and Girls, touches upon the various types of abuse that children, especially the girl child, suffer.

It states that at different stages of a female’s life they are subjected to different forms of violence. The chart breaks up the types of violence in six phases: pre-birth, infancy, girlhood, adolescence and adulthood, and elderly. While this chart gives various examples of the types of violence females are exposed to, it should be further understood that these types of violence primarily occur due to gender, regardless of the age of the female. \textsuperscript{93} Aware of this, the International Covenant on the Rights of the Child focused on protecting children from:

...all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.\textsuperscript{94}

A separate article, article 34, is given to sexual abuse due to the magnitude of the issue.

The article stresses:

States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent:

\textsuperscript{92} Ibid, article 6.
\textsuperscript{94} UN General Assembly, UN International Convention on the Rights of the Child, Article 34.
(a) The inducement or coercion of a child to engage in any unlawful sexual activity;

(b) The exploitative use of children in prostitution or other unlawful sexual practices;

(c) The exploitative use of children in pornographic performances and materials.\textsuperscript{95}

While article 34 talks about children being victims of sexual exploitation, article 35 also discusses the threat of abduction, sale, and trafficking of children and how governments must ensure that these threats aren’t becoming a reality for the children.\textsuperscript{96}

Most acts of violence that girl children are exposed to are due to the cultural and traditional norms of the country, such as child marriage, female genital mutilation, and even female infanticide. These cultural and traditional acts are often a representation of the control that the patriarchal society has over women. Such acts have the effect of “perpetuating normative gender roles that are unequal and harmful to women,” causing other acts of violence to occur. The occurrences of these acts allow women to be taken advantage of and causes harm to their welfare and development.\textsuperscript{97} Domestic abuse and human trafficking both take away the right that children have to life, survival, and development.

\textsuperscript{95} UN General Assembly, UN International Convention on the Rights of the Child, \url{http://www.unicef.org/crc/files/Rights_overview.pdf}

5) UN Convention on the Elimination of Discrimination against Women (CEDAW)

This was the first law which countered sex discrimination, and recognized women's rights as human rights. It was a new legal mechanism which sought to make legal, political and social institutions support women, expanding government responsibility in order to deal with violations of women's rights. This revolutionary law allowed women to fight for their rights, causing it to be also known as an international bill of rights for women. However, when CEDAW was originally drafted in 1979, it made no mention of violence against women. Charlotte Bunch states that one of its shortcomings was its inability to clearly state what violence against women is. Finally in 1992, the General Recommendation Number 19 Committee on the Elimination of Discrimination against Women recognized that gender-based violence was one of the key reasons why women were kept in a subordinate position compared to men. This was extremely significant because it made gender violence an international issue, not being subjected to arguments concerning “cultural, racial or civilization superiority” by focusing on the importance of “individual rights to physical integrity.” The document contains ‘internationally accepted principles and standard for achieving equality between men and women.” In order to end discrimination against women, CEDAW incorporates these following principles:

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101 Ibid.
103 Pickup, Williams, and Sweetman, Ending Violence against Women, p. 51
incorporating the principle of equality of men and women in their [the member states] legal systems, abolishing laws that are discriminatory against women...establishing new ones that makes discrimination illegal...they are also obliged to make sure that individuals, organizations, or companies do not discriminate against women.\textsuperscript{104}

According to Merry, these principles are CEDAW’s way of calling for cultural changes in gender roles.\textsuperscript{105} Article 2f is the essence of the convention which directly states what member states have to do comply to:

To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women.\textsuperscript{106}

By stating that member states would not only need to change laws and regulations, but also customs and practices, shows an understanding and acceptance that often traditional and cultural norms play a major factor in gender-based violence. Article 5 requires member states to:

To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women.\textsuperscript{107}

\textsuperscript{104} Geraldine Terry, \textit{Women’s Rights}, p. 30
\textsuperscript{105} Sally Engle Merry, “Human Rights and Gender Violence,” p. 75
\textsuperscript{106} Convention on the Elimination of All Forms of Discrimination against Women.
\textsuperscript{107} Ibid.
However, the issue with CEDAW, like other treaty bodies, is that they have to respect sovereignty, lacking the power to “compel states to comply.”\textsuperscript{108} Although CEDAW does not have the power to punish, it is still able to increase gender awareness “through ratification, preparing reports, and presenting and discussing reports” creating “new cultural understandings of gender and violence.” It is a form of “global legality” which expresses a “particular cultural understanding on gender.”\textsuperscript{109} While CEDAW, with its various forms of incorporation, is a “powerful site of cultural production,” gender stereotypes are extremely difficult to change.\textsuperscript{110}

6) Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women

This protocol came into force on December 22, 2000, as a legal document which empowered women to “claim their internationally protected equality rights.”\textsuperscript{111} The optional protocol will also strengthen the Convention’s enforcement mechanism. The protocol proposes two mechanisms which will make sure that governments are accountable: a) communications procedure and b) inquiry procedure. The communications procedure “provides individuals and groups the right to lodge complaints with the Committee on the Elimination of Discrimination against Women

\textsuperscript{108} Sally Engle Merry, “Human Rights and Gender Violence,” p.72  
\textsuperscript{109} Ibid, p. 89  
\textsuperscript{110} Ibid, p.90  
regarding violations.”\textsuperscript{112} The communications procedure is also critical because it enhances the implementation of the Convention, contributing to enforcement of obligations, providing redress for violations.\textsuperscript{113} However, it also has specific criteria that individuals or groups have to oblige to:

The Committee shall not consider a communication unless it has ascertained that all available domestic remedies have been exhausted unless the application of such remedies is unreasonably prolonged or unlikely to bring effective relief.\textsuperscript{114}

The Committee would be able to take action after ensuring that domestic remedies are taken. However, if the state prolongs the remedies or the remedies do not bring effective relief, the Committee is able to intervene. The inquiry procedure enables CEDAW to “conduct inquiries into serious and systematic abuses of women’s human rights.”\textsuperscript{115} This provides the Committee the right to investigate situations where there are clearly “grave or systematic violations” in the private and the public sphere.\textsuperscript{116} The Optional Protocol does not require that inquiries be brought by another State, but rather requires relevant proof of the alleged violation. These two procedures allow women to directly enforce the Convention based on the situation that they face. According to Hoq, the Optional Protocol ensures that state violations of Convention obligations are

\begin{flushleft}
\textsuperscript{113} Laboni Amena Hoq, p. 7
\textsuperscript{115} Laboni Amena Hoq, p. 2-3
\textsuperscript{116} Ibid, p.8
\end{flushleft}
monitored and allows CEDAW to intervene in cases of violations of the Convention.  
While previously the Convention was not able to implement its obligations, this protocol gave CEDAW the authority to hear and investigate claims of violations of the Convention, empowering not only women, but also the Convention itself. The main two procedures of the Optional Protocol reflect the context of certain acts of violence, especially the ones based on cultural practices. Communicating and investigating procedures challenges traditional conceptions of women by comparing the norms of states with international norms, ultimately holding societies accountable for their norms. It becomes a catalyst for mobilizing normative change within local communities and the state through institutionalized means.

Over the past 30 years, CEDAW and other international conventions and protocols have worked towards establishing women’s rights as human rights, acknowledging gender-based violence as a major form of human rights violation. Regardless of this movement to make human rights universal, traditional norms towards women continue to persist. The existence of these norms allows men to maintain their dominant role in society which creates various customs and beliefs, leading to the exclusion of women from schools, forced marriages, acid attacks, the inability to inherit land, domestic abuse and human trafficking. While states are trying to change these customs and beliefs by implementing effective international norms regarding human rights, these traditional norms continue to exist in the state and local level as shown in the case of domestic violence in Bangladesh and Pakistan.

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117 Ibid, p. 2-3
118 Ibid, p. 10
119 Ibid, p. 17
Chapter 4: Domestic Violence in Bangladesh and Pakistan

What is Domestic Violence?

There are vast incidents of violence against women worldwide, crossing class, race and age lines. Amongst these various types of violence, domestic violence is the most common form of violence defying “economic, educational, social, racial, and cultural barriers.”¹²⁰ According to the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women, violence is anything which occurs within the family or within any interpersonal relationship, even though the perpetrator does not have to share the same residence with the victim.¹²¹

This definition proves that women are most likely to be threatened at the place where they are supposed to be the safest, at home. Domestic violence is defined as, “violence that occurs within the private sphere, between individuals who are related through intimacy, blood or law.”¹²² Domestic abuse does not only occur at specific instances for women, but rather they are subjected to violence all throughout their lives. This type of violence can be analyzed in four forms: economic abuse, emotional abuse, physical abuse, and sexual abuse. Economic abuse occurs when a woman faces limitations or forced to act a certain way, which takes away her right to enjoy her economic, social and cultural rights. This often includes preventing education, forcing a women to work, not allowing her to work, taking out money from her personal or shared bank account without her knowledge, not letting her inherit land, forcing her to hand over

¹²¹ Pickup, Williams, and Sweetman, p.23.
her assets, and abandonment.\textsuperscript{123} This lack of control that a woman has over her own economic rights is a form of abuse that is often times invisible from public scrutiny, since most people fail to see the connection between domestic abuse and economic abuse.\textsuperscript{124} The second form of abuse that women face is emotional abuse. Emotional abuse is “considered to be any act associated with psychological, spiritual, and other forms of abuse that relate to an individual’s sense of integrity, freedom of expression, and well-being.”\textsuperscript{125} Victims of emotional abuse are 12 times more likely to commit suicide.\textsuperscript{126} Acts of emotional abuse include verbal abuse, controlling and insulting behavior, use of threats of physical abuse to her or her loved ones. The effects of emotional abuse ranges from shame, guilt, anxiety, depression, low self-esteem, and feeling inadequate, hence taking away the victim’s ability and right to enjoy her life.\textsuperscript{127} The third form of physical abuse is any type of physical assault that causes bodily harm. Physical abuse is often accompanied with psychological abuse and often sexual abuse, sometimes even leading to death.\textsuperscript{128} The last form of abuse is sexual abuse, which can be considered a type of physical abuse, but it is different because it deals with “physical invasion of an individual’s body that is sexual in nature.”\textsuperscript{129} It ranges from touching, fondling, forced kissing, or forced oral sex, rape, and forced to perform prostitution and bestial acts. It also includes incest, child

\textsuperscript{125} Sandra Bollen, Lillian Artz, Lisa Vetten, and Antoinette Louw, p. 9
\textsuperscript{126} UNICEF, “Domestic Violence against Women and Girls,” p.4
\textsuperscript{127} Sandra Bollen, Lillian Artz, Lisa Vetten, and Antoinette Louw, p. 9
\textsuperscript{128} UNICEF, “Domestic Violence against Women and Girls,” p.4
\textsuperscript{129} Sandra Bollen, Lillian Artz, Lisa Vetten, and Antoinette Louw, p. 9
prostitution, and pornography. However, there are other forms of domestic violence that this definition does not include such as sex selective abortions, female infanticide, and differential access to food and medical care. In certain societies, sons are given higher value often leading to cases of female infanticide and sex selective or forced abortions. The same mentality exists when girl children are neglected causing malnutrition, disability, sickness, or even death. Such acts are evident in statistics of mortality rates, which show that in some parts of the world there are about “60 million fewer women alive in the world than should be expected on the basis of general demographic trends.”

There are also specific cultural acts of violence which are justified under the pretense of cultural and religious beliefs, such as female genital mutilation, dowry related violence, honor killings, acid attacks, and early marriage. While female genital mutilation is not a common crime in Bangladesh or Pakistan, rather it is more frequent in African countries; it is still a crime that should be worth mentioning since it seems to affect 130 million women worldwide. However, practices such as dowry related violence, acid attacks, honor killings and early marriages are some of the most common types of cultural violence in Bangladesh and Pakistan. Dowry violence is one of the extreme forms of violence in both Bangladesh and Pakistan, which is evident from the high occurrence of stove burning and acid attacks. Stove burnings and acid throwing in the private sphere is a result of dissatisfaction that the husband or his family has concerning dowry. In 2006, about 206 women died of stove burnings in Pakistan, while in

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130 UNICEF, “Domestic Violence against Women and Girls,” p.4
131 UNICEF, “Domestic Violence against Women and Girls,” p.6
132 Ibid, p. 6-8
Bangladesh there are over 200 acid mutilations. Acid throws are a frequent crime since sulfuric acid is a cheap and accessible acid which has devastating results. The reasons for acid attacks vary from family feuds, inability to meet dowry demands, rejecting men as lovers or husbands.

Honor killings are also a frequent crime in these two countries, where women are killed for not being able to uphold the honor of the family. Honor killings often occur if men assume that their wives, daughters, sisters violated the norms that dictates women’s behavior. The acts that result in honor killings include alleged adultery, premarital relationships, rape, or even falling in love with an inappropriate person (someone from a different class, religion, rival family etc). However, at times honor killings are used to settle land disputes, resolve feudal violence, and even get rid of a “disagreeable wife.”

The last type of cultural violence mentioned is early marriage or marriage without consent of the girl. This form of violence victimizes numerous numbers of women across Bangladesh and Pakistan often causing teenage pregnancy, and has an adverse effect on girl’s education and employment opportunities.

While human trafficking is considered a different form of abuse which occurs in the public sphere, research shows that human trafficking and domestic violence is intertwined. Human trafficking is defined as the modern day practice of slavery, where “transportation, recruitment, transfer, receipts, or harboring of a person [occurs] for the purpose of exploitation,” the perpetrator can often be someone that is connected to the

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http://connection.ebscohost.com/c/articles/15923737/violence-against-women-south-asian-countries

134 Ibid.


victim “through intimacy, blood or law.” Lisa Hajjar states that domestic abuse is abuse which occurs in the private sphere, yet the private and public spheres interlock because domestic violence acts as a push or pull force for human trafficking.

**Human trafficking**

Over the recent years with the rise of globalization trafficking has become a major issue in Bangladesh and Pakistan. While globalization creates opportunities for nations to stride towards development, it leads to trafficking on the global market. A study from the International Labor Organization shows that human trafficking makes approximately an annual profit of $31 billion, making it one of the top three sources of illegal income.

While trafficking victimizes people of all ages, genders, and races, those who are usually affected by such a global market are women.

Trafficking can be categorized into two parts: labor trafficking and sex trafficking. Labor trafficking can be forced labor including fieldwork, mining, forced servitude, constructing and begging. Labor trafficking usually works as a form of payment to satisfy a debt. Labor becomes forced labor when the victims are forced to work long hours and their mobility is restricted and supervised by the controller. The victim is also unable to communicate with her relatives or friends in the outside world, which is similar to the circumstances that most victims of marital abuse and child marriage face. On the contrary, sex trafficking has a broad range of forms including prostitution, pornography, bride trafficking and commercial sexual abuse of children.

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138 [http://www.avonfoundation.org/assets/vv_finalviolence_lr.pdf](http://www.avonfoundation.org/assets/vv_finalviolence_lr.pdf)
141 Stephenie Foster and Cindy Dyer, p.8
International law states that if a person is under the age of 18 and is facing these circumstances he/she is considered a victim of trafficking even if there is no force or coercion. Using this definition, one can consider forced or child marriages as a form of human trafficking.

Forced marriage is marriage entered without the consent of one or both parties. Child marriage, although at times done with the consent of both parties, also falls under the same category as trafficking because it is considered to have practices similar to slavery, where:

   c) i. a woman, without the right to refuse, is promised or given in marriage on payment of a consideration in money or in kind to her parents, guardian, family, or any other person or group. 142

This type of marriage makes the women vulnerable to abuse and exploitation by her spouse or her in-laws, causing the victim to live in conditions of domestic or sexual servitude. 143

According to Dorchen Leidholdt, domestic violence serves as a push or pull factor that causes conditions which propel or lure vulnerable individuals into situations of prostitution or forced labor. 144 There is also a common misconception that human trafficking is a crime which occurs in the public sphere, not recognizing familial

142 Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, April 30, 1957. [http://www1.umn.edu/humanrts/instree/f3scas.htm](http://www1.umn.edu/humanrts/instree/f3scas.htm)
trafficking as a major form of domestic violence.\textsuperscript{145} This lack of understanding fails to recognize the roles that relatives, intimate partners, or parents might have in trafficking an individual. Often times the perpetrators use familial power dynamics to force the victim to engage in forced labor or commercial sex, in order to make money for the family or as a means of control abuse and exploitation of the individual.\textsuperscript{146} While UNICEF separates cultural and traditional acts of violence and human trafficking from other types of domestic violence, this thesis states that these are all forms of domestic violence are impacted by cultural and traditional norms.

**Cultural and Traditional Norms Concerning Women**

Why do norms have such a huge impact on our lives? Is it because some norms have been continuously reinforced since birth, that we have come to think of as normal? Why do certain norms remain even though civilizations have fallen and others have been conquered? These questions are some of the common questions one might think about concerning cultural norms. However, it is critical to understand that while norms play a huge role in shaping our values and impacting our behavior in society, certain cultural norms cause a negative impact for individuals, as is the case for women.

According to the World Health Organization, cultural norms are rules and expectations of behavior within specific social groups. These norms are often unwritten, and yet when internalized, norms play a major role in influencing individual’s attitudes and beliefs. Norms form modes of behavior by creating standards for appropriate or inappropriate behavior, which regulate and co-ordinate interactions. People conform to

\textsuperscript{145} National Human Trafficking Resource Center, “Intersection of Domestic Violence and Human Trafficking: Developing Lens for Intimate Partner and Familial Trafficking,” slide 26-27 Intimate Partner and Familial Sex Trafficking.

\textsuperscript{146} Ibid, slide 10 Misconception # 5

https://polarisproject.adobeconnect.com/_a983384736/dvsah_intersections/
norms due to society’s expectations because doing so is recommended, if not coerced. Refusing to conform to norms is followed by social disapproval, punishment, guilt, and shame, allowing attitudes concerning violence towards women to persist.  

Certain traditional norms state that men have the right to “control or discipline women through physical means” which then makes women more vulnerable to domestic violence. The fact that domestic violence is perceived as a private affair prevents intervention and silences victims.

Behind each type of abuse, there exist various cultural norms which support the type of violence. From the age of infancy to girlhood, girls are often victims of maltreatment because of norms which undervalue girls, considering them to be a bad investment. This is just one of the first types of violence that girls are exposed to, relegating them to a low status not only within the family but also in society. As they reach adolescence and adulthood most girls are victims of various types of abuse. In the case of physical abuse, a common norm is that men have the right to “discipline” female behavior and restrict their freedom which would preserve the honor of the family. For many, domestic violence is accepted for women of all ages and reporting abuse or even filing divorce is considered shameful. In the case of sexual violence, one does not even mention the topic sex. In my experience as a hotline operator working with abused women, I have found that women are less willing to admit to sexual violence. Many south Asian women have internalized the norm that sex is a man’s right in marriage and


148 Ibid.
talking about sex is taboo.\textsuperscript{149} Also reporting sexual abuse and rape leads to one being a social outcast and, in some cases, imprisonment for the victim, who is considered the criminal for ‘committing’ premarital sex.

These norms concerning domestic abuse have persisted for centuries, even with current advancements in technology and the science and modernization. Cultural norms in Bangladesh and Pakistan persevere due to patriarchal notions which are deeply ingrained in conservative religious beliefs. The society’s beliefs about the “proper role” of women in the public and private are ingrained in traditional religious conceptions regarding women.\textsuperscript{150} However, the Consultation on “Authority of Religions and the Status of Women” state that discrimination towards women ensues from misinterpretation of the scriptures causing unjust laws to emerge.\textsuperscript{151} Pakistan and Bangladesh both have a population that is majority Muslim; hence the norms and laws which exist are thought to be influenced by the Quran. However, the status of women in the Quran differs from the status of women in both of these countries in current times.

In pre-Islamic Arab society women had a lower status, with practices of female infanticide, discriminatory inheritance laws, polygamy, and other forms of abuse and discrimination. The introduction of Islam led to the protection of women and improving the social status of women.\textsuperscript{152} While the Quran states that women and men had different spheres and men were slightly superior to women, it did not promote the concept of male domination. There are laws which insist that women inherit assets, are protected and not abandoned by her family. The practice of bride price started off as a way to value the

\begin{footnotes}
\item[149] World Health Organization, p. 7
\item[150] Jyotsna Chatterji, p. 1
\item[151] ibid, p. 2
\item[152] Ibid, p. 24-25
\end{footnotes}
woman and providing her with assets that will be hers regardless of the status of the relationship in the future. This practice soon became one that did not give value to the woman but rather as a way that considered her as a commodity who would be sold off to her husband. Religious values concerning marriage and divorce were also different than current values. Islamic marriage without the consent of the bride is not considered valid, and polygamy can only be done with the permission of the first wife. Divorce was not stigmatized and the divorcee had to be “retained in honor or released in kindness.” The ex-husbands also had the duty to take care of her, also known as alimony, until she remarried.

In majority Muslim countries it is common knowledge that sexual relations are forbidden between those who are not married. However, since Islam forbids sexual relations between those who are not married, there is a rise of temporary marriage in these countries, known as *muta*. Muta means temporary marriage with unmarried women. A *muta* is only for a fixed amount of time, after which it is considered automatically terminated. This form of marriage means that there are no mutual rights of inheritance between the man and the woman, but any children conceived at that time would be considered legitimate and would be grant inheritance. Muta marriages require a valid contract with a mention of the specific period and fixed amount of dowry. It also requires two witnesses to validate the “marriage.” Although the Prophet has prohibited muta, other sects of Islam considers it valid, hence it is common in many Muslim countries.

The act of *muta* validates sexual acts, without any binding document which holds the

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153 Ibid, p. 48
154 Ibid, p.39
155 “Muta (temporary marriage or legalized prostitution).” http://www.kr-hey.com/statichtml/files/104292584629524,print.shtml
men responsible for his wife.\textsuperscript{156} This unbinding act raises the issue of \textit{muta} pimps, who take advantage of women, and girls who are vulnerable, such as street children, runaways, girls who come to the city for better opportunities, and high school girls in city parks. In Pakistan they are sent to \textit{muta} brothels, called “Kharabat,” where they are sold off to older men through acts of muta. This act of “marriage” not only allows the men to feel as if they are not committing a sin, but also hinders women from reporting prostitution or sexual abduction, in fear of being punished herself.\textsuperscript{157}

The latter development of Islamic societies digressed to practices which existed in Arab societies post Islamic age, imposing total male domination which violates the original Quran teachings, making current Muslim societies to be more static rather than progressive. The conservative beliefs that exist in Bangladesh and Pakistan play a major role in the rising violence towards women. Although statutes exist to protect women from such types of gender violence, they are rarely enforced. As a result, domestic violence continues to expose women to voiceless lives.

\textbf{Domestic Violence in Bangladesh}

Violence is a result of inequality in power relations. In developing countries such as Bangladesh, violence is a means of control and an enforcement of familial and social norms. Since it is a very strict patriarchal society familial and social norms are created by men. It is accepted in society that if the man believes that something is unacceptable, it can be reprimanded by the use of violence.\textsuperscript{158} According to the UN in the year 2000

\begin{flushleft}
\texttt{http://vc.bridgew.edu/cgi/viewcontent.cgi?article=1524&context=jiws}
\textsuperscript{157} Hughes, Donna M., “The Muta Pimps”\texttt{http://islamforsisters.wordpress.com/2010/10/25/the-mutah-pimps/#more-73}
\textsuperscript{158} Whispers to Voices, pg. 4-5
\end{flushleft}
Bangladesh had the worst record of violence against women and in 2004 was ranked 110th out of 144 countries related to gender development index.  

**Marital Abuse**

Domestic violence is a private crime, which is perpetuated by husbands, in-laws, and other family members. It is a common act and is seen as a disciplining tool making one feel imprisoned, and making the home, not a haven, but one filled with pain and humiliation. A major form of domestic violence is marital violence. According to Tania Wahed & Abbas Bhuiya, domestic violence is a result of:

- [the] wife's questioning of the husband on day to day affairs (29.1 %)
- followed by failure of the wife to perform household work satisfactorily (17.6%), economic hardship of the family (11.5%), failure of the wife to take proper care of the children (10%), not wearing the veil or conforming to other expected behavior (5.5%), inability to bring money from the natal home (3%), not taking good care of in-laws and relatives (2%). The rest of the reasons included supporting the natal home, failure to have children, having too many children, dark complexion of children, family feud between the husband's family and natal family and suspected relation with others. The most frequently mentioned reasons for physical abuse included questioning of the husband (29.9%), failure to perform household work satisfactorily (18.8%), economic problems (9.4%), failure to take care of

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159 Farida Khan, page 219
children properly (5.1%), stealing (3.4%), refusal to bring dowry from natal home (2.6%).

These actions show that at times it takes nothing to make the spouse take out his anger on his wife. The estimated occurrence of physical violence against women by husbands in Bangladesh is from 30% to 50%. Janet Jackson, outgoing deputy representative of the UNFPA to Bangladesh observed that 65% of males think they are justified in beating up their wives, 38% have no clear idea what physical abuse consists of, while 40% support in keeping women socially dormant.

This belief results in half of the female population in Bangladesh to be abused by their spouse. Domestic violence is an accepted act in Bangladesh, not only by men, but women also are more accepting of domestic violence. About 54% of girls and women between the ages of 15-49 in South Asia think that a husband is justified for hitting his wife under certain circumstances. Even if a husband rapes his wife, this is socially accepted even in the government. “Rape” is defined under the section of 375 of the panel Code as a sexual act in which there is the following:

i) sexual contact against her will; ii) without her consent; iii) with her consent but the consent has obtained by threat or coercion; iv) with her

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consent but by the deception of the men that he is her husband; v) with her
consent but if she is under 14.\textsuperscript{165}

Regardless of this panel code, many women are still victims of rape. The fatality of
domestic violence is evident when one observes the number of murders which occurs
at a specific time. In 1993, 50\% of all murders are of wives by husbands in Bangladesh.
\textsuperscript{166} If a woman survives the abuse, there is still the threat of death which might occur after
childbirth. In 2003, Sunita Mukherjee, representative of the UNFPA to Bangladesh,
stated that, "in Bangladesh about 14 \% of maternal deaths occur due to violence.\textsuperscript{167}

As mentioned before Bangladesh is a patriarchal society in which women are
taught since birth to be submissive, tolerant and self sacrificing. Society places the
importance of keeping the family together a woman's task, so if there is some sort of
failure of the marriage it is usually viewed as the woman's responsibility.\textsuperscript{168} Even though
some women would find support from her natal family, most women lack family or
community support. This lack of support causes abused women to accept their situation.
These social norms make it difficult for women to report acts of domestic violence,
especially when such action would cause social stigma. Even if she were to have an
official complaint she faces the fear of being harassed by the law official. It is also hard
for illiterate women to go through official papers and court settlements, making it more
difficult for women to receive any aid. While marital abuse limits a woman’s right to life,

\textsuperscript{165}“Current Legal Framework: Rape and sexual assault in Bangladesh.” \textit{IMPOWR International Models
http://www.impowr.org/content/current-legal-framework-rape-and-sexual-assault-bangladesh

\textsuperscript{166}Farida Khan, “Gender Violence and Development Discourse in Bangladesh,” in \textit{International Social

\textsuperscript{167}“UNFPA in the News: Week of August 9-15, 2003.”

\textsuperscript{168}Sharmeen Farouk, pg. 8
liberty and equality, child marriage violates girls’ human rights and making them vulnerable to domestic violence, abuse, abandonment, and trafficking.

**Early marriage**

Amongst six countries where child marriage is most prevalent, Bangladesh is number four with 36% who were married before the age of 18 and 28% married before the age of 15.\(^{169}\) In 2009, 64% of girls married before they were 18.\(^{170}\) Child marriage is one of the most devastating acts of all times because not only does it take away the child’s right to enjoy her childhood but it also limits the girl’s “skills, resources, knowledge, social support, mobility and autonomy.” These limitations compromise her development and make her isolated from her family, friends, and other relatives, making her more vulnerable.\(^{171}\) Victims of child marriage are also more likely to experience physical, psychological, economic and sexual abuse. Girls who are married below the age of 18 are also more likely to believe that a man is justified when he beats his wife. According to a survey done by Sidney Schuler, Kathryn Yount, and Rachel Lenzi, most women who were married at below legal age and had little to no education felt that sometimes violence is justified, especially if the wife argues with the man. One interviewee states that while it is not right for the husband to beat his wife, he has the right to beat her. This is a result of the lack of status and power that these girls have within their marriages and their household if they are child brides.\(^{172}\)

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\(^{169}\) Ann Veneman, p. 10  
Besides the violence that most girls are subjected to after marriage, the cultural norms which exist within the community is what allows child marriage to occur. There are beliefs that girls are burdens in the household and will not bring any steady income. However, if she were to get married at an early age then the parents would not be responsible for her. There is also the fear that the dowry price will increase as the girl gets older. While dowry is not a religious act, it has become a common act due to the belief that girls are economic burdens and marrying them off, or in this case selling them off will reduce the economic burden. However, dowry price increases the threat of violence after marriage. There are many cases where the girl has to suffer from abuse or even death because the husband or his family felt that the demands for the dowry were not met. Regardless of the common knowledge that most child marriages would lead to violence and lack of personal development, most girls still agree to the marriage.

A group interview of three Bengali women, two of whom were child brides and the third was a forced bride, consisted of questions about the circumstances of the marriage and why each interviewee did not oppose her situation. Two of the women, Kamrun and Aisha, were both married at the age of 16 to men much older, almost 15 years older. The third woman, Monu, was married at the age of 20, to a man 13 year her senior, without her consent. When asked why they didn’t oppose their situation, each had a different answer. Aisha said that it would have hurt her father’s career, because her father’s boss favored her husband and wanted him to get married to her. Her family was an educated middle class family and her father was a civil engineer, just like her husband.

http://vaw.sagepub.com/content/18/10/1177
173 “Too Young to Marry.”
Even though she was only 16 and her husband 32, she felt that she had to get married to him even though it was not forced on her. Aisha was later able to complete high school and receive an associate’s degree in political science. The other lady, Kamrun who was married at the age of 16 to a 30 year old man, said that early marriage was common in her family, with her sister who had gotten married by the age of 15. When asked about how she felt about the wedding or her husband, she stated that although she met him, she never looked at him until after the wedding. Her husband returned to the U.S. a week after their marriage and Kamrun stayed back until she finished high school. Monu, the last interviewee had a different story. She came from an upper middle class family and was able to go to receive her Associate’s degree in Accounting before marriage. However, since high school she was subjected to familial abuse, which ranged from physical and psychological abuse to eventually abandonment. She admitted that once the abuse was so bad, neighbors came to stop the abuse, yet didn’t when they were told that she was having an affair, which was a lie. After years of abuse, Monu still managed to complete her Associate’s degree, afterwards her parents and brothers forced her to get married to a man 13 years her senior. When asked why she did not run away from the marriage, Monu felt that opposing would have been a taboo and would harm her reputation. All three women stayed in the relationship, each with their own hidden scar. While none are abused by their husbands, each one of them felt that it was as if their childhood and dreams were snatched away from them. When asked if they would marry their daughters off at an early age, each vehemently shook their heads, stating that their daughters would have the chance to become independent. Each of the women felt that the situation they were in was wrong yet they felt powerless to do anything about it because
of societal norms that existed within their community. This powerlessness over one’s lives is common for girls all over Bangladesh, but it still continues on due to the belief that these forms of abuse are not social problems.

Community Response to Domestic Violence

A common belief in various parts of Bangladesh is that domestic abuse is not a social problem. By not viewing this as a social issue, communities are able to disregard the formal judicial intervention policies. Despite the creation of formal justice systems, it is rarely enforced outside the city areas, leaving women in the rural areas to suffer. In rural areas domestic abuse is believed to be a private matter, which should only involve family members. However, informal justice systems are used to solve issues which cannot be resolved in the privacy of one’s household. Informal justice systems consist of traditional views regarding gender roles and often deal with issues such as marital disputes, rape, allocation of land rights, and any other crimes which should be resolved. In Bangladesh, these informal justice systems are known as *shalish*, which is a gathering of village elders to address local disputes. The village elders are gender biased, consisting only of old men. For some villagers, disputes should be solved by the village elders rather than an official judicial representative. Although the formal judicial systems also comprises of men, the informal judicial system is less flexible, making it more biased towards men.

Another example of how informal justice systems work in Bangladesh is the use of fatwas, which are legal opinions or ruling issued by mullahs (educated Islamic

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175 Interview with 3 women Kamrun, Aisha, and Monu none of whom are related to each other by Twafiqa Mohinuddin. Brooklyn, NY. March 15, 2013
176 Ibid, pg. 81
Due to the large Muslim population, most of the norms and values are justified using Islamic law. The mullahs hold shalish to punish women for “anti social or immoral activities,” such as having an extra marital affairs, marrying a man from another religion, having a child out of wedlock, or even divorce. Even though fatwas are not legal forms of punishments, the mullahs hold enough power in the community for the punishment to be carried out. Punishment usually comes in the form of lashes, social boycott, stoning, divorce, honor killings, and physical violence, which are all accepted and carried out by the community. Although the Quran states that fatwas should never be unjustly declared, they tend to be unjust when the mullahs are men punishing women in front of a community that still implements rigid gender roles. This has occurred many times when the mullahs issue a fatwa and the victim/criminal is physically destroyed. Unfortunately, a disgruntled or suspicious husband can unlawfully use a fatwa to rid himself of a tiresome or undesirable wife without the woman's voice being heard. These various types of gender biases which exist in the cultural and social attitude contribute to gender violence. How could one complain to a counsel of men about another man, most likely her husband or even an outsider when it is more than likely that the woman will be blamed for her victimization and the injustice will remain unsolved? These injustices towards women have been acknowledged internationally leading to the involvement of international law in order to change the cultural norms of society.

177 http://www.thefreedictionary.com/fatwas
178 Sharmeen Farouk, pg. 10
180 Sharmeen Farouk, p. 10
International Laws regarding Domestic Violence in Bangladesh

International human rights laws provide provisions to protect women from violation and exploitation that they might face within their public or private sphere. However, not all member states agree to sign or ratify certain conventions, making it difficult for United Nations to enforce laws and methods which would protect women from violence and exploitation. Bangladesh has so far signed and ratified the following conventions regarding human rights protection:

1) International Covenant on Economic, Social, and Cultural Rights was ratified on October 1998 with the declaration that article 2 and 3 will be implemented as long as they are in accordance with relevant provisions of the Constitution concerning economic rights and inheritance laws.\(^{181}\)

2) International Covenant on Civil and Political Rights was accessed in September 6 2000, which basically recognized the state’s responsibility to protect and ensure women’s rights.

3) Convention on the Elimination of All Forms of Discrimination against Women was ratified by Bangladesh in November 6, 1984. As a state party of CEDAW Bangladesh has the legal obligation to comply with provisions in the convention. However, it reserves article 2, which says that states should condemn discrimination against women, article 13.1a and 16.1c and f, which deals with the rights within the family. The government felt that these reservations were necessary because it conflicted with religious Islamic laws. Recently the government withdrew reservations on the articles


13a and 16.1f after being urged by NGOs and female civilians.\textsuperscript{183} There are no reservations for articles 16.1a and b concerning the woman’s right to choose a spouse, enter a marriage freely and abolishing child marriage.\textsuperscript{184}

4) Optional Protocol to the Convention on the Elimination of Discrimination against Women- Bangladesh was one of the first ten countries to ratify the Protocol. This protocol protected children from exploitation, trafficking, and sexual abuse. This protocol became a national law, placing responsibility with the adults involved in these activities. It also states that public awareness and international co-operation should increase in order to combat such violation of children’s rights.\textsuperscript{185}

5) Convention on the Rights of the Child- This Convention was ratified with a reservation to Article 14 paragraph 1 which stated that states should respect the right of the child to freedom of thought, conscience and religion. Article 21 concerning adoption “would apply subject to the existing laws and practices in Bangladesh.”\textsuperscript{186}

Additional human rights laws concerning human trafficking were also signed:

1) Forced Labor Convention, 1930: This convention is ratified by Bangladesh and it states that illegal exaction of forced or compulsory labor will be punished as a penal offense. The Convention defines “forced labor as work or service which is any person under the threat of any penalty and for which the person has not offered him voluntarily. ILO also passed the International Program on the Elimination of Child


\textsuperscript{185} BNWLA, p. 36

\textsuperscript{186} \url{http://treaties.un.org/pages/viewdetails.aspx?src=treaty&mtdsg_no=iv-11&chapter=4&lang=en#EndDec}
Labor, which Bangladesh signed in 1994. Basically this meant that Bangladesh agreed to “prohibit, restrict and regulate child labor and forced labor (prostitution and other forms of commercial sexual exploitation).”

2) UN Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, 1949: The states which ratified this Convention agreed to punish a person who procures, entices, or leads away, for purposes of prostitution, another person, even with the consent of the other person. They also agreed to adopt measures to prevent trafficking through education, health facilities, social and economic activities and also supervise employment agencies.

3) The Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery, 1956: Bangladesh is a state party to this convention and is thus obliged to “take all practical and necessary legislative and other measures to bring about progressive and as soon as possible the complete abolition or abandonment of institutions and practices relating to slavery and slave trade including debt bondage and serfdom.”

4) Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, 23 October, 2001: Bangladesh was one of the first ten countries to ratify the Protocol. This protocol protected children from exploitation, trafficking, and sexual abuse. This protocol became a national law, placing responsibility with the adults involved in these activities. It also

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188 Ibid, p. 34
189 Ibid
states that public awareness and international co-operation should increase in order to combat such violation of children’s rights.\textsuperscript{190}

While Bangladesh has ratified these international laws, it is not enforced by national laws. These provisions are mere declarations which should create amendments to the national laws and where necessary new laws should be enacted.\textsuperscript{191} Bangladesh has expressed its commitment to ensure gender equality and empowerment of women leading it to pass certain policies, programs, and legal instruments to empower women.

**Government’s Role: How are International Laws Implemented?**

National governments need to be aware that changing national laws does not always “bring justice for women.”\textsuperscript{192} At times, laws are not implemented enough to make the perpetrator suffer and other times it is because of corruption and lack of access in the institution which allows the perpetrator to go unpunished. The large number of domestic violence victims in Bangladesh brought international awareness, forcing the judicial institutions to create statutes regarding domestic violence. There are various laws which were put in place to deal with this nationwide epidemic such as the Dowry prohibition Act of 1980, the Violence against Women Punishment Act of 1983, Repression of Women and Child Prevention Act, which was enacted in 2000, the Domestic Violence (Protection and Prevention) act of 2010, and the Child Marriage Restraint act. The Dowry prohibition Act of 1980 only prohibited taking and giving dowry while the Violence against Women Punishment Act of 1983 were limited to violence acts such as rape and murder. These two laws overlooked the cause of violence which was related to women’s subordination and their role in society. With the

\textsuperscript{190} Ibid, p. 36  
\textsuperscript{191} BNWLA, p.47  
\textsuperscript{192} Who answers to Women? Page 77
involvement of NGOs and civil society groups governments were encouraged to implement new laws which recognized all forms of gender-based violence.\textsuperscript{193}

The Repression of Women and Child Prevention Act, as was described by the CEDAW, “was formulated to protect women and children from heinous crimes such as rape, dowry, grievous injury etc.”\textsuperscript{194} It made provisions for the punishment of sexual abuse and sexual harassment. This act was the first to introduce “capital punishment in cases of rape and grievous injuries.” It also put restrictions on the media so that the victims' privacy is protected, introducing the concept of safe custody as one of the most important features of the law.\textsuperscript{195} However the Repression of Women and Child Prevention Act does not fully accord with the CRC and other international instruments, which Bangladesh has ratified. The law defines child as any person not exceeding 16 years rather than 18 years. It also states that gender violence will receive harsh penalties such as capital punishment which requires proof of the offense and proper protection of witness, which is more often lacking when dealing with these cases.\textsuperscript{196}

The Domestic Violence (Protection and Prevention) act of 2010 came into force on December 2010 stating that domestic violence was a criminal offense. This act defines domestic violence as “abuse in physical, psychological, economical and sexual nature against one person by any other person with whom that person is, or has been, in a family relationship…” which complies with the definition of domestic violence set by


\textsuperscript{194} Immigration and Refugee Board of Canada, 2004

\textsuperscript{195} Immigration and Refugee Board of Canada, 2011, pg. 3

\textsuperscript{196} Immigration and Refugee Board of Canada, 2004
international statutes. The act states that it protects any women who is a victim of domestic violence and has been in a family relationship with the perpetrator. The complaint can be filed against any adult family relative, husband or relatives of the husband. This act also ensures that the victim receives medical and legal aid after the complaint is filed and that she is granted an interim Protection Order. The punishment for domestic violence is 6 month to 2 years imprisonment or a fine of 10,000 taka to 100,000 taka.198

The laws regarding marriage in Bangladesh were based on a combination of religious and civil law. While civil laws dictates that 18 is the legal age of consent for women and minimum for marriage, it is 21 for men and there is no specific law which bans forced marriage. For a marriage to be legal the consent for marriage is required from both parties, allowing forced marriages to be challenged and declared invalid.199 However, if a girl decides to oppose a marriage there is a high possibility that she will face familial violence or even be abandoned by her family.200 The Child Marriage Restraint Act states that marrying off minors is a criminal offense, yet contradictory of this act is that minors can be married if consent is given by their legal guardian.201 The paradoxical nature of these laws allows child marriage and forced marriage to be continued.

198 Mst. Taslima Khatun and Khandaker Farzana Rahman, p. 27
200 Interview of Monu.
201 Embassy of the United States.
Regardless of the deployment of these laws domestic violence continues to increase. Even with these laws concerning the protection of women’s rights, there was still a lack of enforcement of the statutes, making it useless for such laws to exist. Such lack of enforcement creates international attention especially from the International Commission of Jurists. In 2003, the ICJ had a mission which was a consisted of consultations with government representatives, lawyers, non-governmental organizations and survivors of violence addressing the failure of the Bangladeshi government to take fast action to punish the perpetrators of gender violence crimes. As the research of this study has shown changing laws or creating laws does not always make change in a nation, the whole attitude of a society needs to change for such laws to be effective. The combined efforts to end domestic violence in Bangladesh have created awareness amongst citizens regarding abuse and women’s rights.

**Domestic Violence in Pakistan**

Pakistan is a country burdened with a “legacy of colonial rule, autocracy, [an] army of ruthless power hungry members, Taliban, and fundamental Islamic parties,” who dictate the lives of individuals. This government, which has been based on power, has become inconsiderate to its female population, even though women are 49% of the country’s population. Ironically it has women figures in prominent government positions and yet Pakistan continues to have a high rate of domestic violence. This continuous form

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http://www.ecoi.net/local_link/88057/185791_de.html

203 Mst. Taslima Khatun and Khandaker Farzana Rahman, p.28

of violence makes Pakistan one of the “worst countries in terms of gender gap in the world.” According to the Gender Related Development Index, Pakistan is ranked one of the lowest when measuring gender empowerment and is the third of the planets worst offenders in terms of gender gap before Yemen and Chad.

In Pakistan, a woman's situation in society depends on her geographic location and class social status. For those who live in less populated areas, their lives are very restricted and are rarely seen to deviate from traditions, since doing so will often be met with penalties, such as murder, battering or public humiliation. Contradictory, in heavily populated areas, such as Punjab and Sindh, women are often provided with greater social mobility. They are often seen working in public areas, like fields and village areas, and are given access to education and health care. Niaz states that in urban areas women are given more mobility, while in rural areas about 75% of women are suffering from “poor health, illiteracy, and constant motherhood.” This, however, does not mean that women suffer more in rural areas than in urban areas. In the rural areas, the violence that the women suffer often occurs in the private sphere, however in urban areas women are more likely to suffer in the private and the public spheres. Even with the growing number of women in the public sphere they are still subjected to domestic violence. Their ability to be mobile within the community is also controlled, subjecting them to ongoing domestic violence. If a woman is unable to leave her house, not only to go to her field, but also to

205 Ibid.
206 Immigration and Refugee Board of Canada, January 2013, p.3
207 U. Niaz, “Violence against women in South Asian countries,” p. 178
208 Ibid, p.175
local markets, neighboring villages, and her sphere of activity is restricted. The lack of flexibility in movement has implications for women's access to major services.²⁰⁹

While the Constitution of Pakistan gives equal rights to both men and women, in reality women are seldom treated as equal. Pakistan undergoes various socially accepted gender-based crimes, such as domestic violence, rape, murder, prostitution, and trafficking of women. While it might be harsh to state that such crimes are accepted, it is a consequence of the traditional attitudes that allow these acts to persist. There is a lack of recognition in the psychological and economic abuse that occurs in women’s everyday lives, unless there is an extreme case of abuse such as murder.

Murder in Pakistan ranges from honor killings, revenge killings and dowry killings. The reason for murder varies within the different states in Pakistan. Particularly in Sindh, along with other parts in Pakistan, if a couple elopes, they may be hunted down and killed. Another justification for why a woman is killed is due to a family’s reluctance to accept a woman spending a night away from home; even if it is proved that she was not with a man in order to maintain their honor. These killings have been identified as 'culpable homicide' and the perpetrator is only imprisoned for a few a months. Revenge killings are the use of women as scapegoats to resolve any issues between families. Often times if a woman is disliked by her in-laws or if the dowry needs were not met, she is burnt to death, which is then passed off as a cooking accident. There are also other forms of violence rather than murder, such as publically humiliating women. Women who are

²⁰⁹ Sathar and Kazi. “Women's autonomy in the context of Rural Pakistan.” P.106
disobedient often are disfigured, either by cutting their hair off, or even as malicious as cutting their noses.\footnote{\citenum{210}}

In 2009, there were 1384 recorded cases of murder, 604 cases of honor killing, 608 cases of domestic violence, 50 cases of stove burnings, 53 cases of acid throwing and 1977 cases of violence which included trafficking, torture, child marriages, incest, threat of violence, attempted murder and rape.\footnote{\citenum{211}} Most of these incidents occur in the private sphere, making domestic violence one of the most prominent types of violence in Pakistan. A minimum of 80\% of women in Pakistan were victims of domestic violence at one point in their lives.

A. Marital Abuse

Pakistan, similar to Bangladesh, considers marital abuse as a private matter, and that outsiders should not intervene or make policy changes regarding it. This causes women to be victims of abuse and discrimination in an everyday basis. Most of these women face not only physical, mental, and emotional abuse, including stove burnings, acid attacks, marital rape, and honor killings. Marital abuse has been a major form of crime in Pakistan, a survey showing that 35\% of women in Punjab reported to hospitals after being beaten by their husbands, it only becomes a crime when it causes murder. The same report shows that at least 2 women are burned every day, causing about 282 burn cases and out of those cases about 65\% died.\footnote{\citenum{212}} Another form of abuse that some women

\begin{footnotes}
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encounter are acid attacks. According to Jill Reilly, there are annually more than 100 people who are victimized by acid attacks and some of them are left unreported. These attacks are usually caused by anger over arguments, leaving the house without permission, punishment for not “obeying his orders” or even revenge attacks, as was the case of a woman whose ex-husband attacked her after she divorced him.\textsuperscript{213} Besides these physical forms of domestic abuse, most women are also victims of marital rape.

A study done by Masood Ali Shaikh, interviewed 216 women, found that half of those women were subjected to a discriminatory act, nonconsensual rape.\textsuperscript{214} According to the norms in Pakistan a woman cannot file a complaint of rape against the husband, since the marriage contract gave him official rights over his wife's body. However, the Protection of Women Act of 2006, states that rape should be prosecuted under criminal law rather than sharia law. Regardless of this law, sources state that marital rape is not recognized as a crime, and about 88% of women in prison were convicted of adultery after they reported rape.\textsuperscript{215} The discriminatory acts towards rape victims are evident in the study of the hadood ordinance. The “hadood ordinance” states that the perpetrator will only be punished if there is evidence from four adult male Muslims that the rape

\textsuperscript{213} Jill Reilly, “Katie Piper’s surgeon and his mission to save the acid attack victims who have been ‘burned alive,’” UK: Dailymail, January 15, 2013, accessed April 19, 2013
\textsuperscript{215} Immigration and Refugee Board of Canada, “Pakistan: Domestic violence, including effectiveness of the Protection of Women (Criminal Laws Amendment) Act, 2006; state protection and services available to victims,” January 14, 2013, accessed March 6, 2013, p.5
occurred, the victim is considered a half witness and is not allowed to testify against the crime.\textsuperscript{216}

Honor killings, or karo kari, are another form of familial violence against women in Pakistan. Between the years 1998 and 2004, statistics showed that more than 4000 people were killed, proving that karo kari is widespread.\textsuperscript{217} Honor killings are considered as marital abuse because it provides men with an option of killing their wives without receiving any harsh punishment. These various acts of violence which exists in intimate partner violence are often highly tolerated in communities, who often see marital abuse as a prerogative of the “angry husband,” allowing marital abuse to continue. The acceptance of marital abuse allows it to persist, causing the cultural norms concerning female subordination to continue. Another example of abuse which keeps women in their subordinated status is early marriage.

B. Early Marriage

Early marriage is a worldwide concern as more than 60 million girls globally being married off under the age of 18. But amongst that 60 million, 24\% was from rural Pakistan and 18\% from urban Pakistan, and if this practice continues, then an additional 100 million underage girls will be married within the next ten years.\textsuperscript{218} Child marriage, mostly common in tribal areas, is a practice that is rooted in patriarchal traditions and poverty causing devastating results in the girls’ lives. Despite this custom being illegal it continues to persist. A case regarding three girls, ages 10, 12, 13, were given as

\textsuperscript{216} Sadaf Zahra, “Women in Pakistan-Victims of the social and economic desecration,” in Marxist, October 10, 2005 accessed March 5, 2013  

\textsuperscript{217} Parveen Ali, Maria I. B. Gavino, p.1

\textsuperscript{218} Asad Zia, “42\% of Underage Married Girls from Pakistan,” Pakistan: International Herald Tribune , January 2, 2013, accessed in March 9, 2013  
compensation to a man who claimed that their father slept with his wife.\textsuperscript{219} Child marriage continues due to the belief that girls are a “social, economic, and religious liability on the families, who needs to be disposed of.”\textsuperscript{220} However, practices such as early marriage come with long term consequences for the child bride, exposing her to trafficking, a life of violence, and abandonment.

According to international law, child marriages are a form of human trafficking even if there is a lack of force or coercion. This is due to the fact the child bride is under 18 and might not be aware of the marriage or what it entails. Child marriage makes the girls vulnerable to violence by an intimate partner and in-law violence. They are exposed to risks of sexual abuse, reproductive health complications, and other psychological and social issues.\textsuperscript{221} As is the case of Bangladesh and worldwide, early marriage thwarts a child’s right to acquire education, endangering her health and causing her personal growth and development to suffer. If the bride becomes pregnant, there are more fears of maternal death since as a child herself, she is usually underweight and malnourished, also increasing health risks for the unborn babies.\textsuperscript{222} In some cases, the girl’s family fails to meet the dowry demands set by the groom and his family, causing the bride to face fear of abandonment.

Regardless of the issues that arise due to child marriage, this age old practice has continued to exist, threatening the future of girl children in Pakistan. Even with civil society organizations, NGOs and international organizations have continued to state the

\textsuperscript{219} Baseer Naveed.
\textsuperscript{220} Parveen Ali, Maria I. B. Gavino, p. 201
\textsuperscript{222} Asad Zia.
negative effects of such violent acts and traditional norms within communities allows discriminatory acts towards females to remain.

C. Community Response to Violence

In Pakistan, domestic violence is largely impacted by patriarchal perspectives and more often the victims suffer more in the hands of her community than the perpetrator. Pakistan is a country ruled by male dominance, which is a major determinant of domestic violence. The roles that men play in the public sphere resemble their roles in the private sphere. Since men have the decision making authority in society, they are likely to maintain an authorial position at home also and this unequal distribution of power increases the likelihood of domestic violence. This subordination causes women to consider themselves as “insecure, incompetent, ineffective and inefficient without males.” A study based on men’s beliefs and attitudes toward intimate partner violence states that Pakistan is highly patriarchal because of its history, sociology, and feudal dominated agricultural economy, assigning asymmetrical power relations in the private sphere. This distribution of power relations maintains and legitimizes discriminatory acts towards women, such as regulating women’s behavior and any resistance of that control would cause violence and coercion. This manifestation of patriarchal norms regarding marital abuse has been infested in the mindset of the community as a whole, impacting their views and actions towards other acts of domestic violence, such as rape.

Rape, or unconsenting sexual intercourse, is known as zina bil jabr and in order to understand this phrase, the term zina must be translated. Many translators define zina as

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223 Parveen Ali, Maria I. B. Gavino, p. 201
http://vaw.sagepub.com/content/19/2/246
sins, and it was originally translated as consensual sexual intercourse between an unmarried couple, in which case both the man and woman are to be punished.\textsuperscript{225} The government’s willingness to separate the term \textit{zina} with \textit{zina bil jabr} shows the society’s willingness to see the difference between the two. However, in many tribal communities, the victim is often accused of committing \textit{zina}. A raped woman also finds herself open to accusations of adultery and can also be convicted for \textit{zina}. There are also invisible rapes and sexual abuse of girls by family members, which is not talked about, much less dealt with legally, leading to years of unresolved psychological and physical problems.\textsuperscript{226}

Sexual abuse is a major crime in Pakistan, and Bangladesh, victimizing girls of all ages, but the demographic who finds themselves most vulnerable to sexual abuse is young girls. This form of abuse is kept hidden not only from the community, but also from trusted members of the family. At a social gathering a few years ago, I learned that amongst ten girls five of them were sexually abused at a young age, most below the age ten. If one takes that at a larger scale it could be estimated that almost half of the female population experienced some sort of sexual abuse at one point of their lives. The perpetrators varied from cousins, brother’s friends, uncles, neighbors, and father’s friends.\textsuperscript{227} Most of these girls have kept their scars hidden, fearing social outcomes which might occur after confronting the perpetrator. The stigma that society often puts on the victim, regardless of her age, affects her perception of herself worth, making her vulnerable to further violence in the future.

\textsuperscript{225} Understanding Islam, “\textit{What is the Classical definition of zina?’}” \url{http://www.understanding-islam.com/q-and-a/penal-law/what-s-the-classical-definition-of-zina-6254}

\textsuperscript{226} Marcus, p. 9

\textsuperscript{227} Social gathering in Queens on January 2010
The community often takes an active role as a perpetrator, especially when men in society are in control through informal justice systems, such as fatwas or jirga/ punchayat systems. Fatwas, or religious rulings, are a form of legalized discrimination which occurs in Pakistan. According to Anna Mahjar-Barducci, fatwas are given out on a daily basis and often issued for the most basic things, such as using a cell phone. In Noshki, a town in Baluchistan, if a woman was seen using a cell phone she would have acid thrown to her face. A major fatwa that does not only affect one town, but a majority of Pakistani women is one that is against education. In May 2012, Maulana Abdul Haleem, former legislator and member of the Jamiat Ulema-e-Islam-Fazlur Rehman, stated that educating women is un-Islamic. Their justification for this is that girls should not receive degrees and certificates in a secular education system, because doing so would mean girls would enter the public sphere which consists of men. In Kohistan, 97% of girls schools were closed down and recently, in April 2012, a girls’ middle school in northern Pakistan was bombed. There has been movement against fatwas within the civil society, yet the government has taken no initiative to prevent these fatwas from being issued, allowing religious traditional norms to persist.

Jirgas/ punchayat are a group of people, specifically male elders, who solve disputes incorporating civil bureaucrats, local police chiefs and tribal leaders in order to solve tribal feuds and crimes. However, the jirgas/punchayats are extremely male biased because women are prohibited from entering jirgas be it victims, witnesses or

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http://www.gatestoneinstitute.org/3105/pakistan-fatwas-against-women
participants.²²⁹ If a woman has been raped she has no say in telling her side and in such cases, the victim is often married off to her rapist and not doing so would make her a victim of karol kari.²³⁰ Karo kari, or honor killings, is a common crime and one that legitimizes honor killings. If a girl is murdered, the perpetrator could declare that she was involved in an illicit relationship, which would vindicate them.²³¹ Even though honor killings are punished with a life sentence, the culprits are rarely punished, allowing the practice of honor killings to continue. The High Courts in Pakistan state that jirgas/punchayats are unlawful because it discriminates against women. This informal justice system continues to exist in various tribal parts of Pakistan that are farther away from the central government location.²³² These informal justice systems cause traditional norms to persist even though the government has approved international laws and national laws fighting such discrimination.

D. International laws regarding domestic violence in Pakistan

If member states do not sign or ratify certain international conventions, it makes it difficult for the United Nations to enforce laws and methods which would protect women from violence and exploitation. However, countries often have reservations which allow them to accept international law and continue to maintain their cultural norms. According to some governments, the country should be able to maintain their own cultural values, without international legislations controlling their values. Pakistan is a federative republic consisting of provinces that have separate laws regarding family law and child welfare.

²³¹ Baseer Naveed.
²³² Saleem Akhtar and et., p.30
This lack of unification of the legislation makes it difficult for implementing federal legislations. The following human rights conventions that Pakistan has so far signed and ratified come with reservations in which the government seeks to protect themselves from what they call “Western human rights”.

1. Convention on the Rights of the Child was ratified in November 1990, but with reservations that the Convention will be interpreted according to Islamic laws and values. Its reservation on Article 14 would justify since it states that children have the right to practice their own religion and have the right to think. While the convention states that parents are allowed to raise children within their cultural traditions, Pakistan cannot enforce this article throughout the country due to it being a federative republic. Also, Islamic law states that the parents or guardians have the best interests for the child and he/she will not have a stand on any important decisions in his/her life, especially marriage.

2. Accession of the Convention on the Elimination of All Forms of Discrimination against Women was on March 12 1996 however it stated that it does not consider itself bound by paragraph 1 of Article 29. This article highlights that state parties’ disputes concerning the interpretation or application of the Convention can be settled by the International Court of Justice if requested. However, the declaration that was made was that the accession to the Convention is subject to provision of the Constitution of

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www.law.yale.edu/rcw/rcw/jurisdictions/assc/pakistan/frontpage.doc

234 University of Minnesota, Ratification of International Human Rights Treaties-Pakistan
http://www1.umn.edu/humanrts/research/ratification-pakistan.html

Pakistan.\textsuperscript{236} Even if the Convention and the Constitution states similar opinions regarding women’s rights, it is difficult to enforce these laws throughout Pakistan.

Pakistan has not ratified many of the Conventions which protect individual rights. This lack of acceptance is due to the internal division about the acceptance of international human rights laws. There are several conventions that Pakistan agreed upon concerning slavery, prostitution and trafficking

3. Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others was ratified on July 11 1952 states that trafficking and prostitution is incompatible with the “dignity and worth of the human person and endanger the welfare of the individual, the family and the community.\textsuperscript{237} The members of the Convention also agree to punish any person who “to gratify the passions of another:

(1) Procures, entices or leads away, for purposes of prostitution, another person, even with the consent of that person;

(2) Exploits the prostitution of another person, even with the consent of that person.\textsuperscript{238}

This article can be used to punish most rapists since if a girl is raped, society perceives her as a prostitute. By agreeing to this Convention, Pakistan agrees to punish rapists, yet this is not the case because in most situations it is the victim who is punished for the rape.

\textsuperscript{238} Ibid, article 1
4. Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery was ratified on March 20, 1958. It stated that “freedom is the birthright of every human being.” It also prohibited people being held in slavery or servitude or acts of slavery such as debt bondage, serfdom, bride price, dowry, selling of brides, bride inheritance, or child labor. Article 2 states that member states should “prescribe, where appropriate, suitable minimum ages of marriage.”

Regardless of these articles, Pakistan does not have any reservations concerning this Convention, yet it has not fully implemented this article, as evident in the trafficking routes that goes through Pakistan from Bangladesh, Myanmar and other countries towards the Middle East or even Pakistan itself. Many girls are also victims of child marriage, even though the government states what the suitable minimum age is for marriage, 16.

5. United Nations Convention against Transnational Organized Crime was signed on December 14, 2000. Signing a convention is different from ratification, since signing does not establish that the consent is bound, but the state is qualified to ratify the Convention. By signing the convention, Pakistan is obligated to refrain from acts that would defeat the object and the purpose of the treaty. This “convention promotes cooperation to prevent and combat transnational organized crime.” It also has a

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239 Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery
reservation on Article 35.2, which claims that states parties’ disputes concerning the interpretation or application of the Convention can be submitted for arbitration.\textsuperscript{242}

In addition to these Conventions the Pakistani government has made initiative to observe international human rights law, as is shown in many of its national policies.

E. Government’s Role: How are international laws implemented?

The number of domestic violence cases in Pakistan led to the changes in national law to include women’s human rights. According to Siobhan Mullally, Pakistan made judicial decisions which attempted to draw on concepts from international laws that focused on rights and equality.

While the Convention on the Rights of Children stated that child marriage should be prohibited, Pakistan has its own law Child Marriages Restraint Act 1929, which makes child marriage illegal but the punishment is either one month of imprisonment or paying a fine. This however does not nullify the marriage. Similarly Pakistan also passed the Criminal Law Bill 2004 which was against honor killings, yet allows the perpetrator to seek forgiveness from the guardian by providing retribution or being given forgiveness in the name of God without any monetary compromise.

One of the recent laws which was focused on women’s rights and protecting women was the Protection of Women Act (Criminal Law Amendment), 2006. Its purpose was to “provide relief and protection to women against misuse and abuse of law and to prevent their exploitation.”\textsuperscript{243} This law states that rape should not be prosecuted from sharia (Islamic) law, but rather under state criminal law. This was the law that stated the difference between \textit{zina} and \textit{zina-bil-zabr} since differentiating them would cause people

\textsuperscript{242} Ibid, article 35

\textsuperscript{243} Protection of Women (Criminal Laws Amendment)Act, 2006, accessed November 29, 2012

to be aware that rape should not be categorized as *zina*. However, some state that most people in Pakistan have the patriarchal mindset, especially law enforcement agencies, making it difficult for this law to be implemented.\(^{244}\) Finally, the Parliament passed the Domestic Violence (Prevention and Protection) Bill in 2009, which attempts to “prevent and protect women and children from domestic violence using a network of protection committees, and protection officers and prompts criminal trials for suspected abusers.” \(^{245}\) This law is critical because it causes domestic violence to become public, criminalizing an act that once stayed behind closed doors. According to Minister in charge Yasmeen Rehman, this policy adopts a “zero tolerance for violence against women and introduces positive legislation on domestic violence.” \(^{246}\)

Widespread traditional practices make women more vulnerable to violence, making them the predominant victims of conflict, sexual violence, injury, death, intimidation, and human trafficking, eventually preventing the “wealth and well-being” of the country itself. While international law makes efforts to change these traditional norms in countries through adjusting national laws to accept international human rights norms, many of these norms continue to exist. New laws regarding domestic violence would not benefit women, especially if it is not implemented nationwide. Regardless of how strong the laws are, if they are not well implemented, then patriarchal societal norms will continue to persist, effecting the economic growth of the country.

\(^{244}\) Immigration and Refugee Board of Canada, January 2013, p. 5
\(^{245}\) Ibid, p.6
\(^{246}\) As Passed by the National Assembly to Make Provisions for Protection against Domestic Violence, August 2009, accessed November 29, 2012
Chapter 5: Cost of Domestic Violence

Domestic violence is a global epidemic, which limits a woman's choices at home, work, school, and community spaces leading to physical, emotional and social consequences. These consequences prevent women from reaching their fullest potential in society. As a result the limitations lead to significant costs to individuals, children, families and countries.\(^{247}\) According to the “Gender Matters” article, gender-based violence is a major cause for death and disability for women between ages 14-44, and domestic violence rates are higher than other forms of death such as cancer, car accidents and malaria.\(^{248}\) Domestic violence ultimately affects women’s ability to be productive in the private and public sphere, proving that it is more than a human rights issue, but also an economic issue.

The economy of a nation depends on how much it makes and how much it spends. Therefore it is necessary to find out how much domestic violence costs nations. It is critical to have cost estimates of the impact of domestic violence because a cost analysis influences policy makers to form decisions regarding public policy and allocation of public funds. An analysis of the costs also ensures further information regarding prevention strategies or programs.\(^{249}\) There are two costs which can be used to understand the consequences that gender-based violence, or in this case domestic violence, have: direct costs and indirect costs. Direct costs are “actual expenditures related to gender-based violence.” An accounting methodology, used to calculate such expenses, establishes the “unit cost of a specific service, such as health care, judicial or 

\(^{247}\) UNIFEM. “Investing in Gender Equality: Ending Violence against women,” p.2  
^{248} Dennis van der Veur, Karolina Vrethem, Gavan Titley, and Gyorgyi Toth, p.12  
^{249} Andrew Morrison, Maria B. Orlando, p.7  
social services, and multiplies this unit cost by the number of times the service was used." Direct costs are often difficult to measure in developing countries because they lack funding for services and actual expenditures do not always indicate that public goods are being provided. It also does not take into consideration the impact that violence has on the witnesses, specifically on children. Furthermore, there is a possibility that victims are not provided with services because of the social attitudes towards women which do not acknowledge that they require aid and that the violence has actually taken place. These attitudes and lack of a “base of reference such as Gross Domestic Product (GDP) or cost estimates for other social issues, makes it difficult to estimate the direct costs of domestic violence in a developing country.” In such cases, it is useful to calculate the indirect costs of gender-based violence.

Indirect costs are a result of the calculations of loss of productivity from paid and unpaid work, as well as the “foregone value of lifetime earnings for women who have died.” It also includes the lost productivity of abusers due to incarceration. In Nicaragua and Chile, women suffering from violence led to families losing 1.6% to 2.0% of the GDP, while in Colombia it was calculated that women who were abused made about 14% lower earnings than women who were not abused. Any form of intimate violence is recorded to have 34%-46% reduction in earnings. Loss of earnings are calculated similarly to how direct costs were calculated, through an accounting method.

250 Ibid. p. 7
251 Ibid, p.8
252 Ibid. p. 9
254 Ibid. & Morrison and Orlando, p. 9
This method calculates the number of days missed due to abuse multiplied by the mean daily earning regardless of temporary or permanent injury.

Besides the direct and indirect costs of domestic abuse, there are also the social costs. Social costs are calculated through the contingent valuation methodology, which calculates how much people are willing to pay to be free of gender-based violence. However, putting a monetary value on fundamental human rights is opposed by international conventions such as CEDAW and Belem do Para, which is why it is critical to analyze the non-monetary value of violence.²⁵⁵

Non-monetary costs of domestic violence focuses on three types of costs: disability adjusted life years lost (DALYs), impact on health and education outcomes: naïve comparisons and prosperity score matching. Disability adjusted life years lost focuses on premature death, physical injuries, and mental abuse which may be difficult to calculate as most developing countries lack the public health data to estimate these conditions. However, this method is useful since it can be used to calculate the cost effectiveness of preventing GBV and creates a very accurate estimate of the health impact associated with it. An issue with the disability adjusted life years costs is that it does not take into account the use of the judicial system and productivity losses.²⁵⁶

The next non-monetary cost is the impact on health and education outcomes, naïve comparisons, which uses confidential surveys for research. It contains data on the health and education outcomes for all household members.²⁵⁷ This survey then compares those who are not suffering from violence, known as the control group, with the results of those who are victims. The weakness of this method is that the survey results are

²⁵⁵ Morrison and Orlando. P. 9
²⁵⁶ Ibid, p. 33
²⁵⁷ Ibid.
dependent on the strength of the control group. The last method analyzes the propensity score matching which uses control groups not as a basis of values but rather as the “estimated probability of suffering intimate partner violence.” For both cases, the surveys make it difficult to understand whether or not the cost of violence is underestimated or overestimated. 258 These various methods of calculating the cost of domestic violence all have one primary point in common: it has a major impact on a person, the family, the community, and the country.

Due to the difficulty of calculating the direct costs of domestic violence, the use of indirect costs to measure the impact is common. The “Reporting Gender-based violence” article states “indirect cost of violence against women to development is extremely high.” Women make a major contribution to the family's income by making up two thirds of the unpaid labor force. Thus they contribute about $11 trillion per year. Domestic violence affects the contribution that women make in the public and private sector.” 259

In the private sector women are in charge of the reproductive labor, which includes: chores, cooking, child rearing and childcare, and even caring for the sick and elderly. While women are responsible for the growth of the future generation, they often have to deal with domestic violence which leads to a higher possibility of suffering physically, mentally and often causes reproductive health problems. Physical problems are the obvious consequence of violence because it includes broken bones, scars, bruises and sometimes even chronic health conditions; however mental problems are most likely

258 Ibid. p.14
http://www.ips.org/mdg3/GBV_Africa_LOWRES.pdf
to be less obvious with more lasting consequences. Victims with mental issues due to violence suffer from depression, post-traumatic stress, central nervous system disorders, and suicide.\footnote{Ibid.} The reproductive health problems affect both the mother and any children she might conceive. The victim might be prone to having gynecological disorders, unwanted pregnancies, problems with childbirth which causes high risk pregnancies, miscarriage, preterm labor, and low birth weight. In addition to these health problems there are also monetary losses if the victim works outside the home. Violence at home affects the victim’s ability to contribute productive labor because she might be forced to stay away from work due to injuries. Most women also lose their jobs because of absences, causing a loss of extra income in the family. Domestic violence in the public sphere is impacted by patriarchal power relations in societies. Patriarchal power relations deny women “access to education, equally paid work, …access to services, exclusion from certain jobs, denial of enjoyment and exercise of civil, cultural, social, political rights.”\footnote{van der Veur, Vrethem, Titley, and Toth, p.57} The state contributes to the violence by not providing adequate policing to protect women, such as ensuring sufficient staff, infrastructure and vehicles dedicated to protect women. The state also has the responsibility to provide victims with a proper health care system which varies from emergency services to psychological care, access to contraceptives, all of which require additional financial and human resources that many developing countries do not have access to. Thus, preventing domestic violence costs the government less in the long run. Until they take steps to do so, billions of dollars of
national budgets have been spent every year in terms of “police, health, legal and other expenditure, hence eroding economic development of countries.”  

A country’s economic development is eroded by domestic abuse because it affects all aspects of everyday life. Business Dictionary defines economic development as “progress in an economy or the qualitative measure of this. Economic development often refers to the adoption of new technologies, transition from agricultural based to industry based economy and general improvement in living standards.” This improvement of living standards for women is measured by the World economic forum gender gap index, which bases it on: “life expectancy and sex ratio at birth, education, economic and political participation, and political empowerment.”

Gender-based violence often serves as a direct break on socio-economic development by affecting women's health, education, social and economic prosperity. E. Boserup states that women are critical factors who impact the success or failure of a country’s development policies. Development projects focusing on physical capital, such as transportation, water and sanitation, or infrastructural maintenance projects are impacted by domestic violence. Often simple projects such as building a water system or waste management system are hindered by a woman's limited movement due to fear of public transportation, security vulnerability, or domestic abuse. Decisions and behaviors restricted through violence, whether its insecurity or fear, affects the community’s

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262 UNIFEM, p.4
263 Businessdictionary.com/definition/economic-development.html
264 UNIFEM, p. 7
capacity to “maintain and renew its natural capital base [which] will be compromised.”

These are just a few examples of how domestic violence perpetuates and worsens poverty and vulnerability, hindering the economic growth of countries.

The primary development goals of the World Bank have been to promote economic growth, reducing poverty, and support equality and social inclusion. Many of the interests were focused on involving women in development programs and projects, focusing on encouraging women in production. While countries are willing to establish economic growth by promoting programs on poverty reduction, programmers should keep in mind that economic growth does not contribute to the quality and availability of services. Economic growth might increase the GDP, which would lead to an improvement of socioeconomic indicators, but women would still suffer from domestic violence, especially if these benefits are not equally distributed.

Domestic violence is reinforced and sanctified by local norms and structures regarding various types of domestic violence such as rape, murders, child marriage, honor killings, marital violence, and trafficking. These norms hinder women's ability to access assets and resources and seek legal response. These disparities limit women's capacity to not only participate in, but also benefit from, development initiatives.

Economic growth of a country is measured through its productivity of labor, ability to


www.marxist.com/women-Pakistan-victims-of-descration.htm


http://journals.cambridge.org/action/displayFulltext?fromPage=online&type=6&fid=S1743923X11000316&aid=8419726&next=true&jid=PAG&volumeId=7&issueId=03&next=Y

270Ibid. p.7


doi:10.1057/palgrave.development.1100369
allocate efficiency of the economy, investments in human capital, investments in physical
capital and functioning markets and institutions, all of which are prevented from
progressing due to attitudes concerning domestic violence. In order for countries to
develop, governments have to understand that domestic violence causes almost half of its
population to be unproductive, driving up the extra costs that domestic violence has on
the nation.

Cost of Domestic Violence in Bangladesh

In the year 2011, Bangladesh is said to have 150,493,658 people with a family
size of 4.8 persons per family. With this large and growing population Bangladesh
has high levels of economic and social poverty, which increases women’s vulnerability in
society alongside patriarchal social norms. This vulnerability is reflected in their lack of
mobility within the public sphere causing women to be victims of early marriage, marital
abuse, acid attacks, and human trafficking. This social vulnerability negatively impacts
the individual and the nation.

In 2013, Bangladesh has a UN Gender Inequality Index ranking of 146. The
Gender Inequality Index reflects inequality between men and women in three places:
reproductive health, empowerment, and labor market. The lack of progress that it has
had regarding gender equality over the past few years has cost Bangladesh economically,
impacting its development as a nation.

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272 Ibid.
273 Bangladesh population in 2011
https://www.google.com/publicdata/explore?ds=d5bncpjof8f9 &met_y=sp_pop_totl&idim=country:BGD
&dl=en&hl=en&q=bangladesh%20population
274 Nisha Kumar Kulkarni, “Population Control and Urban Family Planning in Bangladesh,” in Urban
Poverty, August 18, 2011, accessed March 5, 2013
http://urbanpoverty.intellecap.com/?p=229
275 UNDP, “GII: Gender Inequality Index, value,” accessed November 18, 2012
The direct and indirect costs of domestic violence impact the development of a country. According to a study done by Dr. Khatun about 77% of victims spend money for physical injury and total health care expense for each victim is approximately 10,000 taka. However, it is difficult to measure psychological injuries caused by domestic violence. Most women are not likely to receive help for psychological problems, the study showing that about 15% of victims go to therapists for help. This is due to victims’ awareness of the need for psychological health care, while others are reluctant to receive psychological help due to the costs attached to it. If a victim was to receive both psychological and physical health care they would often see themselves spending more than 20,000 takas, which is difficult for most women to pay for. Some victims also prefer not to go to the doctor because of monetary reasons, unless the violence causes major injuries. If a woman chooses not to go to the doctor direct costs become difficult to calculate. Other costs should also be accounted for such as if the community gets involved it the dispute or if the victim is displaced. If the community gets involved in marital abuse, a shalish is usually held. In order to hold a shalish one would usually have to spend about 198,175 takas. If a woman is displaced, her cost regarding displacement is about 355,605 taka. There is also the cost of transportation and food to courts, money required for justice from the legal system, extra money required for seeking justice, the number of lost working days and the cost that the perpetrator/victim has incurred in order for the court to rule in their favor. These combined costs directly impact the national GDP.

276 Asif Mohammad Shahan, p.4
277 Ibid.
278 Ibid, p. 5
In Bangladesh domestic violence occurs in almost 40% of families which is 1.18% of how much the GDP that will be affected from direct monetary cost, while the combined cost of violence of the nation is about 2.05% of the GDP.²⁷⁹ This amount is equal to the government’s expenditure for the annual health and nutrition sector. If laws concerning domestic violence, a social evil, were implemented at every level of society, wasted amount of a nation’s GDP could be beneficial towards other social programs. The total costs of domestic violence play a significant role in the national budget and eventually on Bangladesh’s development, as it does in the case of Pakistan.

Cost of Domestic Violence in Pakistan

In the 2012 UN Gender Inequality Index, Pakistan was ranked 146 out of 169 countries and it was estimated that one third of its population lived on US $1 a day or less. There is also a lack of progress concerning the Millennium Development Goals such as primary education, child mortality, and maternal death.²⁸⁰ Pakistan suffers from severe lack of gender equalities, lack of human development, service access, basic rights, participation in economic activity and decision-making. The negative development of domestic violence has led to an increase of insecurity and vulnerability.

Domestic violence causes Pakistan to “pay the price of more poverty, malnutrition, and illness…disempowering [it] from optimizing economic opportunity.”²⁸¹

The women who are visible in the labor market or even in the fields, often deal with difficult household chores, such as fetching water, taking care of the farm while the

²⁷⁹ COVAW, CARE-B, “Domestic Violence Against Women: How much it Costs to the Bangladesh Society.”
²⁸⁰ AusAid, “Pakistan,” Accessed March 16, 2012
²⁸¹ Ibid.
husband is working, cooking, taking care of the children and washing clothes, etc.\textsuperscript{282} The Pakistan Participatory Poverty Assessment article states that women's active role in household activities increases their ability to contribute to the household. This also increases women's ability to access services and undertake activities that were limited to them previously.\textsuperscript{283} In various districts such as Goth Budho Khan Khoso, Mirpurkhas District, Sindh, and Sanghar, men state that they have learned to respect women’s opinions and women also agree that there have been positive changes. In Baluchistan, women state that earning an income raises their value and gives them independence.\textsuperscript{284} Despite these positive changes, Pakistan still has major issues of negative development rather than economic growth.

For women, domestic labor is a form of informal female-oriented labor which is not recognized as valuable labor in Pakistan due to the “cultural, social, moral, and ethical roots of society.”\textsuperscript{285} Not being able to benefit from the fruits of their labor often diminishes their will, confidence, and determination, leaving them vulnerable to violence. Women in Pakistan make up 28\% of the total workforce yet they produce 40\% of production. Zahra states that it is difficult to abolish such patriarchal mentality since it is inherent in the system and the state.\textsuperscript{286}

Since the late 1970s, gender inequality has been on the government agenda, and “women development issues were considered urgent and became a priority for the

\begin{footnotesize}
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\item Government of Pakistan. “Between Hope and Despair.” p.108
\item Ibid. p. 108-109
\item Ibid, Pg. 110
\item Sadaf Zahra, “Women in Pakistan- Victims of the social and economic desecration,” in Marxist, October 10, 2005, accessed October 2011
\item www.marxist.com/women-Pakistan-victims-of-descration.htm
\item Ibid.
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government.”287 The government and international donors have made an effort to improve social indicators, such as health, education, family planning, and rural water supply, known as the Social Action Program. The program produced some positive outcomes including an increase enrollment in schools, and a decline of infant mortality, however, it was a small number compared to other countries with a growth rate similar to Pakistan. While the government was committed to redressing low female human capital through equal distribution of schooling, Pakistan still had a low female enrollment.288 These various types of negative developments had been influenced by Pakistan’s lack of economic development as a result of patriarchal norms and discrimination.

Claiming that gender-based violence is an economic development issue emphasizes the importance of understanding the cost that domestic violence has on a country. An Economist article states that countries should forget China, India, and the Internet, because economic growth of a country is driven by women.289 Economic growth of a country focuses on the access of economic resources and gender-based violence is a form of inequality which hinders such access. Domestic violence is not simply just violence against women; it represents the attitudes that a country has towards women, the lack of resources provided to women, and the lack of economic resources that women are provided with. While there are new programs and policy recommendations which are passed, domestic violence continues to persist in Bangladesh and Pakistan.


288 Ibid, pg. 15-16

289 The Economist, “The importance of Sex.” Published April 2006.
http://www.economist.com/node/6800723
Chapter 6: Policy Recommendations and Conclusion

Domestic violence is a pandemic which has affected women of all race, class, and ages. This crime crosses boundaries leading to a denial of fundamental rights and health consequences; it also impacts the economic growth of countries. For countries such as Bangladesh and Pakistan, when economic prosperity is already a major dilemma, the extra cost that comes with domestic violence becomes a burden for the nation. Regardless of the cost and importance of domestic violence, attitudes in these two countries continue to be impacted by the patriarchal cultural norms at the individual and community level. These norms then influence state laws, making it difficult to implement international laws which are dedicated to the protection and empowerment of women. Although Bangladesh and Pakistan have had different policies and laws which recognize and acknowledge domestic violence and they took efforts to prevent it and provide aid to the victims, cultural norms and domestic violence continue to persist.

Existing policies in Bangladesh

The research for this thesis shows that although governments have signed and ratified many of the international laws regarding domestic violence and women’s rights, violence against women continues to persist. In Bangladesh, the government, alongside NGOs, worked to protect women and provide them with aid and empowerment. However, while police and legal assistance and empowerment are necessary, it is more critical that the policies and programs are directed towards education and public awareness of violence. There were various efforts taken by the Ministry of Women and Children Affairs (MWCA) to protect women from violence such as national and district women prevention cells, a crisis center for providing medical, legal and police assistance,
shelter homes for oppressed women, and mass awareness against the oppression of women. However, this failed due to “limited human resources, lack of trained counselors and emergency staff, legal constraints of the police and inconsistencies [in the] complaints.”

Nevertheless, there are still efforts being taken to end acts of domestic violence with the help of NGOs such as BNWLA and Mahila Parishad, which open up different resources to help the victims of abuse. The representatives of BNWLA offer legal and psychological assistance regarding personal security, contacting police, trauma counseling and other services. Another NGO, Samhati, located in the USA, provides financial assistance to NGOs, such as Mahila Parishad, to run a shelter for abused women and children, providing for food, shelter, clothing, counseling services, education and training for women.

The Bangladesh National Women Lawyers Association, BNWLA, has held various meetings and discussions concerning domestic violence. On July 7, 2007, they held the discussion “combating domestic violence: the way forward” in which they talked about the experiences of fighting against domestic violence and the different ideas of policy reform and community intervention to address domestic violence. The goal of BNWLA has been to set up legal aid, rehabilitational services to victims of domestic violence. It has already implemented an advocacy campaign in 36 unions under nine districts of the country, which states that domestic violence is a crime. This led to an independent domestic violence act to be drafted with the help of experts, judges and

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290 Immigration and Refugee Board of Canada, 2004
291 Immigration and Refugee Board of Canada, 2004
journalists and simple citizens. The main issue that has been brought out is the importance of community support to end domestic violence. This organization created community counseling centers which addressed domestic violence at a community level.293

Existing Policies in Pakistan

In Pakistan, there are similar programs and centers which provide women with protection and empowerment policies. Like Bangladesh, Pakistan also has NGOs and government agencies that work together to ensure that victims are provided with services necessary for them to escape, recuperate and become independent. There are 26 government-funded Shaheed Benazir Bhutto centers for women that provide victims with shelter, legal aid, medical treatment, and psychological counseling. These centers are temporary, and for future aid, they are often referred to dar ul aman, government run shelter homes. There are 200 provincially run dar ul aman with access to medical treatment, limited representation and some vocation training.294 However, according to Filomena Critelli and Jennifer Willet, these shelters often become perpetrators because in some cases the women are kept locked away from society. It is almost as if they are under house arrest and cannot meet anybody outside without permission from court or their lawyers.295 However, the shelters run by NGOs were very different than the government run ones.

293 Ibid.
294 Ibid
Pakistan has two NGO run shelters, Dastak and Panah. Dastak is located in Lahore and is privately owned. It holds 25 women and 45 children, but because of their “accept everyone in need policy,” at times they provided shelter to about 70 women and their children.296 Dastak, similar to the government run shelters, also has women stay there for at least three months; however there are some cases where the women have stayed for years. For the security of the women, Dastak is protected by armed guards. The other NGO run shelter, Panah in Karachi, also has tight security. Panah, however, has private and public ownership and holds 40-45 women and children. Most of the victims who reside in Panah were referred there by court, NGOs, lawyers, and police. Panah provides the victims with shelter, legal and medical aid and rehabilitation services. Both Dastak and Panah provide women with independence rather than perceive them as weak women-who require assistance.

The NGO programs are often criticized by the public for allowing women to go out. Even though the community understands these women require shelter, they want to maintain power over women. However, these NGO programs work with a human rights framework, one that supports women’s independence and ability to stand on “their own feet.”297 This is done through skills training programs, film screenings, theater and art workshops, and providing women with jobs at the shelters and enabling them with skills regarding marketable skills and how to accumulate savings. At times subjects such as sexuality, reproductive health, and knowledge of women’s rights in marriage and the family are addressed.298 These policies and programs have made amazing strides towards working with women and empowering them. However, there are still cases where if a

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296 Immigration and Refugee Board of Canada, 2013, p. 9
297 Filomena Critelli and Jennifer Willet, p. 208
298 ibid, p. 209
woman leaves a shelter or becomes independent, she is often threatened or in extreme cases, murdered by her family. Women continue to feel unprotected and abused in the private and public sphere, emphasizing the importance of community collaboration regarding protection of women. It is critical for women to be empowered, yet if the programs and policies do not make efforts to also educate the men, it will be difficult to implement laws.

While cultural norms have allowed discrimination and abuse to persist against women, the reason why these norms continue to exist is the power relations that have been in place for centuries. Women have for so long been subordinate to men that men often feel as if it is their duty to control women. Empowerment is necessary to create an egalitarian society, yet some men feel threatened if the women in their households make more money, which then increases the chances of being subjected to abuse.

**Policy Recommendation**

In order for intervention and prevention programs to work, it is necessary that negative stereotypes and traditional gendered norms are nonexistent. According to Rubeena et al, men and society in general need to be educated about domestic violence and the benefits of women’s social and economic empowerment. Most people also lack the knowledge of domestic violence’s affects on the victim and in society in large. Any new policy would need to be integrated to existing policies and programs. The following policies require community, state, international and MNC cooperation, all working towards one goal: acknowledging the effects of domestic violence and protecting women from it.

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299 Immigration and Refugee Board of Canada, 2013, p. 10
1. I would recommend the creation of CEDAW (Children Eliminating Domestic Abuse of Women). It is critical that violence preventing strategies and programs focus on children. One should look at the policy of ending domestic violence as akin to the D.A.R.E programs that was primarily active in the ‘90s in most inner city schools. D.A.R.E, or Drug Abuse Resistance Education, is a program that teaches kids what they would need to do to avoid involvement with drugs, gangs, and violence. This program was directed towards 6th graders who were soon transitioning to junior high school. Every Friday, a counselor from D.A.R.E would come and there would be activities, skits, songs, and movies, all dedicated towards preventing and bringing awareness about drugs, gangs and violence. I suggest that a similar program is put in place in Bangladesh and Pakistan.

This program would be working towards preventing and bringing awareness about a major form of gender-based violence, domestic violence. Since both Bangladesh and Pakistan have programs where there are the police officers, lawyers, doctors and nurses, shelter coordinators, and other professionals who are working to prevent and empower women, these professionals should go once a week to various schools. They should teach children about the effects of domestic violence, their own roles in ending domestic violence, and what the children can do to ensure that such violence is prevented in the future. There can be fundraising events, fairs, dances, art contests, skits, all of which would be centered towards ending domestic violence. If there are children who are witnessing this violence at home, there should also be counselors for them. To ensure that parents are involved, pamphlets can be handed out to children about
meetings that would occur every Friday for adults. Friday is a day where people do not work and to encourage parents to come, food could be used as an incentive, or it could be a potluck event where the school staff brings food. However, in cases where children do not go to school, there should still be community outreach programs in the form of events, fairs, dances, contests, skits, where there would be speakers about domestic violence. In a small community, even if the whole community does not begin to change its patriarchal perspectives, if a few individuals change their opinions, collaboration between those individuals and the organization would ensure further change in the community.

2. Community level:
   a. Public Awareness: It is critical that domestic violence is taken out of the private sphere and put in a public forum. This can be done through a publicity campaign, where a face is put on the violent crime of domestic violence. This is similar to the major campaign against domestic violence in Saudi Arabia, where ads were distributed, showing a woman in a burqa (full body robe) with only her eyes visible, one of which sports a black eye, with a phrase that states “some things can’t be covered.”[300] I believe that this is a commendable job done by Saudi and propose similar advertisements to be publicized in Bangladesh and Pakistan. Abuse of women is still considered hidden; hence making it an accepted crime in society, and advertisements makes the crime

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http://www.washingtonpost.com/blogs/worldviews/wp/2013/05/01/saudi-arabia-launches-powerful-ad-campaign-against-domestic-violence/
visible by putting a face on the crime. There should be ads of abused women, one example of a tag phrase being, “heaven lies beneath your mother’s feet,” which acknowledges a woman’s worth in society through the use of a term that is found in the Quran. By doing this, any opposition towards “western human rights norms” will be diminished, because the Quran will now be used to prevent domestic violence. This requires cooperation from religious leaders, media, and grassroots human right organizations.

b. Nari adalat: With steps being taken to bring about awareness in communities regarding domestic violence, the next policy would be the most difficult to bring about. It is the policy of having nari adalats, or women’s court, within various communities. There is a similar system in India which emerged in the mid ‘90s from a “government initiated program to develop women’s collectives in villages.”  

301 This is a form of informal court system which handles women’s legal problems such as harassment, divorce, abandonment, sexual abuse, child custody and marital abuse. This form of informal justice system relies on pressure and shaming. In a village in Gambia, if a man abuses his wife, she can take it to the imam (religious leader in the community) and look for ways to stop the abuse. One way the imam deals with this is the spouse is tied to chair in the middle of the village and all the women in the village hits him with shoes.  

302 Nari adalats and other forms of informal justice systems achieve in making violence more open and a public offense.  

3. National/international level

301 Sally Engle Merry, p. 156
302 Conversation with a native Gambian woman in Brooklyn on July 2012.
303 Sally Engle Merry, p. 157
a. Partners in Equality: Training spots at garment factories. Another form of awareness program that I propose is called Partners in Equality. This program will be located in urban areas where there are garment factories. Most of the garment factories are owned by Multinational Corporations (MNCs) and this creates an opportunity to have training classes for the workers. This would be different than actual job training, since this will be equality training in the workplace. The ones who are in charge of the training would be the same professionals who are part of the CEDAW program, which is mentioned in the first recommendation.

It is important for the MNCs to understand that they would need to make their factories safe for women to work in. While the United Nations lacks the authority over MNCs to enforce factory regulations, the International Labor Organization does and that grants them with the authority to promote factory reforms, making factories a cleaner and safer place to work. Factory reforms will have to be the first step for this program to progress. This program will be focused on changing the gender power relations that exist in society by training people in equality and acknowledging women’s worth in society. They are also going to be taught the cost that domestic violence has on their own personal lives and the overall economy of the country. The research completed shows that most people are unaware of the costs of domestic violence. As the working class, these individuals value their money and if they are aware of the costs of domestic violence, they will be more likely to acknowledge the consequences that come with it. United Nations should
pressure the MNCs to open these equality awareness sessions near garment factories, and allowing their workers to go there during their lunch time, because it would mean more productive workers for the factories.

These policies have been concentrating on bringing about awareness regarding domestic violence. It does not deal with legal reform because both Bangladesh and Pakistan had legal reforms recently, where they changed laws and created new ones to protect and prevent all forms of domestic violence. However, most of these laws are opposed by communities and political religious leaders, who states that these bills “promote Western culture.” Implementing international law is critical, but the existing patriarchal norms and western opposition is a barrier to implementation nationwide. These policies have to be focused on going beyond implementation and focus on bringing about awareness and acknowledgement. Women can be empowered through education, jobs, and political leadership, yet if patriarchal traditional norms continue to exist women are still going to be victims of abuse.

The findings of this thesis show that domestic violence is influenced by patriarchal traditional norms which maintain strict power relations in society. Both Pakistan and Bangladesh have signed and made efforts to change national laws to protect and prevent domestic violence. Regardless of these changes, domestic violence has continued to equally affect women.

Research shows that cultural norms are one of the major factors that allow domestic violence to continue to persist, these norms allows men to maintain their power in society. These norms and values form women’s roles and responsibilities in society,

which leads to domestic violence. This thesis is not stating that getting rid of cultural norms will end domestic violence; far from it, domestic violence continues to exist all over the world regardless of where the country is located and the economic development of the country. But rather, Bangladesh and Pakistan are the targets of this thesis because of their status in the world as two of the worst countries for being highly influenced by cultural patriarchal norms which allows the exploitation of women. While there are existing policies which work towards ending domestic violence and protecting women from such acts, violence still continues to exist.

Overall, this thesis stresses that it is necessary to understand that traditional gender norms prevent the implementation of international laws at the state and domestic level regarding domestic violence. Gender inequality has been embedded in the attitudes and culture of the patriarchal society of Bangladesh and Pakistan. With the combined efforts of the government, NGOs, and international institutions, issues of gender violence have been made into public issues creating awareness in the society itself. While opportunities for women are opening, women will continue to face violence, especially because such inequality exists in the culture and attitudes of the society. In order for international laws targeting domestic violence to be implemented, it is crucial for the country to act as a whole and agree upon beliefs that define gender roles in society as equal and productive.
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