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Committee on the Elimination of Discrimination against Women

Information received from Bangladesh on follow-up to the concluding observations on its eighth periodic report*

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CEDAW/C/BGD/FCO/8

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Acronyms

BBS Bangladesh Bureau of Statistics

CEDAW Convention on the Elimination of All Forms of Discrimination against Women

CSO Civil Society Organization

DIFE Department of Inspection for Factories and Establishments

DWA Department for Women's Affairs

GBV Gender based violence

GoB Government of Bangladesh

GRB Gender Responsive Budgeting

HDI Human Development Index

IMED Implementation, Monitoring and Evaluation Division

MoF Ministry of Finance

MoWCA Ministry of Women and Children Affairs

MP Member of Parliament

NGO Non-Government Organization

NCWCD National Council for Women and Child Development

NHRC National Human Rights Commission

NWDP National Women Development Policy

OAG Office of the Auditor General

OCCs One-Stop Crisis Centres

PLAU Policy Leadership Advocacy Unit

RMG Ready-Made Garment

SDGs Sustainable Development Goals

VAW Violence Against Women

VAWG Violence Against Women and Girls

WID Women in Development

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I. Background

- 1. Bangladesh is a signatory to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). The Convention is an international treaty adopted in 1979 by the United Nations General Assembly. Described as an International Bill of Rights for Women, it was instituted on 3 September 1981 and has been ratified by 189 states. Bangladesh ratified the convention in 1984 with some reservations on Articles 2, 13 (a), 16 (1)(c), 16 (1)(f). As per the Article 18 of CEDAW, the countries ratifying or acceding to the Convention are legally bound to put its provisions into practice. As part of the CEDAW implementation process, each country (Government) has to submit reports on the status of implementation every four years to comply with their treaty obligations, including key trends and difficulties in implementation.
- Bangladesh has shown good progress in MDGs achievement. Six countries including Bangladesh received the UN Millennium Development Goal (MDG) Awards for their significant achievements towards attaining the goal. Three of these countries are from Asia and three from Africa. Bangladesh received the UN award for its remarkable achievements in attaining the Millennium Development Goals (MDGs) particularly in reducing child mortality. Bangladesh has been recognized as one of the precursors of MDG implementation and an example for emulation for other developing countries. Bangladesh has made outstanding progress in the areas of poverty alleviation, ensuring food security, primary school enrolment, gender parity in primary and secondary level education, lowering infant and under-five mortality rate and maternal mortality ratio, improving immunization coverage, and reducing the incidence of communicable diseases. Political commitment from the highest level of the government has driven all government machineries to work in tandem to fulfil the MDG goals. The alignment of national development policies with the goals and targets of MDGs helped speedy implementation of the targets. The complementing role of nongovernment institutions such as NGOs and development partners set an example of Government-Non-Government partnership in achieving the goals of human development and prosperity.
- 3. Bangladesh's HDI value for 2018 is 0.614 which put the country in the medium human development category positioning it at 135 out of 189 countries and territories. Between 1990 and 2018, Bangladesh's HDI value increased from 0.388 to 0.614, an increase of 58.3 percent. Bangladesh has a G Inequality Index (GII) value of 0.536, ranking it 129 out of 162 countries in the 2018 index. In Bangladesh, 20.3 percent of parliamentary seats are held by women, and 45.3 percent of adult women have reached at least a secondary level of education compared to 49.2 percent of their male counterparts.
- 4. The eighth periodic report of the Government of the People's Republic of Bangladesh was submitted on 18 May 2015. The UN CEDAW Committee reviewed Bangladesh's 8th periodic report in the 65th session held in November 2016 (see CEDAW/C/SR.1453 and 1454). The Committee raised a list of issues and questions (CEDAW/C/BGD/Q/8) and the Government of Bangladesh provided responses (CEDAW/C/BGD/Q/8/Add.1). The Committee on the Elimination of Discrimination against Women provided 65th concluding observations on the eighth periodic report of Bangladesh on 25th November 2016.
- 5. In line with the recommendations of the concluding observations, the State Party (Government) will submit the 9th periodic report in 2020 on the steps/measures/initiatives taken in the last four years. In addition to that, the Committee requested the Government to submit a mid-status report in 2018 on a number of specific identified issues of the concluding observations.

II. Requirements for mid-term reporting to the CEDAW Committee

- 6. Under paragraph 51 of the concluding observations, the Committee requested the Government of Bangladesh party to provide, within two years, written information on the steps taken to implement the recommendations contained in paragraphs 11 (b) and (c), 15 (a) and 19 (a) which are listed below:
 - 11 (b) Adopt, within a clear time frame, a unified family code to ensure the equality of women in matters of marriage, divorce, inheritance and child custody;
 - 11 (c) Accelerate the adoption of anti-discriminatory law, which is in compliance with the convention, within a specific timeframe;
 - 15 (a) Ensure that the National Women Machinery for the advancement of women has a clearly defined mandate, sufficient authority and the human, technical and financial resources necessary to effectively promote Women's Rights and Gender Equality;
 - 19 (a) Adopt without a delay, legislation criminalizing all forms of Violence Against Women and Girls, including marital rape irrespective of the age of the victim, Domestic Violence and all forms of sexual abuse, and ensure that the perpetrators are prosecuted and adequately punished and that the victims have access to immediate protection, rehabilitation and means of redress, including compensation.

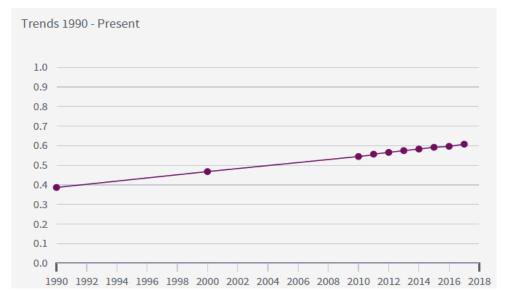
III. Overall progress since the 8th periodic report

7. According to the Human Development Index (HDI), Bangladesh has been identified as belonging to a group of highlighted 18 countries in the world which have seen rapid progress in human development. Bangladesh's HDI value for 2017 is 0.608 – which put the country in the medium human development category – positioning it at 136 out of 189 countries and territories. Between 1990 and 2017, Bangladesh's HDI value increased from 0.387 to 0.608, an increase of 57.1 percent. The Gender Development Index for the same year was 0.881.

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¹ http://hdr.undp.org/sites/all/themes/hdr_theme/country-notes/BGD.pdf.





8. In the Global Gender Gap Index calculated by the World Economic Forum calculated by educational attainment, health and survival, economic participation and political empowerment from the World Economic Forum, for the fourth time in a row, Bangladesh held the top position among South Asian countries in ensuring gender equality. The country ranked 48th among 149 countries worldwide, but was ahead of all other countries in Asia except the Philippines, according to World Economic Forum's 'The Global Gender Gap Report 2018' published on in December 2018.² "Bangladesh consolidates its position as the region's top performer and breaks into the top five in the global index on the Political Empowerment sub-index this year, recording progress on closing its political gender gap, despite a widening gender gap in terms of labour force participation," said the report.

² http://www3.weforum.org/docs/WEF_GGGR_2018.pdf.

Figure 2 World Economic Forum South Asia ranking of Top 5 of the Global Gender Gap Index



Source: Global Gender Gap Report 2018, World Economic Forum Note: *2018 rank out of 144 countries

Source: http://reports.weforum.org/global-gender-gap-report-2018/shareable-infographics/.

IV. Reporting on the four areas highlighted for reporting by the concluding observations

Follow-up on the priority issues of UN CEDAW Committee

A. Principal area of concern: legislative framework

Summary of concluding observations 2016³

9. As part of the area of concern: Legislative framework, the Committee noted with concern that many discriminatory laws and provisions remained in the national legislation; there is lack of jurisdiction of special tribunals for violence against women to hear cases of discriminations against women. The Committee also noted that the personal status laws of the country that regulate marriage, divorce, inheritance, guardianship and custodial rights within various religious groups continue to discriminate women and girls and there is no uniform family code. It is was concerned about the country's failure to adopt the long-awaited Anti-discrimination bill as well as other measures to remove patriarchal attitude and mindset as per the constitutional provisions.

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³ The sections on the summary of concluding observations are based on the UNCEDAW reports.

10. Under legislative framework, the UN CEDAW Committee has identified two priority issues for which are 11 (b) and 11 (c) for written information in 2018.

Follow up information relating to paragraph 11 (b) of the concluding observations

- 11. Article 27 of the Constitution provides that all citizens are equal before the law or are entitled to equal protection under the law. Article 28(1) states that the State shall not discriminate on the grounds of sex etc., and that "women shall have equal rights with men in all spheres of the State and public life." According to the Bangladesh Constitution the rights in the private sphere are governed by the religious codes of their respective communities. Family Courts have been established in 1985 and such Courts have jurisdiction over five family related matters: (a) dissolution of Marriage; (b) restitution of Conjugal Rights (c) dower; (d) maintenance; (e) guardianship and custody of children. There are no Shari'ah courts and judges of Family Courts can be from any religion. Articles 10, 16, 27, 28, 29 and 30 the Constitution have declared equal right for women. In Bangladesh there are laws and law courts that all citizens, irrespective of religion, caste, race or sex have equal access to, however there is also a religion-based customary "Personal Laws" for each religious value. The government formulated the National Women Development Policy that supports equal rights of women in all spheres and equal dignity for women at all levels. Since there are different "Personal Laws", women from different religions are intended to get differential opportunities. In order to address this, the government has taken initiative to gradually make progressive changes in the existing personal laws and in long run a uniform family code may be introduced for people of all religions. There have been some initiatives that show government's steps to bring changes in the "Personal Laws".
- 12. With regard to marriage registration it is compulsory for Muslims and Christians. A marriage contracted by a Muslim individual must be registered in accordance with the Muslim Marriages and Divorce (Registration) Act. The registration of a marriage is mandatory and failure to register is punishable by law. The provision for registration (although voluntary) has been made under the Hindu Marriage Registration Act-2012. The right to divorce has also been provided for Muslims. Except for Catholics this right is recognized in the Christian family code. While it is not recognized by the law and socially discouraged among certain Hindu cases divorces and remarriages are taking place informally. However, recently the High Court Division of Bangladesh Supreme Court has issued a rule on the Government asking it to explain the reason why a Hindu Women would not be allowed to divorce her husband as there exists no right to do so in the Hindu Personal Law. In addition, now divorce for individuals cannot be made merely by mouth, it should be registered.
- 13. The High Court has issued a rule on the issue of extra-marital affairs, asking why the penalty for extra-marital affairs in Section 497 of the Penal Code should not be declared unconstitutional and illegal. Section 497 of the Penal Code holds: Whoever has sexual intercourse with a person who is and whom he knows or has reason to believe to be the wife of another man, without the consent or connivance of that man, such sexual intercourse not amounting to the offence of rape, is guilty of the offence of adultery, and shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both. In such case the wife shall not be punished as an abettor.
- 14. Both the Christian family law as well as the Muslim family law provide for inheritance by women and girls, but the Hindu family law does not. However, there

⁴ However, lack of registration does not invalidate a marriage.

are attempts being made to advocate with the Hindu community to accept this provision. The Islamic Foundation is promoting awareness of legal rights in Islam to inheritance. While this would not ensure equal right to inheritance it would ensure greater equity and justice. Also, with the passage of time this is being interpreted liberally at the family level as being "at least half of the share" and in some families the parents are choosing to give their daughters equal shares or more.

- 15. In conclusion the discrimination women have historically faced in the religious family laws are gradually being addressed and a few areas remain such as equal inheritance rights for Muslim women, inheritance rights for the Hindu community making of the Hindu Marriage registration compulsory. The latter will need further discussions with the Hindu community to remove their concerns and enable reforms to the religious family code which have already taken place in other countries. The Prime Minister has recently publicly voiced her intention in National Legal Aid Service Day event on 28 April 2019 in which she called for the protection of women's property rights and prevention of the misuse of Sharia law to deprive women of their fair share of wealth. However, this will require consultations and dialogues among religious scholars, legal experts, political representatives and civil society.
- 16. There has also been substantial progress made relating to marriage and its dissolution, so that eventually reservations to Article 16 (1) (c) which spells out the equality of women's rights in matters relating to marriage and family relations and states that men and women have the same rights and responsibilities during marriage and its dissolution may be removed as well. In August 2019, The High Court has directed the government to remove the term 'Kumari', or maiden, from the Nikahnama (Muslim marriage certificate) and replace it with the word 'unmarried' to denote the marital status case of the bride. The court has directed the authorities to replace the word as it is a matter of privacy. The mention of this word in the Nikahnama creates discrimination. The court also called for the addition of another column, incorporating the options 'unmarried, widower or divorced' for the groom."

Follow up information relating to paragraph 11 (c) of the concluding observations

- 17. Article 102(1) of the Constitution states that the High Court may give such direction or order needed to enforce fundamental rights of the Constitution including equality before the law and prohibition of discrimination. There has been some progress to adopt this act, however, there should have more steps to be taken to enact the act. Following paragraphs shows progress.
- 18. In consideration of the above specific legislation to address discrimination has been proposed and drafts prepared. The Bangladesh Law Commission has drafted an Anti-Discrimination Bill in 2014 with the assistance of the National Human Rights Commission (NHRC) and in consultation with various other stakeholders. On 8 April 2018, another draft, named Elimination of Discrimination Act, 2018 was sent to the Ministry of Law, Justice and Parliamentary Affairs, Bangladesh, by the NHRC.
- 19. The second draft of the law envisages a role for the NHRC in its implementation. The Government is now studying the two drafts of anti-discrimination law; one proposed by the Law Commission and another by the NHRC and is developing an Act considering both drafts.
- 20. The Government has considered anti-discrimination Acts of various countries and now has to decide which approach suits the country legal framework and the social and institutional context best so that it can be implemented to bring about the expected results. There is a gradual increase in the awareness of various kinds of discrimination faced by specific categories of the population and their intersectionalities. Such awareness is also essential for the implementation of the law.

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The government has introduced quota system at various levels and gradually progressing to enact the act.

B. Principle area of concern: National machinery for the advancement of women

Follow up information relating to paragraph 15 (a) of the concluding observations

- 21. The MOWCA, as part of the National Women Machinery, is mandated to act as the lead ministry and coordinator for Government on issues of women's equality and development. It also promotes a broader and more consistent response by all Government agencies to the needs and priorities of women.
- 22. The government has taken several initiatives with view engendering/strengthening the national machinery for promoting and protecting women's rights e.g. introducing gender responsive budgeting, national action plan for the implementation of the National Women Development Policy NWDP, SDG Action Plan. The Constitution, policies and the Five-Year Plans in Bangladesh have recognized the need of ensuring women rights, participation and inclusiveness. The Seventh Five Year Plan has strongly addressed gender equality issues throughout the Plan thereby highlighting what various ministries and agencies would need to do to address gender and the separate chapter also puts stress of strengthening institutional mechanisms. Various measures are being taken to strengthen institutional mechanisms (e.g. WID/Gender focal point) to address gender issues such as increasing human resource, budgetary allocations, providing sector specific experts; strengthening documentation and data management systems; increasing of accountability of enforcers and implementers, improving infrastructure and logistic support systems; monitoring systems, increased coordination between different project/program activities and the broader strategy formulation processes.
- 23. The Gender Strategy for the Seventh Five Year Plan (2016) states that "The gender vision is that of establishing 'a country where men and women will have equal opportunities and rights and women will be recognized as equal contributors in economic, social and political development'. The mission is to ensure women's advancement as self-reliant human beings and reduce discriminatory barriers by taking both developmental and institutional measures". The framework for women's empowerment and gender equality comprises of four areas of strategic objectives which includes "creating an enabling environment for women's advancement: The socio-political environment, legal and policy support, and congenial social norms are the key in this area. Oversight, enforcement of laws, regular collection of sex-disaggregated data, gender and social analysis skills including the capacity to develop, implement, and monitor gender strategies, understanding of gender issues in the sector are the key areas." (2016: 699).
- 24. To implement these strategic objectives, various action areas have been identified that will contribute in achieving results in these areas, one of which is to improve institutional capacity, accountability and oversight.
- 25. The Seventh Five Year Plan envisages that the existing institutional mechanism for women's advancement will be made more effective with accountability, capacity and authority. Regular guidance from NCWCD, functioning of the committees and the WID Focal Point mechanism would be ensured. Capacity of the key institutions like MOWCA including DWA and PLAU, Implementation, Monitoring and Evaluation Division (IMED), Bangladesh Bureau of Statistics (BBS), Office of the Auditor General (OAG) and Planning Commission would be strengthened in performing their

- roles as per mandate in design, review, implementation, and monitoring of gender equality and women's advancement related actions and their results.
- 26. MoWCA is the lead ministry to co-ordinate and monitor the activities and programs implemented for women and gender equality. Its institutional setting and the Rules of Business reflect that it has some authority to influence over the policies, programs and other government agencies to take action on women's development issues.
- 27. MOWCA has taken some new initiatives after 2016 which include the following:

Gender Desk

28. Ministry of Women and Children Affairs is planning to introduce Gender Desk instead of WID focal point, which is a positive move. One possible reason for the poor performance of the WID mechanism could be the fact that it was dependent upon individuals and not on a unit. Introducing a desk in lieu of individual focal points should ensure better accountability and activeness.

Gender responsive budgeting

29. Since 2009 the Government of Bangladesh has been applying gender responsive budgeting. The policy commitments of the Government were further strengthened. Further to earlier attempts to address gender analysis at the planning stage and in consistency with the GRB efforts, the Ministry of Planning issued Guidelines for Gender Responsive Planning in 2008. At present all the ministries have adopted gender responsive budgeting and they are more accountable towards spending their allocation for economic and social empowerment of women. In 2017 Ministry of Women and Children Affairs took a project with UN Women to strengthening Gender Responsive Budgeting in Bangladesh.

Updated National Action Plan

- 30. MOWCA is in the process of updating the National Action Plan of NWDP 2011 under the strengthening Gender Responsive Budgeting in Bangladesh with the support of UN Women. The last National Action Plan was adopted in 2013 and is need of updating. This is a momentous task with more than 50 ministries and departments who have to have relevant action plans that they agree to, actions that they prioritize and resources that they allocate to these actions.
- 31. An initiative has been taken by the Government to develop SDG Action Plan incorporating CEDAW recommendations.

Other administrative reform

32. Some other government initiatives for administrative reform also are showing a positive effect in strengthening the national mechanism for women's advancement. These include steps asking each ministry to prepare annual reports and plans (Annual Plan of Actions) where Ministries' make performance commitments, digitalizing payments through a Financial Information System, putting into place an Integrated Budgeting and Accounting System (IBAS). It is there therefore possible to monitor if ministries set gender mainstreaming related objectives and their annual reports provide public information of how their programmes are being implemented and of achievements against indicators. The Integrated Budgeting and Accounting System will allow GOB and MOWCA to better monitor gender related budget allocations and expenditures across ministries and departments.

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The Policy Leadership Advocacy Unit (PLAU)

33. The PLAU has a number of sanctioned posts from the revenue budget of the government. Additional persons are being assigned to work in the Unit which would allow MOWCA to support and follow-up other ministries and department. A stronger and better equipped unit to deal with policy, monitoring, research and advocacy is in line with the Ministry mandate to strengthen the national machinery for women's advancement. Recently a Joint Secretary is hired for PLAU Unit to strengthen its capacity.

C. Principle area of concern: Gender-based violence against women

Follow up information relating to paragraph 19 (a) of the concluding observations

- 34. There are various laws and High Court Directives which have identified and legislated various forms of violence against women. Between 2017 and 2018, there have not been many changes in the implementation status of existing laws criminalizing violence against women.
- 35. In the period after the presentation of the last CEDAW Country report there have been a number of developments which are described below.

High Court Judgments

36. In 2018, the High Court Division of the Supreme Court of Bangladesh ('High Court') issued two landmark judgments on rape and sexual violence, the first prohibiting the 'Two Finger Test' on rape survivors in determining the occurrence of rape,⁵ and the second, ensuring justice and protection for rape survivors.⁶ Through these rulings made in April 2018, the Court laid down guidelines on conducting medico-legal tests on rape victims and the responsibilities of the police in recording, and supporting victims through, complaints of rape and sexual violence.

Dealing with sexual harassment

- 37. There has been concerted action by the Government, international agencies and NGOS to follow up the High Court's directives to prevent sexual harassment of women and girls in workplaces, educational institutions and other public places. Instances of sexual harassment and sexual violence against women workers are commonplace in Dhaka's ready-made garment (RMG) factories, most of which do not have sexual harassment complaint committees or any mechanism in place to address sexual harassment and sexual violence against women workers. The Department of Inspection for Factories and Establishments (DIFE) is meant to oversee the setting up and functioning of such complaint committees in all factories across industries.
- 38. While no law has been enacted that criminalizes or provides civil remedies for sexual harassment the High Court Directives have stated that until such time as a new law will be formulated the Guidelines will have force of law. However, there have been several initiatives to formulate a law that will take forward the High Court

⁵ BLAST and Others v Bangladesh and Others [Writ Petition No. 10663 of 2013] https://www.blast.org.bd/content/court-order/court-order-tft.pdf.

⁶ Naripokkho and Others v Bangladesh and Others [Writ Petition No. 5541 of 2015] https://www.blast.org.bd/content/judgement/Judgment-of-gange-rape-in-microbus-writ-5541-of-2015.pdf.

⁷ High Court Guidelines on Sexual Harassment: BNWLA v Bangladesh (2009)14 BLC (HCD) 694.

Directives by the National Human Rights Commission with the involvement of the Law Commission, Ministry of Labour and NGOs such as Bangladesh National Women Lawyers' Association and Karmajibi Nari to develop a law on sexual harassment.

39. In line with the HC directives, the Directorate of the secondary and higher education (DSHE) of the Ministry of Education has developed a comprehensive guideline with technical support from UNFPA for anti-sexual harassment committees established at educational institutions to be circulated very soon. In addition, also provide hands on training and orientation for the anti-sexual harassment committee members through implementing a project in partnership with UNFPA.

Complaints and redress mechanisms

- 40. Nine One-Stop Crisis Centres have been established at the public medical college hospitals to provide health care, police assistance, DNA test, social services, legal assistance, psychosocial counselling and shelter services to the women and children victim of violence. Besides, a total of 67 One-Stop Crisis Cells have been established in districts and upazila hospitals for mobilizing the various services within and outside the hospitals for women and children victims of violence. National Forensic DNA Profiling Laboratory is ensuring speedy and fair trial for the incidences of violence against women and children.
- 41. To prevent and counter any kinds of violence against women and children, the MOWCA has established a National Helpline Centre for Violence against Women and Children. Toll Free Helpline 109 (ten-nine) is accessible 24/7 both from mobile and land. The helpline provides services to the women and children victims of violence in coordination with local administration, government and non-government organizations, local leaders through mobile, SMS, email and fax. This helpline also contributes to preventing child marriage and sexual harassment.
- 42. A mobile apps JOY (victory) has been developed for giving instant support to the women and children victims of violence in case of emergency. The Apps provides the opportunity of recording the dialogue and images of the victims and perpetrators and send the information both audio and video to the National Helpline Centre, local police stations, Deputy Police Commissioners at Metropolitan Area, Police Superintendents in respective districts and three FnF numbers with GPS location. It is now piloting in selected districts. It will enhance the social security of the women and children, reduce sexual violence and increase the social mobility for economic engagement.

National Action Plan to Eliminate Violence against Women and Children (2018 – 2030)

43. The Government of Bangladesh had an earlier National Action Plan to Eliminate Violence Against Women and Children starting in 2013 which has been updated and revised based on the SDGs and the present context and priorities (including those identified in the Seventh Five Year Plan. The new action plan was published in November 2018. The vision is to develop a society without violence against women and children by 2030. The mission is to ensure accountability and promote agencies for women's empowerment and gender equality to develop and implement specific programme plans for preventing and redressing violence against women and girls (VAWG). Its objectives include improving the implementation of existing laws and policies against VAWG. Other strategies including increasing social awareness; improving socio-economic conditions of women; protection services; prevention and rehabilitation.

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Child Marriage Restraint Act 2017 and Rules 2018

44. As mentioned above the Child Marriage Restraint Act was revised in 2017. It provides for child marriage prevention committees to be formed at national, district, upazila and union levels comprising of government officials, local public representatives, NGOs officials and civil society representatives (Section Three). Child marriage is to be stopped by the Upazila Nirbahi Officer, Executive Magistrate, Upazila Women's Affairs Officer, Upazila social Welfare Officer, Upazila Primary or Secondary Education Officer, Officer in Charge of Police Station and Local Public Representative (Section Four). The Act states that whosoever contracts a child marriage will be punished by 2 years of jail and a fine of 100,000 BDT. The minor entering into such a marriage will also be punished.

Dowry Prohibition Act 2018

45. The revised Act states that any persons who gives or takes or abets the giving or taking of dowry will be punishable with imprisonment which may extend to five years.

DNA Rules 2018

- 46. Was enacted to assist in the implementation of the DNA Act 2014 which provides for the use of forensic DNA evidence as proof in court.
- 47. In conclusion, there has been a great deal of progress in legislating against violence against women seen in various forms and in various locations. The commitment of the Government in this regard is evident.