

WOMEN'S RIGHTS, POLITICS AND LAWS IN BANGLADESH

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Abstract

Women's legal rights are one of the most significant determinants of their status. In Bangladesh, a series of laws ensuring women's rights have proven largely ineffective in promoting their positions. The prime reasons for this are: dirtier politics, the ineffective implementation of women rights laws, the traditional and cultural negative views about women's rights, the absence of an accountable and transparent government, the expensive and time consuming judicial process, the lack of an efficient judiciary, and other socio-economic reasons. The core theme of this essay concentrates on the ineffective enforcement of laws with the objective to promote protection of women's rights by recommending remedies to flaws in prevailing laws in Bangladesh. Recommendations are made by reference to comparative and international practices. The primary arguments developed throughout this essay are: (i) the protection of women's rights is imperative to improve their status (ii) the legislative, administrative and judicial efforts dealing with women's rights; and (iii) improvements in those efforts to better protect women's rights. This study examines laws regarding women's employment and political participation and the laws on dowry. It also explores the ways laws have been structured and enforced in Bangladesh, and how law can be an effective means of women's pursuit of rights.

Keywords: judiciary, international prestige, legislature, employment and political participation

Introduction

Official Survey-2008 reveals that the women are engaged in 77% of the un-paid family works. In the service sector, they are denied 'equal wages for equal works'. Majority of the female is involved in un-skilled and semi-skilled jobs with low returns and wages.

Bangladesh is a riverine country. It has an area of 55,598 square miles (143,998 square kilometers). It is one of the world's most densely populated countries, with its people crammed into a delta of rivers that empties into the Bay of Bengal. Bangladesh is a bounded by India to the west and north, Myanmar (Burma) to the south, and the Bay of Bengal to the south. To the south it has an irregular coastline fronting the Bay of Bengal. Being the low-lying country it is vulnerable to flooding and cyclones and it stands to be badly affected by predicted rises in sea levels, stemming from climate change. It is a developing nation of 165 million with an adult literacy rate of about 55%.

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Economy

Bangladesh follows a mixed economy that operates on free market principles. In 2011 the GDP of the country and per capita income revolve around 6.51% and US\$ 520 respectively. Poverty is deep and widespread. The major employer is agriculture, but it is unable to meet the demand for jobs, many Bangladeshis to seek work abroad.

The principal industries of the country include readymade garments, textiles, chemical fertilizers, pharmaceuticals, tea processing, sugar, leather goods etc. (Govt. Website: 2010 Ministry of Foreign Affairs)

The Economist, London, on Nov 17th 2011 reported Bangladesh has built a world-class apparel industry that employs more than 3.5 million people while Wall Street Journal May 4, 2012 reported : Bangladesh has about 4,000 garment factories that makes it world's second largest exporter of readymade garments after People's Republic of China. It exports over £6.3bn worth of products a year.

Politics

Formerly East Pakistan, Bangladesh became Independent state in 1971. It spent nearly 15 years under military rule. However democracy was restored in 1990 but the political scene to-date remains volatile. Political pundits say antagonism between the main parties - the centre-left Awami League and the centre-right Bangladesh Nationalist Party (BNP) – reflects more personal animosity between two female leaders rather than substantial ideological differences. Jamaat-e-Islami Bangladesh & Jatiya Party (JP) are two other fringe parties.

Bangladesh has been ruled, almost exclusively, for the past two decades by two Begums – the current Prime Minister Sheikh Hasina of Awami League (AL) and opposition leader and former Prime Minister Khaleda Zia of Bangladesh Nationalist Party (BNP). Sheikh Hasina is the only surviving daughter of Sheikh Mujibur Rahman, Bangladesh's independence hero and first prime minister murdered in 1975. Mujibur Rahman and his all family members except Hasina were eliminated in a military coup. Hasina survived because she was abroad with her nuclear scientist husband- Wajed. Khaleda Zia is the widow of former president Maj. Gen. Ziaur Rahman, assassinated in a failed coup attempt in 1981.

As Prime Minister, the Begums have been known to run corrupt regimes and have faced numerous criminal charges. In 2007, the army tried to end their monopoly when it seized power by splitting their vote banks and attempted to create alternate forces. However, the Begums' parties proved resilience and Sheikh Hasina returned to power in December 2008. She promptly resumed business as usual by filing more corruption charges against her opponent—Khaleda Zia.

Hasina's Awami League secured 229 of 300 parliamentary seats compared with 31 for Mrs. Zia's BNP. Bangladesh has unicameral parliament wherein 45 seats are reserved for women. The term of the Hasina led government will end in January 2014, setting off the power revolving-door to bring in the possible turn of Begum Khaleda Zia.

However the overall gains have fallen short of expectations, especially under successive female Prime Ministers for over two decades. While the two Begums focus on each other, the majority of women fight their own battles at home and in the social sphere against harassment, assault, kidnapping, acid attacks and dowry disputes.

With each passing day, Bangladesh's politics is poised to get even dirtier. In 2006 Muhammad Yunus became Bangladesh's first Peace Noble Laureate for carving out the world-famous Grameen Bank. His nurtured bank has become the latest collateral damage. The government is reported to have been harassing Yunus since 2007 when he briefly toyed with the idea of putting himself forward as a potential third party leader to move beyond the dysfunction of the Awami-BNP rivalry. Yunus, who fell out with Prime Minister Sheikh Hasina, was officially fired last year for exceeding the mandatory retirement age of 60. He challenged the move in the Supreme Court, but lost.

On August 22, 2012 AFP Wire Service in a dispatch from Dhaka, capital city of Bangladesh, reported President Zillur Rahman enacted a new law that has curbed the power of independent directors of micro-lender Grameen Bank. It has given the government greater leeway to pick a successor to Bank's founder Muhammad Yunus.

The move evoked widespread criticism both at home and abroad that the government is bent upon to undermine the independence of the bank, the majority of which is owned by more than eight million poor women borrowers. Yunus (now 72) has accused the government of trying to "destroy" the micro-lender bank. "Now my fears are becoming true. With these changes the poor are going to be deprived of their ownership of the bank. I am very hurt with the decision. I am so shocked that I cannot express my emotion," AFP quoted him saying in a statement.

DAVID BORNSTEIN, an eminent American journalist, in his wrap up-- An Attack on Grameen Bank, and the Cause of Women, published in The New York Times' Op-Ed page on August 22, said: It's ironic that Hasina, a female head of state, has attacked Grameen's female-dominated governing body. The Grameen Bank had also won the Nobel Peace Prize-2006 for extending small loans to impoverished village women. It is a powerful blow against an institution that has flourished and helped millions of poor people largely because it is in the hands of women.

He criticized Hasina led government on "amending the 29-year-old law only to enable the government to bypass the bank's board of directors and handpick Yunus's successor. He calls the move "a brazen step to seize control of an institution that serves 8.4 million poor villagers across Bangladesh and provides inspiration to social entrepreneurs around the world. Sadly, it is occurring in a country where the government has been consistently ranked as highly corrupt. Just this past June, the World Bank canceled \$1.2 billion in financing for the much-needed Padma Bridge because of corruption at a high-level within the government.

The government's most recent action not only threatens the bank's independence, which has been crucial to its success, it challenges the ownership rights of millions of poor women who control 97 percent of the shares of the Grameen Bank and whose collective savings (about \$1.4 billion) finances its operations".

BORNSTEIN continues: “when we picture the board of a bank we envision a table surrounded by powerful men in expensive suits. Grameen’s board is different. Of the 12 voting seats, 9 are held by village women who dress not in suits but in saris; they are borrowers of the bank who are duly elected by its more than 8 million members. The government controls only three seats, including the chairman. The board was set up this way by Yunus to make sure it stayed true to its social mission.

In its zeal to punish and humiliate Yunus Hasina’s Awami League is demonstrating that it is prepared to go nuclear to wrest control of the bank from millions of Bangladeshi women who are its lawful owners and their appointed representatives, BORNSTEIN concludes.

Also at home the move has caused consternation among women’s rights advocates and legal scholars, including one time Awami League’s top leader and one of the main framers of Bangladesh’s Constitution, Kamal Hossain. In Bangladesh, women leaders have joined together across party lines to publicly voice their opposition to the government’s actions, media reports monitored from across the country say.

Grameen Profile

The Grameen (village) Bank was developed by Professor Mohammed Yunus in 1976, when the country was stricken with famine. Using \$26 from his own pocket, he lent cash to poor women in a village of Jobra near University of Chittagong, Bangladesh, so that they could invest in the livestock and materials they needed to make money of their own. Dr. Muhammad Yunus in his book *Building Social Business* mentioned.

In 1983 the Grameen Bank became an independent entity. Reversing conventional banking practice, the Grameen Bank lends to the poorest as its principle enunciates that those who are too poor to get bank loans are actually good credit bets. Women, who make up 94% of its customers, use loans from the bank to invest in business ventures like matt-weaving and small-scale agriculture.

The Grameen Bank now lends \$1.3 billion to 2.3 million borrowers, most of them women. With 1,128 branches, the \$2 billion operation serves 38,951 villages, covering more than half of the total villages in Bangladesh. The average loan is \$160. In spite of a national illiteracy rate of 62% (78% for women), economic activity in rural Bangladesh has seen a marked increase since the launch of the bank.

Women’s Human rights Violations

Amnesty International reported that in 2010, Bangladeshi police had received more than 3500 complaints of physical abuse of women over dowry disputes and in 2011, the violence against women topped all crimes reported to the police between January and June. The wide-spread and deep rooted patriarchal social attitudes have affected women in general and more specifically those women who belong to “low socio-economic backgrounds.” They lack access to resources for protection or legal redress. Domestic violence transcends class barriers and acid-throwing is a brutal act, resorted to by spurned suitors or disgruntled husbands.

Bangladesh's leading English Daily -- The Star quoted United Nations World Food Program (UNWFP) on International Women's Day 2012 asserting that much effort was still needed to improve the lives of women in Bangladesh he report said that almost half of the female population in Bangladesh is married before turning 16, which results in higher pregnancy rates in adolescents and undernourished mothers then give birth to overweight babies. The report is based on interviews with 255 people, including 120 women who experienced the discriminatory effects of Bangladesh's personal laws, as well as with judges, family court lawyers, women's rights experts, and government officials, the Amnesty added.

Human Rights Watch in its current 109-page report captioned "Will I Get My Dues...Before I Die?" says "In Bangladesh, more than 55 percent of girls and women over 10 years old are married. The UN country team in Bangladesh has identified "marital instability" as a key cause of poverty among female-headed households. Also the report quoted Bangladesh Planning Commission saying that women are more susceptible to becoming poor after losing a male earning family member due to abandonment or divorce.

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Bangladesh's economic gains have not been fully transferred to its women though their contribution to the agrarian economy is substantial. Women constitute the bulk workforce for the expanding and lucrative garment industry for it alone earns 90% of country's foreign exchange. UN Secretary General, Ban Ki-Moon has recently urged the government, civil society and the private sector to work towards gender equality in Bangladesh, which has unfortunately not kept pace with strides in economic development.

Gender bias has frequently surfaced through religious expression. In April 2011, CNN reported that when the government announced its Women Development Policy 2011 exploring the inheritance of property, radical religious parties protested that it was a violation of the "Quranic injunctions about inheritance". Ironically the opposition party (BNP) led by Khaleda Zia supported the radicals' protest and undermined the cause of women's empowerment just to gain political mileage. BBC on 3 April 2011 reported "a student at an Islamic school in Bangladesh has been shot dead and at least 30 others injured during a demonstration against women's rights. The protesters were marching through the south-western town of Jessore against moves by the government to ensure equal school in Bangladesh has been shot dead and at least 30 others injured during a demonstration against women's rights. The protesters were marching through the south-western town of Jessore against moves by the government to ensure equal property rights for women. "We support the policy framed to empower the women, which is fully consistent with what Islam taught us," said Ayesha Khanom, president of the Women Society.

In July 2011, Human Rights Watch reiterated its concern for Bangladeshi women who are increasingly on the receiving end of religious “fatwa” issued by so-called Islamic scholars. These decrees have resulted in humiliating punishments and deaths of young girls wrongly accused of adultery.

This continues to occur more frequently because of country's discriminatory personal laws on marriage, separation, and divorce trap many women and girls in abusive marriages or drive them into poverty when marriages fall apart. In many cases these laws contribute to homelessness, hunger, and ill-health for divorced or separated women and their children. United Nations Development Program (UNDP) and World Food Programme (WFP) have recorded significantly higher levels of food insecurity and poverty among female-headed Bangladeshi households.

Also the Human Rights report documents how the country's discriminatory and archaic personal laws impoverish many women at separation or divorce, and trap some women in violent marriages because they fear destitution. Current laws deprive women of an equal right to marital property. The limited entitlements these laws offer women are poorly enforced by family courts and local government arbitration councils.

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Thus, the government's failure to effectively address violence and implement legislation continue to result in severe harm to women under the very nose of female Prime Minister. Women in Bangladesh have to face violations of their human rights year after year. These acts of violence are both public and domestic. Social reasons and legal loopholes encourage violence against women.

The so-called religious and cultural norms, discriminatory and defective laws, denial of appropriate property rights of women, non-implementation of international instruments relating to women's rights, and other related factors have created a negative environment for women in the country.

On December 12, 2009 The Star published Bangladesh Mahila Parishad survey revealing that at least 937 women were killed between January to October of the year under review. The Bangladesh Institute of Human Rights (BIHR) reported in the first six months of the year, 1,479 women were raped. Home Affairs Minister Sahara acknowledged the figure on the floor of the national assembly.

The monitoring cell at the police headquarters reported at least 117 women were killed from January to October, 2009. During the period 3,413 women were tortured over dowry, 83 women were victim to torture, 2,336 were abducted.

One non-governmental organization (ODHIKAR) reported that the number of acid-throwing cases has increased as may be gleaned from: 101 in 1998, 178 in 1999, 186 in 2000, 206 in 2001 (including 33 children victims) and 247 in 2002. The cases of men throwing acid are intent to disfigure faces of women. Odhikar compiled Cases from reports of eight national dailies. The reports reveal 33 of the victims in 2000 were between the ages of six and fifteen.

Odhikar report continues: women who fail to pay the dowry to their husbands and their families are either beaten, set on fire or poisoned. Women who turn down marriage proposals are in danger of suffering violence from spurned men. The largely circulated Star on March 8, 2010, cited WHO study in 2005 that said 490 incidents of acid throwing on women were recorded in 2002. All these happen when country's Constitution grants equal rights but hardly such equal rights are extended to hapless women in practice for one or another reason.

Women's rights in law

Under the 1972 Constitution of Bangladesh, women's rights are protected under the broad and universal principles of equality and participation. These principles are found in the following Articles in the Constitution:

Article 10 of the Constitution provides that steps shall be taken to ensure participation of women in all spheres of national life.

Article 19 (1) provides that the State shall endeavor to ensure equality of opportunity to all citizens. Article 27 specifies that all citizens are equal before the law and are entitled to equal protection of the law.

Moreover, Article 28 (1) provides that the State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, or place of birth. Article 28 more directly and categorically says that women shall have equal rights with men in all spheres of the State and of public life.

Women's rights in reality

Despite the legal support for women's rights, Bangladesh women are still practically not given equal treatment. Practices of inequality are manifold, of which the following deserve a special mention:

In case of wages in the informal sector, women are paid a lower grade than men for the same work;

In divorce, women need a court order to enforce their right to divorce, which requires proving the validity of their reason for seeking divorce. Men, on the other hand, do not need such court order and thus they can divorce their wives even without any proper reason, and at any time they wish;

In inheritance, a woman is generally given half the share of her male counterpart. A son would exclude his paternal uncle or aunt from inheriting from his deceased's father's property, while a daughter would not cause such consequence.

Country's laws prohibit giving and accepting dowry but the prevalent practice is otherwise. This is due to the rising unemployment among young males, especially in rural Bangladesh. Often, the bride's parents cannot contribute the whole amount of dowry at once. They pay part at the wedding ceremony and the rest in installments. Delayed payment results in violence against the young wife.

One research report published in 2000 by a reputed women's non-governmental organization in Bangladesh shows that 30% of the women in the cities are battered by their husbands, 37% are victims of verbal insults and harassment, and 33% are victims of other forms of domestic violence. Another survey reveals that among the victims of physical violence, 22% acid-throwing victims, 10% burn-victims, 5% are victims of poisoning, forced abortion and other kinds of violence.

Odhikar's majority of investigations found the victim's family was "too poor and ignorant of the law" to seek legal recourse. In one case, the victim's father, a rickshaw puller, told Odhikar that he did not know the lawyer's name, but knew what he looked like. In another case, the lawyer demanded payments for every court appearance while in fact they ask the court for more time.

Country's Constitution prescribes a girl's marriage age at 18 years. But, in many cases, a girl is married off before 18 years. Early marriage has proven an obstacle in promoting women's rights. The Majority Act 1875 clearly provides that a woman must at least be 18 years old to be able to get married. This legal requirement unfortunately is brushed aside, especially in rural areas. Many marriages are held without the 'free consent' of the women.

In politics, Bangladesh has been ruled by two women Prime Ministers in two decades (until the present). However, only 6 women legislators were elected to Parliament in June 2001 National Elections. There are 36 women legislators (composed of 30 members occupying reserved seats for women and 6 elected members), in the 330-member parliament.

Bangladesh is a Muslim majority state. The role and position of the majority of women have been shaped by age-old tradition and cultural norms. Women are generally improvident of the society. They live in a social milieu, where gender severely limits their access to the resources of all kinds. Under the prevalent social norms and systems, women have to ensure a long life dependency on men in the country.

The discriminatory treatment of men and women starts soon after their birth, and continues throughout the life. Statistics show 14.5% girls are malnourished compared to 1.7% among the boys in the country.

Women are even today viewed as 'reproductive tool' and are assigned 'subsidiary status'. As against 'sons' girls are denied equal access to education, better nutrition and health care in the family for they are considered 'non-productive expenditures'.

Also, under traditional practices, the women are discriminated in the choice of freedom, employment, marriage, divorce, reproductive rights, and rights to inheritance. All the family members take women as an “assets” and exercise an overall control on them and their movement.

Women of all ages are behind men in literacy. Though more than 80% age girls are enrolled in the formal schooling system. About half of them attend school regularly and almost 40% of them dropout. This has resulted in a substantial male and female difference in the literacy rates about 65% to 35% respectively.

Lack of education or unequal educational opportunity is one of the main causes, which retard women from equal participation in socio-economic activities with male counterparts. Hence inequality between male and female groups continues with no end in sight.

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UNDP 1994 report highlighted that there were “more than 90% of the widows and 94% of the divorced women in the country “largely due to their ignorance and early marriage. The divorce laws entitle a women merely three months' maintenance allowance/cost from their husbands. Under the laws, all children below 18 years have to live with their mother.

Thus the divorced women have to earn livelihood for their children as well. The situation is exacerbated in rural areas where marriages are not registered. Indeed Law prohibits dowry payments but illegal practice continues as an open secrete.

Though Bangladesh Constitution entitles equal rights to women and men in all spheres of public life but the fact is that the discrimination predominant through not updated marriage, divorce, children custody, inheritance and personal laws. The willy-nilly enforcement of laws has hampered women rights more than ensuring their socio-economic development.

Studies reveal that even The Family Laws Ordinance of 1961 and Family Courts Ordinance of 1985 and a score of another laws drafted in past four decades did not turn the situation in favour of women.

Women's legal rights are one of the most significant determinants of their status. In Bangladesh, a series of laws for women's rights have proven largely ineffective in promoting their positions. The prime reasons for this are: dirtier politics, the ineffective implementation of women rights laws , the traditional and cultural negative views about women's rights, the absence of an accountable and transparent government, the

expensive and time consuming judicial process, the lack of an efficient judiciary, and other socio-economic reasons.

Hence the grim situation warrants an effective mechanism for effective re-looking and enforcement of laws with the objective to promote protection of women's rights by sweeping all flaws in the prevailing laws. In absence of effective laws enforcement mechanism in Bangladesh, the age-old common-law have grown in formalities to dominate the legal and judicial proceedings. Laws have failed to provide remedies to the contemporary needs of women. The present legal regime also suffers from an important flaw with regard to the scope and extent of liabilities for the violation of laws designed to protect women's equal and special rights.

In politics, while Bangladesh has two women Prime Ministers during the last decade until the present, only 6 women legislators were elected to Parliament in National Elections held in June 2001. There are 36 women legislators (composed of 30 members occupying reserved seats for women and 6 elected members), in the 330-member parliament.

All this is so despite the two female Prime Ministers alternately have been ruling the country for more than 21 years. The two are snarled in politics of hostility. The hostility between two Begums stems in part from differences over who played a greater role in the country's Independence struggle - Hasina's father, Sheikh Mujibur Rahman, or Khaleda's husband, General Ziaur Rahman.

After de-linking from Pakistan in 1971, Mujib ur Rahman was named father of the nation in the country's 1972 constitution. But when Khaleda assumed power in 1991 her party pushed the idea that her husband was an equally key player in the country's Independence. Khaleda's government amended the constitution in 2004 to delete the reference that Mujib ur Rahman is the father of the nation. However, in 2009, six months after Sheikh Hasina's election victory High Court ruled in favour of Mujib ur Rahman.

The post-election focus of the two leaders has been on "payback" for the previous five years of oppressive rule, instead of galvanizing the Nation to combat widespread poverty and human rights violation. The losing minority claims of being oppressed and lash out at the controlling party with a plea to public sentiment to strength their voting base-line.

Political tensions between the two Begums have virtually polarized the country's population leading to more often spilling violence; claiming hundreds of people's life over the years. Concern has grown about religious extremism in the usually moderate and tolerant society. Two fringe Muslim religious outfits were outlawed in the recent past.

Review and enforcement of the Law on priority

The growing grim situation with regard to women in general and more specifically in rural Bangladeshi warrants on priority turning of all legal principles into social, political and economic practice on priority to salvage “weak and deprived women population “ from the unjust socio-economic system.

The discriminatory attitude against women, rooted in the family and extends to the State level, should be ended. Because of the constraints from the family, society and the State in general, Bangladeshi women are not aware of their rights. And even if some of them become aware of their rights, they still would not assert them due to the "ingrained unexpected continuity" (i.e., the traditional belief of keeping women under the shadow of somebody such as their fathers or husbands).

A basic change in the institutional structure may occur if social security for women is ensured. Also, the outlook of the family and society has to change to give more opportunity for women's protection and participation in country's affairs. This, in turn, will help women become independent and conscious about their rights.

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