

Women's Rights: Legal Coverage in Bangladesh

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ABSTRACT: Empowerment of women has been one of the widely discussed issues in the discourse of development. However, the fact is empowerment of women in the real sense can by no means be achieved without establishing the rights to make decisions about their own life, family and society level. Women's defense lay in the constitutional and legal guarantees of equality and international commitments to rights made by the state. The paper attempts to find out the legal coverage for women rights and suggests policy prescription to minimize the obstacles and create opportunity for the empowerment of the women.

INTRODUCTION

Women's rights are an essential component of universal human rights. They reflect the fact that men and women have very different experiences and the fact that women and girls often face gender-based discrimination that puts them at increased risk of poverty, violence, ill health and a poor education (Amnesty International, 2016). Women's rights are the rights and entitlements claimed for women of many societies worldwide. In some place, these rights are institutionalized or supported by law, local custom and behaviour, whereas in others they may be ignored or suppressed (Wikipedia, 2016). A society is measured on the status of women acknowledged and enjoyed within the society. Women of all continents can look back that they were once marginalized from the mainstream of society and have out a long way from that position on the basis of equality, justice, peace and development (Rashid, 2009). In Bangladesh, like many other countries, women face discrimination and are subjected to violence and economic exploitation. Deep rooted patriarchy,

religious practices, discriminatory laws against women and children, denial of property rights to women in many countries all contribute to the creation of an environment which denies their rights. Despite the constitutional principle of equality and having beneficial provision of many laws, discrimination, gender based violence and sexual harassment continue unabated in Bangladesh. Acid throwing, forced marriage, *fatwa*-induced violence, sexual harassment in educational institutions, workplaces, roads and streets, transports, eve-teasing and abuse of female domestic workers are common phenomena that violate women's rights in Bangladesh (Naripokkho and Bangladesh Mahila Parishad, 2012). Against this backdrop, many public interest litigations have been filed to protect women's rights guaranteed under the constitution of Bangladesh and international human rights treaties which Bangladesh ratified. Recognizing violence against women as a violation of human rights is a significant turning point in the struggle to end violence against women globally. A human rights perspective broadens the definition of violence against women and focuses attention to discrimination and inequalities that are maintained or tolerated by the state and that increase women's vulnerability to

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violence. Violence against women (VAW) has been recognized as a human rights issue since the 1993 world conference on human rights in Vienna, which established that “human rights of women and of the girl-child are an inalienable, integral and indivisible part of universal human rights”. VAW is a human rights violation requiring immediate action is crucial to challenge the economic, social and cultural marginalization of women in Bangladesh. These all contribute to the exploitation, deprivation oppression and are violations of the fundamental human rights of women in Bangladesh (Farouk, 2005). The researcher intended to review women’s present rights status and suggested some recommendations for ensuring their equal rights and opportunities.

Rationale of the study: Traditionally women had been considered inferior to and subordinate to men. Accordingly, they are discriminated adversely in the enjoyment of human rights. They were denied political economic and social rights and opportunities enjoyed by men. Moreover, due to their role of maternally, women require special considerations especially in matters of reproduction, health security and education. Women’s rights issues involve ways and means for allowing women to enjoy all human rights on equal terms with men. Special care needs for women – such as freedom from violence and safe delivery. So, for reducing gender discrimination and creating equal opportunity constitutional and legal protection is a dire need in the society for women. The study would be helpful at the policy level for taking initiatives for women advancement in Bangladesh.

Objectives of the study: The main objective of the study was to assess women rights scenario in Bangladesh considering the legal coverage in the constitution and laws.

- Find out distinction between human rights and fundamental rights;
- To focus on women’s rights movement at different period national and international perspectives and
- To assess the effectiveness of the state interventions in reducing discrimination against women.

Methodology of the study: This study is basically based on the review of secondary literature

including books, journals, periodicals, research reports, proceedings of seminar and other secondary materials.

AN OVERVIEW ON RIGHTS

Rights

Rights are to which people are entitled, simply they are human beings. A right is also a legal or moral entitlement to do or refrain from doing something or to obtain or refrain from obtaining an action/thing and or recognition in civil society. Rights are divided into two categories: i) Fundamental Rights, ii) Human Rights.

Human Rights vs. Fundamental Rights

It has become fashionable to talk about human rights and their violation in many parts of the world. State repression and use of violence to deny basic human rights to its population or a section of the population on religious or other grounds is not tolerated these days, especially by international media and international organizations like INHRC and UNHRC that are performing the duties of a watchdog.

Distinctions between Human Rights and Fundamental Rights

Fundamental rights (FR) are similar to human rights (HR) but are different in the sense that they have legal obligations and are enforceable in a court of law but human rights do not have such legal obligations and are not enforceable in courts. Fundamental rights are rights and freedoms guaranteed by constitutions of some countries of the world to their citizens. These rights have a legal sanction and can be challenged by affected individuals in a court of law. Among these rights are the right to life, liberty (of freedom, free will and personal), pursuit of happiness and so on (Rahman, 2006). These rights are considered to be the most basic rights and are provided to all citizens of the country without any discrimination. There are other fundamental rights such as the right to profess faith, right to movement across the country, right to freedom of speech and belief, and so on.

The other distinctions between HR and FR

- Human rights are relatively new concept while fundamental rights are protected by constitutions of various countries is older.
- While there is no consensus on universal human rights, fundamental rights are specific and have legal sanction.
- Human rights are more basic in nature than fundamental rights.
- Human rights are applicable to all human beings on the earth whereas fundamental rights are country specified.

Women's Rights Movements in British-India, East Pakistan and Bangladesh from 1855 to 2015

- 1855-57: Movement for acceptance of widow remarriage and abolition of child marriage.
- 1885: Shoma Kumari Devi (elder sister of Rabindranath Tagore) formed Shakhi Samity (a cooperative society) to support vulnerable and oppressed women.
- 1888: Sister Nivedita, a pioneer figure organized women education movement in Bengal.
- 1893: Sarala Devi Chowdhury, a woman nationalist moved for women education and rights.
- 1909: Begum Rokeya, the pioneer of Bengali Muslim women's emancipation, established a school for Bengali Muslim girls for the first time in Bengal.
- 1917: Sarojini Naidoo, a poet and genius orator who elected the first president of all India National Congress led the movement to claim women's right to cast votes.
- 1920: First women's volunteer team formed in Congress in Calcutta, led by Jotirmoyee Ganguly.
- 1923: Lila Nag, an outstanding student of Dhaka University achieved Graduation in English Literature later established a number of intuitions in Bengal for women education.
- 1924: Asalata Sen Gupta, Saroma Gupta and Bala Gupta played active role to form

Gandariya Mohila Somity for becoming the women as patriot. Even to retain the religious rights Muslim women under the leadership of Begum Sara Taifur took part in the Eid prayer publicly.

- 1925: Monorama Basu was respected for motherly figure and organizer of women rights as she was known by "Masima".
- 1943: Mohila Atmarakha Somity (Women Self Protection Society), which had 43 thousands women members initiated for protection of women and children from hunger during the war time in the Bengal.
- 1948: Ila Mitra known as the queen of "Tebaga Movement" for retaining two-thirdshare of the crops of the peasants. Also was involved in Tonko and Nankar Movement in the Bengal in collaboration with Rasmoni Hajong, Juiful Roy, Kalai Bibi and Sankhamoni.
- 1950: Women became active to protect their constitutional right in the then East Pakistan and formed various platform to create movement against their submissive position in the constitution. Gandariya Mohila Somity, All pakisatn Women's Association, Pak Cristi Sangsad, Purana Paltan Mohila Somity published joint statement to eliminate discriminatory provisions in the constitution.
- 1952: Women had the great contribution to the language movement in Dhaka which later became a success.
- 1970: Bangladesh Mohila Parishad was formed under the great leadership of renowned poet Sufia Kamal.
- 1971: Women contributed to the liberation movement of Bangladesh. Thousands ofwomen took part in the liberation war as freedom fighter and policy maker.
- 1979-80: Bangladesh Mohila Parishad started a movement calling upon the Bangladesh Government to recognize and approve the charter of CEDAW. Women movement grew up in institutional level.

- 1980: On June 26 a memo signed by 17,000 women for the making a law against dowry was submitted to the then speaker of the parliament Golam Hafiz.
- 1985: A law against acid throwing was enacted through the intensive movement of women organizations.
- 1997-2004: Movement for withdrawal in the reserved clauses of CEDAW, movement for direct election of women to reserved seats in parliament, movement to stop violence against women, movement for increasing women's participation in the mainstream development activities and movement against the fundamental change s in the National Woman Advancement Policy.
- 2009-2015: Movement for political empowerment of women, formulation of uniform family code, updated legal system on sexual harassment, safe and healthy working environment with fair wages and withdrawal in the lone reserved clause of CEDAW.
- 1865: After becoming a member of the English Parliament, John Stuart Mill proposed to give women right to vote.
- 1885: An organization for women's human rights was development by Mari Carpenter and through that organization nonstop movement for women's rights was initiated leading to the birth of the feminist movement.
- 1903: Emmeline Pankhurst formed the Women's Social and Political Union which later moved for their right to vote in UK.
- 1908: On March 8, women garment workers in New York City demanded shorter working hours, a worker-friendly environment law against child labour and the right to vote.
- 1917: Women labourers organized a meeting and procession against the oppressive Czar on March 8 in Petrograd (Leningrad).
- 1946: The Commission on the Status of Women was established by the UN Economic and Social Council to make recommendations to the council on urgent problems requiring immediate attention in the field of women's rights.

Women's Rights Movement – International Perspectives

- 1792: "A Vindication of the Rights of Women" written by British writer Mary Wollstonecraft was published. The book asserted women's right to education.
- 1837: First women's conference against slavery in America .women had the opportunity to participate in national politics.
- 1848: First conference on women's rights held in New York. About 300 women and men participated.
- 1857: On March 8, women laborers in New York garment factories agitated and started a procession against unsafe and unhealthy working environment, lower wages and 12-hour working days. Police attacked them and many women were wounded and died.
- 1860: On march 8, the women laborers in New York City factories development a Trade Union.
- 1968: Convention for Elimination of all Forms of Discrimination against Women (CEDAW) passed at the United Nation Human Rights Conference in Tehran.
- 1975: The first world conference on women by the UN was held in Mexico City, and declared 1975 as International Women's Year.
- 1976: United Nation Development Fund for Women (UNIFEM) was established by the UN.
- 1980: The second world conference on women by the UN was held in Copenhagen, the review process on women rights began then.
- 1985: The third world conference on women by the UN was held in Nairobi to review and

appraise the achievements of the UN decade for women, which also gave birth to global feminism.

- 1993: The human rights conference in Vienna, Austria, a people's court was formed to stop violence against women.
- 1994: Women's empowerment was identified as the indivisible part of women's rights at the International Population and Development Conference in Cairo, Egypt.
- 1995: The UN Commission of the status of women rights conference was held in Beijing. This was known as the fourth world conference on women by the UN to review the legacy of success of the women's rights. Beijing PFA was declared then.
- 2000: A five year review and appraisal of the implementation of Beijing PFA was held in New York. It was termed the Beijing+5 conference by the UN.
- 2005: A ten year review and appraisal of the implementation of Beijing PFA was held in New York. It included PRSPs and MDGs. It was known the Beijing+10 conferences by the UN.
- 2010: Beijing +15 world conference of the UN on women was held in New York. This later declared more concerns for women globally after Beijing PFA.
- 2011: UN Women was operational and activated by the UN for ensuring women and girls rights worldwide.
- 2014: Women and Climate Summit was held in Bali for bringing together women's and environmental rights.
- 2015: A twenty year review and appraisal of the implementation of Beijing PFA was held in New York. It was termed the Beijing+20 conferences by the UN. It campaigned, Empower Women, Empower Humanity: Picture It. It declared the planet, 50 50 by 2030.
- 2016: Global Summit of Women was held in Poland for building an inclusive economy in digital age.

WOMEN'S RIGHTS: INTERNATIONAL AND NATIONAL STANDARDS

Women's Rights: International Standard

Women's rights are the rights having no boundary in the world. Attaining equality between women and men and eliminating all forms of discrimination against women and fundamental rights and the UN values are treated as human rights (UNHR, 2014). In the past three decades, UN has taken a number of steps in order to enhance the position of women worldwide. The Charter of the UN refers equal rights of men and women and forbids discrimination on the basis of sex, race, language or religion.

Equality and Non-Discrimination

Article 2 of UDHR embodies the principle of non-discrimination on the ground of sex. Article 7 provides for the equality before the law and equal protection of the law without any discrimination. On the other hand, Article 21(2) provides the right of equal access to public service.

Equal Access to Public Service

Under CEDAW states have responsibility to promote the principle of non-discrimination and (Art. 6) to eliminate sex discrimination in political and public life (Art. 7) to ensure equal rights with regard to nationality and family relations (Art. 9), education (Art. 10), employment (Art. 11), Health care (Art. 12) and marriage and family relation (Art. 16)

Human Dignity

Article 1 of the Universal Declaration of Human Rights proclaims that human beings are born free and are equal in dignity and rights. Article 6 implies that everyone has the right to recognition as a person before the law.

Social Justice

Article 23(1, 2) of UDHR recognizes that every man or woman has the right to work, to free choice of employment, to just and favorable condition of work and to protection against unemployment and has the right to equal pay for equal work without any discrimination as to sex. Article 24 of UDHR provides

that every man or woman has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay. Article 25 provides the right to a standard of living adequate for the health and well-being.

Article 25(2) states that motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection. Article 26(1, 2, 3) stipulates that every man or woman has the right to education and shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. Parents have a prior right to choose the kind of education that shall be given to their children.

Civil, Political, Economic Rights

Article 3 common to both the International Covenant on Civil & Political Rights (ICCPR) and International Covenant on Economic, and Cultural Rights (ICESCR) obligates states to undertake all measures to respect and ensure to all individuals, civil, political, economic, social and cultural rights without any distinction on the ground of sex, race, religion or language.

The rights and privileges enshrined different covenants, declaration and convention apply equally to all men and women without distinction and discrimination, which deal with specific issues relating to women, such as:-

- The Convention on the Political Rights of Women, 1952.
- Convention on the Nationality of Married Women, 1957.
- ILO Convention on Equal Remuneration for Men and Women for Work of Equal Value, 1951.
- Declaration on the Protection of Women and Children in Emergency and Armed Conflict, 1974.
- Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages, 1962.
- Convention against Discrimination in Education, 1960.

- Declaration on the Elimination of all forms of Intolerance and of Discrimination Based on Religion or Belief, 1981.
- Recommendation on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages, 1956.

WOMEN'S RIGHT: NATIONAL STANDARD

Women's Right under the Constitution of Bangladesh

After independence, attempts have been made to protect and promote women's rights and to bring a balance between male and female. A woman can enjoy the following civil and political rights under the 1972 constitution of Bangladesh. Women's rights are protected under the broad and universal principles of equality and participation (Chowdhury, 2003). These principles are found in the following articles of the constitution.

(i) *Participation of Women in National Life:* Article 10: Steps shall be taken to ensure participation of women in all sphere of national life.

(ii) *Social Security to Widows:* Article 15(d): Under the heading of fundamental principles of state policy, states that where the state accepts a fundamental responsibility towards raising the standard of living of the people, it specifically undertakes responsibility for providing social security to inter alia, widows.

(iii) *Equal Opportunity for All Citizens:* Article 19 (1), sub-section 2: Equal opportunity for all citizens is ensured by Article 19(1). Sub-section 2 of the same Article required the state to take effective measures to remove socio-economic discrimination.

(iv) *Free and Compulsory Education:* Article 17: The State shall adopt effective measures for the purpose of:

- (a) Establishing a uniform, mass-oriented and universal system of education and extending free and compulsory education to all children to such stage as may be determined by law.
- (b) Relating education to the needs of society and producing properly trained and motivated citizen's to serve those needs.

(c) Removing illiteracy within such time as may be determined by law.

(v) *Public Health and Morality.*

Article 18:

(1) The State shall regard the raising of the level of nutrition and the improvement of public health as among its primary duties, and in particular shall adopt effective measures to prevent the consumption, except for medical purposes or for such other purposes as may be prescribed by law, of alcoholic and other intoxicating drinks and of drugs which are injurious to health.

(2) The state shall adopt effective measures to prevent prostitution and gambling.

(v) *Equal Opportunity for Men and Women*

The third section of the Bangladesh constitution contained provisions for fundamental rights. Rights and opportunities for women (or rights relevant to them) are the following:

Article 27: Equality of all citizens before law and equal protection under law.

Article 28(1): No discrimination on grounds only of religion, race, caste, sex or place of birth.

Article 28(2): Equal opportunity for men and women in all spheres of state and public life.

Article 28(3): No discrimination on grounds only of religion race, caste, sex or place of birth in providing access to any place of public entertainment or resort, or admission to any educational institution.

Article 28(4): Nothing in this article shall prevent the state from making special provision in favour of women or children or for the advancement of any backward section of Citizens.

Article 29(1): There shall be equality of opportunity for all citizens in respect of employment or office in the service of the republic.

(2) No citizen shall, on grounds only of religion, race, caste, sex or place of birth, be ineligible for, or discriminated against in respect of, any employment or office in the service of the republic.

(3) Nothing in this article shall prevent the state from:

(a) Making special provision in favour of any backward section of citizens for the purpose of securing their adequate representation in the service of the republic.

(b) Giving effect to any law which makes provision for reserving appointments relating to any religious or denominational institution to persons of that religion or denomination.

(c) Reserving for members of one sex any class of employment or office on the ground that it is considered by its nature to be unsuited to members of the opposite sex.

(vi) *Status in the Parliament*

Article 65: Until the dissolution of Parliament occurring next after the expiration of the period of ten years beginning from the date of the first meeting of the Parliament next after the Parliament in existence at the time of commencement of the Constitution (Tenth Amendment) Act, 1990, there shall be reserved thirty seats exclusively for women members, who shall be elected according to law by the members aforesaid: Provided that nothing in this clause shall prevent a woman from being elected to any of the seats provided for in clause (2)].

The constitution of Bangladesh made provision for reserved seats for women in the context of women's backwardness and disadvantageous situation. Originally 15 for ten years as per the constitution of 1972, an amendment in 1978 increased this number of women's reserved seats to 30, and extended the period of reservation to fifteen years. The system was however, interrupted in December 1987. Consequently, there was no provision for reserved women's seats in the 1988 parliamentary election. But, pressed by the strident demands of some women's organizations, the system was reinstated through the tenth Amendment in 1990 reserving 30 seats for 10 years from the date of the first meeting of the next parliament. This limit has expired in 2000. Thereafter, in 15th Amendment of the constitution the provision of women's seats in parliament increase up to 50 seats.

These provisions in the constitution are believed to have provided adequate guarantee for women's rights in Bangladesh (Haque, 2011).

(vii) *Major Laws relating to Violence against Women in Bangladesh*

In addition, Bangladesh has specific laws prohibiting certain forms of violence. Those are the Following:

- The Suppression of Violence against Women and Children 2000 Act, (Amended in 2003).
- The Code of Civil Procedure, 1908.
- The Majority Act, 1875.
- The Criminal Procedure Act, 1898.
- The Penal Code, 1960.
- The Muslim Family Ordinance, 1961.
- The Child Marriage Restraint Act, 1929.
- The Muslim Marriages and Divorces (Registration) Act, 1974.
- The Cruelty to Women Ordinance, 1983.
- Death and Birth Registration Act, 2004.
- The Suppression of Immoral Traffic Act, 1933.
- The Dowry Provision Act, 1980.
- The Acid Control Act, 2000.
- The Acid Crimes Control Act, 2002.
- The Speedy Trial Tribunal Act, 2002.
- Domestic Violence (Prevention and Protection) Act, 2010.
- Pornography Control Act, 2011.
- Prevention and Restraint of Human Trafficking Act, 2012 (Dhaka Tribune, 2013).

(viii) *Beijing Follow-up*

Bangladesh has endorsed the Platform for Action (PFA) of the Fourth World Conference of Women held in Beijing in 1995 without any reservations and it committed to ensuring its implementation at national level. Accordingly a National Action Plan (NAP) was drafted (February 1997) for the advancement of women through reviewing twelve ministries. Apart from other issues, the NAP envisaged a specific national policy on violence against women adopting the definitions of Beijing Platform of Action.

Following the NAP, the government declared the National Woman Advancement Policy in 1997. This was updated in 2011. The National Woman Advancement Policy identified actions against violence against women as a priority area for government intervention (National Women Development Policy, 2011).

WOMEN'S RIGHTS IN THE AREA OF PERSONAL LAWS

In Bangladesh family and marital relationship are regulated by the religious laws of respective religions. For Muslims mainly Hanafi jurisprudence is applied by the court. Except for clarifying principles of the Islamic jurisprudence state has never passed any law for ensuring equality of rights in the matter. Unfortunately the Islamic laws do not give equal rights to men and women.

Muslim Personal Laws

Marriage

According to Muslim law a Muslim marriage is a civil contract between the husband and wife made on the consent of both the parties. The first requirement of a valid Muslim marriage is that both the bridegroom and bride must signify their respective consent in the presence of three people.

The second requirement of the Muslim marriage is the *denmoher* or *dower* which is a sum of money or money equivalent that the bridegroom pays to the bride at the time of marriage or pledges to pay afterwards at the demand of the wife. The main purpose of *doewr* is to ensure economic security to the wife and to resist the despotic power of divorce given to the husband. A woman can claim dower at any time if the husband badly treat her.

The presence of two male witnesses or one male and two female witnesses is requirement of a Muslim marriage. The discrimination is blatant because two female witnesses are equivalent to one male witness and only female witnesses is not allowable at least one witness must be man.

What is in the Islamic jurisprudence is seldom honored. In reality patriarchal traditions deny the bride the scanty she theoretically possesses. For example taking advantage of the complete socio-economic dependence seclusion and immobility outside home the consent of the woman is seldom taken and the guardians decide whom she would marry. The principle of consent is thus a formality as her decision is dictated by her male relatives. For the same reason the dower is hardly asked for by the wife and is seldom given to her.

Though registration is not required under the Islamic law registration is a requirement under the Muslim marriage and divorce Registration of 1974. On the other hand as failure to register a Muslim marriage does not invalidate the marriage in many cases marriage are performed without registration or any legal record.

Islam allows polygamy for men but not for women. A man can have four wives at the same time. There is thus gross discrimination and inequality in family relationship. Muslim family laws ordinance puts some registration on polygamy of men but does not prohibit it.

Separation and Divorce

A Muslim woman who is married under the age 18 years may upon reaching the age of 18 years repudiate the marriage before attaining the age right at of 19 years provided that the marriage has not yet been consummated. In practice this right is rarely exercised. A woman loses her consummation which is likely to occur soon after the marriage. This provision has no use since marriage of girl below the age of 18 is a criminal offence under the Child marriage restraint act.

Divorce is permitted under Muslim law. A husband's right to divorce is absolute and a man may if he chooses divorce his wife capriciously without citing any cause by proclaiming three times "I divorce you" No reason has to be given. In fact the wife's presence or knowledge is not even required for such a divorce to be considered valid. On the other hand a wife's right to divorce is strictly limited to a few circumstances which she must prove before the court and only the court can allow the divorce after considering the merits of the circumstances adduced. Women cannot of own accord pronounce divorce. The dissolution of the Muslim marriage Act of 1939 specifies grounds for such as the whereabouts of the husband being unknown for four years negligence of the husband to provide maintenance for two years imprisonment of husband for at least seven years failure to perform his marital obligations for three years impotency of the husband insanity for two years or for leprosy or for venereal disease cruelty and violence husband living an immoral life or forcing wife to live an immoral life and husband marrying a

second wife in contravention of the Muslim family law ordinance.

Muslim family laws ordinance prescribes some procedure for divorce that restrains arbitrary and instantaneous divorce. Since non-observation of the procedure does not make divorce invalid the law is not very effective in restraining arbitrary divorce.

Guardianship and Custody of Children

According to Muslim law a mother may have first claim to custody of her children, but is not entitled to her children's legal guardianship. a mother is usually given custody of the child during his or her infancy or tender age in accordance with the Muslim law. Even while the children are in the mother's custody the father alone remains the legal guardian of the children and is also responsible for their maintenance. A Muslim mother's custodial rights are also strictly restricted by the fact that mother cannot enjoy guardianship rights over her marries a man unrelated to her child.

Inheritance

In Muslim law of inheritance male inheritors receive double the female inheritors for example a son receives double what a daughter receives. Women are thus discriminated in inheritance and daughters do not enjoy equal share with sons in paternal property. In rural Bangladesh it is common for women to completely for felt their rights to inheritance. Men's absolute control over property and wealth is a major basis for the expression of patriarchy. Men are able to exert power over women who have no control over resource or wealth.

Hindu Personal Laws

Marriage

In Hindu marriage is considered a religious sacrament a lifelong commitment and an eternal bond. Traditionally marriage signifies the union of man and wife into one being for performance of religious duties. According to Vedas the marriage is union of flesh with flesh and bone with bone since the wife becomes a part of her husband she is bound to obey him whatever the circumstances.

Separation and Divorce

In Bangladesh a Hindu marriage is indissoluble and divorce is not permitted. Women are sufferer of the situation because a Hindu husband may marry any number of wives if he is not happy with his wife but Hindu women cannot have more than one husband. If the husband abandons her does not maintain her or fails to perform marital functions the wife has no remedy. Under no circumstances the Hindu women have the recourse for bringing a suit of divorce. The Hindu married women's right to separate residence and maintenance Act of 1946 provides that women might claim separate residence and maintenance under the following circumstances.

- * If the husband is suffering from syphilis or leprosy;
- * If the husband behaves cruel to her;
- * If the husband deserts his wife without her consent;
- * If the husband remarries;
- * If the husband adopts different religion;
- * Or any other legal ground.

Guardianship and Custody of Children

According to Hindu law the father is the natural guardian of a minor child but in the absence of the father the mother becomes the natural guardian. a mother's custodial rights however are restricted. For example a mother loses her custodial rights when she converts to another religion. With regard to illegitimate child the mother is the natural guardian and custodian of the children.

Inheritance

A Hindu woman in Bangladesh has limited right on the property she inherited that is to say she can use the property during her lifetime only. Even she cannot transfer the property in the absence of valid and reasonable causes behind it. Beside a widow who is unchaste at the time of her husband's death cannot inherit but if the property is once vested it cannot be divested on the ground of unchastity. The conditions of chastity apply to all the female heirs.

Maintenance

According to Hindu law husband is bound to maintain his wife. Every male Hindu is under a legal obligation to maintain his wife. The maintenance of a wife by the husband is a personal obligation upon him arising from the inseparable relationship between husband and wife. A widow is entitled to maintenance from her husband's property.

PROPOSAL FROM MOHILA PARISHAD FOR UNIFIED FAMILY CODE

Bangladesh Mohila Parishad roposed a Uniform Family Code irrespective of sex, religion, race, cast and place of birth which should be applicable to all citizens in 2005. It was based on principle of equality, principle of non-discrimination and principle of state obligation. As per the article 26, 27 and 28 (1) of the constitution and the requirement of the time they proposed to change the law which is discriminatory against women. The proposal contained into five parts.

- a. Uniform Marriage and Divorce Registration Act.
- b. Uniform Maintenance Act.
- c. Uniform Guardian and Ward Act.
- d. Uniform Law of Inform of Inheritance Act.
- e. Uniform Adoption Act.

According to the proposal in Uniform Marriage and Divorce Registration Act, all citizens should be bound to register their marriage and divorce within one month from marriage and divorce irrespective of religion. In Uniform Maintenance Act they proposed three types of maintenance.

- a. maintenance by husband to his wife
- b. Maintenance by wife to her husband.
- c. And maintenance of their children.

In this proposal there should be equal responsibility of the both husband and wife to maintain each other and their kids. In uniform Guardian and Ward Act the mother and father of the child should equally treated as the guardian of the child: there gender equality get priority. In Uniform Law of Inheritance, the male and female both they should get equal proportion of the property irrespective of religion. In Uniform Adoption Act there should be scope to adopt child for all religion.

*Proposal from UNESCO & Women for Women and
Opinion of the Law Commission*

The UNESCO and Women for Women, a research and study group jointly prepared a study report in respect of "Marriage, Inheritance and Family Laws in Bangladesh-Towards a Common Family Code" and submitted to the government (UNESCO and Women for Women, 2006). Then it was sent to the Law Commission for opinion in 2006. But the commission said there cannot be any Common Family Code for all the communities in the country since the personal laws of marriage, divorce, guardianship, maintenance, inheritance etc of all the communities including the tribal communities of Bangladesh are different from each other in nature and in their manners of application. All these religious or personal laws are based on religious injunctions, faith and beliefs. So, it is impossible to bring uniformity in these differing laws by way of modification or reforms for purposes of incorporation in a Common Family Code.

CONCLUSION

Although constitution guarantees equal rights of men and women, in reality women don't enjoy equal rights with men in many areas. Women don't have equal rights with men in matters of marriage, divorce, inheritance, guardianship and citizenship. Their rights are frequently trampled by violence and discrimination in social and family life. Absence of adequate laws and negligence, inertia, attitude and orientation of the authorities and social leadership in implementing constitutional provisions are perpetuating discrimination against women. Really women's rights establishment is not an easy task. The personal law which is discriminate against women should be reformed and it can be a better solution of gender discrimination. We need to accelerate awareness programs among the common people against the violence oppression and deprivation to women. Educated community should move forward

to ensure social justice and equality. Government, private and non-government organizations should come forward for innovative solutions to the best address practices in eliminating gender discrimination and ensuring women's rights in family, society, institute and state.

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