



# A Framework of Rights for Women

by Hameeda Hossain

The efficacy of laws lies in their enforcement. This can best be tested by regular monitoring by women's rights groups, and brought to the attention of legislators and law enforcement agencies. Monitoring of registration of births, marriages and divorce, in particular, will prevent many subsequent violations of the law.

**B**ANGLADESH has made a commitment to gender-justice through its acceptance of international instruments and constitutional guarantees. But its formal commitment often conceals the persistence of discriminatory standards. This is evident from its (a) reservations to the international instrument, and (b) protective or contradictory provisions in the Constitution in matters relating to personal (family) relations, women's lives are deeply affected by personal laws based on religious/ethnic identity which are grounded in principles of inequality.

**International Instrument of Rights**  
The UN Convention for Elimination of all Forms of Discrimination against Women (the Convention) is a landmark document for women. It provides a comprehensive obligation to eliminate discrimination in all spheres of life, which is universally binding. In particular, it has made discrimination in personal relations an issue for public

debate. It has brought international standards of women's rights to bear upon domestic legislation and policy relating to gender equality," says the Alternative Report on Implementation of United Nations Convention for Elimination of all Forms of Discrimination against Women in Bangladesh, Dhaka, 1992.

But the application of the convention has been restricted by the GOB's reservations to articles 2, 13 (a) and 16 (1) c & f on grounds "of their conflict with Sharia law based on the Holy Quran and Sunna," which has practically nullified the earlier ratification, since reservation to article 2 would appear to be incompatible with the objects

and purposes of the Convention.

Reservations to UNCEDAW	
Article 2	Policy measures to be undertaken to eliminate discrimination
Article 13 (a)	To provide equal access to family benefits, loans and credit
Article 16.1 (c) & (f)	Equality during marriage and its dissolution, equal rights to guardianship and adoption of children

GOB's specific reservations to UNCEDAW on grounds of their conflict with the Sharia constitutes an insuperable obstacle to implementing these provisions. It is unclear why 13 (a), relating to family benefits, should be considered to be violative of Sharia; since GOB has earlier effected significant reforms through both its judicial and legislative organs to indicate that it does not consider the Sharia as immutable there is little justification for not ratifying Art. 16.1. Women have argued that the Convention needs to be ratified in full. Moreover, all laws are made for the greater interest of the people, and the withdrawal of reservations to art 2, 13(a) and 16.1 (c) & (f) would be in the interest of the principle of equality, and of 50% of the population.

Policy measures specified in the Convention for equal access to employment, education,



Women activists brought out procession demanding the enforcement of laws

health, protect human rights as well as for elimination of sex stereotyping etc have yet to be enforced and a system devised for effective monitoring.

### Rights Under the Constitution

In the Constitution equality standards enunciated under articles 19, 27 and 28 have laid

down principles of non-discrimination.

Notwithstanding the equity principles (shown in the Box) article 29.3 appears to perpetuate discrimination through gender segregated division of labour. A specific directive for political participation through selection of members for a number of seats by members of

the parliament would appear to detract from the popular participation of women. Citizenship rights are derived through patrilineal and marital relationships. Absence of a mother's right to confer confirms her subordination.

### Personal Laws

Personal laws on questions of marriage, divorce, inheritance and custody are clearly discriminatory. The recourse to religious laws not only maintains differences between communities, but it legitimises gender inequalities. Several religious codes of law practised in Bangladesh have granted men superior rights in marriage, polygamy, divorce and inheritance. Although some legal reforms and punitive laws have attempted to redress the situation, customary practice has failed to ensure conformity with the given standards. Violations by men have resulted in a rise in desertion and acts of violence. In these circumstances the burden of family survival in an insecure environment has fallen mainly upon women.

Weak enforcement mechanisms have led to violations and a tendency to pass legal procedures. Thus the condition of registration is often neglected due to costs or ignorance. The importance attached to marriage as a social necessity neglects the rights issue.

### Monitoring Indicators

The efficacy of laws lies in their enforcement. This can best be tested by regular monitoring by women's rights groups, and

brought to the attention of legislators and law enforcement agencies. Monitoring of registration of births, marriages and divorce, in particular, will prevent many subsequent violations of the law.

### Women's Concerns

- To withdraw GOB's reservations to the UN Convention on the Elimination of All Kinds of Discrimination against Women.
- To extend constitutional guarantees of equality to women's personal lives, a Uniform Personal Code should

### Legislation Determining Personal Rights for Muslim Women

Marital Rights MFLO 1961	Polygamy (MFLO-1961) restricted by the requirement of permission from the first wife, unilateral right to divorce delegated to wife through talaq law.
Inheritance Shariah	Unequal shares from parental property. Unequal shares in husband/wife's property. Unilateral right available to a man, effective after 90
Divorce & maintenance FCO 1985	days. Contract of talaq law at the time of marriage delegates this right to a woman. Without this she needs to litigate in the Family Courts for divorce and maintenance, which entails a very lengthy procedure.
Age of Consent & Registration	The age of consent has been officially determined at 18 years for a woman and 21 years for a man. All marriages are to be registered with a Kazi.
Dowry Prohibition Act 1980	Enforcement is difficult because of social and economic compulsions. Legal remedies are not sought because of the culpability of both parties, and the continued validity of the marriage.
Violence, Cruelty to Women (Deterrent Punishment) Act 1983	An enhancement of punishment for certain offences such as causing dowry.

### Equality and Affirmative Provisions in the Constitution

Article 10	Steps shall be taken to ensure participation of women in all spheres of national life.
Article 19	The state shall endeavour to ensure equal opportunity to all its citizens.
Article 27	All citizens are equal before the law, and are entitled to equal protection by the law.
Article 28.1	The state shall not discriminate against any citizen on grounds only of sex.
Article 28.2	Women will have equal rights with men in all spheres of state and public life.
Article 28.4	The State may make special provisions in favour of women or children or for the advancement of any backward section of citizens.
Article 29.2	No citizen shall on grounds only of sex be ineligible for, or discriminated against in respect of any employment or office in the service of the Republic.
Article 29.3	The State may reserve certain employment or office on the grounds that it is in its nature unsuited to the members of the opposite sex.

## Lifting the Purdah of Politics

**O**N the face of it, installation of Benazir Bhutto as Pakistan's prime minister for the second time would have been proof enough that women's rights are respected and intact in this Islamic nation.

But human rights and women's groups say Bhutto paid scant attention to reforming laws that discriminate against women during her first term in office from 1988-90. Faced with opposition from Pakistan's male-dominated political and religious structure, she may not fare much better this time round.

Still, Bhutto's Pakistan Peoples Party (PPP) did go into the October polls promising to scrap discriminatory laws, open special courts for women, set up a female police force and have a quota for women in the civil service.

Women's groups say the stunning defeat of Islamic parties in the Oct. 6 national assembly polls may make it easier for Bhutto to push her gender reforms if she indeed forms the government.

The PPP won the national assembly elections by a razor-thin margin, and is better placed to form a central government than her rival, Nawaz Sharif of the Pakistan Muslim League (PML). But Sharif could still make things hard for her if he gets to form a government in Punjab, Pakistan's most influential province.

Indeed, the women took centre stage even in the state-controlled media where activists debated practices that deprived women of voting rights and discriminatory hudood laws.

Women panelists on TV talk shows lashed out at interpretations of hudood that equated

### Will Benazir Bhutto's ascension as Pakistan's premier for the second time make a difference for the country's women? asks Kunda Dixit of Inter Press Service.

rape with fornication and punished women instead of rapists. Hudood laws require a woman to produce four pious Muslim witnesses to get a rapist convicted.

Pakistan's Women Action Forum estimates that 80 per cent of the women in the country's jails are charged under hudood ordinances.

But, says Khalid Ahmed, editor of the Frontier Post newspaper here: "The PPP has a good line on women, but the narrow margin of victory will make a Bhutto coalition government

very fragile and she may once more go on the defensive when political opponents blame her for being soft on Islam."

During her last term in office, Bhutto failed to abolish the hudood laws.

This time around, Bhutto has said she will revive the system started by her father, former Prime Minister Zulfikar Ali Bhutto, of settling aside for women 20 seats in the 217-member national assembly.

The activist group Aurat Foundation is also pushing for 33 per cent women's represen-

tation in local bodies and they want political parties to have women's wings. In the recent national assembly elections, only 13 of the 1,500 candidates were women. Two of them were the Bhutto ladies Benazir and her mother, Nusrat.

"Women's concerns are marginalised in Pakistan... their role status and image is understated," said the heads of UN agencies based in Pakistan in an open letter on the eve of the polls. "Women have been invisible to planners who recognise their reproductive role but disregard the contribution of the female labour force."

"Pakistan's most urgent development priority is to educate women and girls," the letter added.

Women's activists like Yameema Miha say the place to start is with legal reforms. "Pakistan is one of those countries which still legally discriminate against certain of its citizens if they happen to be women... hudood charges are a terror for women."

After seeing the PPP cashing in on the women's vote during the October elections, even religious parties like the Islami Jamhoori Mahaz started wooing the women's ballot, arguing that women had been deprived of their Islamic rights to inheritance.

But socio-cultural taboos for keeping women at home are so strong that less than 10 per cent of the female electorate voted in conservative areas like the North West Frontier Province.

For those like burly bus driver Syed Khan in the Afghanistan border region of Kohat, the choice was clear: "I did not vote for Benazir because she is a woman."



## When Your Child Leaves Home

by Shaheen Anam

**S**UDDENLY you see a young lady walk out. "Ma, I will be late, the principal has invited us for dinner." She is in a sari and high heels. Your heart leaps, can this be your baby? Just the other day she was clinging to you, refusing to enter her class on the first day of school. When did all this happen, how did time fly so quickly?

But that was sometime ago. Now she is hundreds of miles away, discovering, exploring and learning. She has left a big void in our hearts and our home. Will she be safe? Will she be able to look after herself? And most importantly will she return after her studies are over?

These are the anguished questions of a mother who is still trying to adjust to the fact that her baby has finally grown-up and has left home. She is tormented by doubts, by fears and wonders if this has really been for the best interest of her child. People constantly ask, "Why did you send her, couldn't she have studied here? Mother just nods her head and says "I did what I thought was best for her" but deep down inside, she is not sure at all. Only time will tell, meanwhile mother just waits and prays.

How empty the house seems just by the absence of one person. Somehow conversations at dinner table does not sparkle anymore. The little one keeps on asking why we have sent Apu for '100 days' which is the ultimate time for her. She does not understand why all of us are together and poor Apu is away. The food on the table looks uninteresting. There is no one to complain when the same kind of chicken is served every day or when there is too much oil or spice in the curry. There

are no loads of clothes to be washed or ironed. Her room looks tidy, stark and lifeless. How many times she has been reprimanded for not cleaning up. The telephone looks desolate. Memories of our frustra-

tions over not being able to use it even on emergencies is still so fresh.

Children come to our lives as special blessings. They come and give us joy, happiness and sometimes pain. However much



Morning shows the day — potentialities lie dormant in the child — Sketch by: Quamrul Hassan

we might complain about them, we as parents would not have it any other way. Before you know it, they are grown up and ready to leave. That is in the order of things and the way it should be. The first step the child takes is her/his first declaration of independence. It is the beginning of a long process which ultimately culminates in leaving home of the child either to study, to seek a career or to make their own homes elsewhere. This is what every parent want for their children. To equip them for an independent life.

So then why is it so hard to let go? What is this feeling of desolation for? A sense of loss, a pining for times that has gone forever. Why is there a yearning to go back in time when all the children were small and in our arms. The realisation that even if our children return, it will never be the same is very painful. Yet, we have to accept this reality. This is the way life is, youth over age, change over stagnation and in a way life over death.

The best way to deal with the absence of a child is to think positive. To rejoice in the fact that you have been able to give an opportunity to your children that you yourself never had. That you have done the best you could, in every way possible. You can also relive your life through your children. See the world through their eyes. Be a part of the exciting world they have entered. Learn as they learn, explore and discover the wonderful world of knowledge they have entered. Most importantly, always be there for them when they need you. Even from across the continent children need to know that they are loved. In the respect, perhaps, nothing has changed.

**M**OST development specialists maintain that "silent revolution of the silent majority" has begun in the villages of Bangladesh.

This revolution has been defined as the empowering of the grassroots beneficiaries, especially of the women communities. The quality of life is slowly but dramatically changing for a large number of the rural poor. Yet a lot more needs to be done to change the face of the rural Bangladesh which bears the stamp of economic deprivation.

Development options have yielded important principles of "Seven Deadly Sins". The determining parameters of real-development are: (1) Development without infrastructure, (2) Development without participation, (3) Development without women, (4) Development without environment, (5) Development without the poor, (6) Development without the doable, and (7) Development

without mobilization, according to The State of the World's Children 1989, UNICEF.

Have the development agencies accepted the concept of real development? There is a big question regarding this. Most of the aid agencies support these parameters to change the quality of life of the poor in the Third World, but many do not. Most of the bilateral aid to government does not involve people (beneficiaries) to develop projects and the poor people's wisdom is ignored. Not to speak of the women, they are always forgotten.

### Invisible women

Hunger and poverty are more women issues. Women experience hunger and poverty in much more intense ways

than do men. Women have to stay at 'home' and manage the family with virtually nothing to manage with. When there is nothing to eat, husbands prefer to stay away from home to avoid crisis. A mother cannot avoid facing it. She frantically looks for ways to feed the children. It is she who has to invent the last survival manoeuvre, says Dr Mohammed Yunus of Grameen Bank.

The rural women are presently outside public policy debate on development agenda. Bangladesh women, categorized as "invisible population", are deliberately kept out of broad public participation in decision-making process for achieving sustainable future.

Women's contribution in so-

ciety is not reflected in Bangladesh government's statistical year book. GDP figures



Women brought out rallies protesting the FAP

do not speak of women's contribution in agriculture production, domestic chores, mother-

ing and family welfare. It is the women who have to bear the major brunt of environmental damages and poverty. Therefore, the fate of women in environmental degradation and poverty remains another untold story of miseries.

A Bangladeshi woman's life to a large extent is shaped by her dependence on three pillars of support: her father, her husband, her son. Although these traditional forces and means of support are very much in existence, over the past twenty years their influence has been eroded by the forces of modern life.

In spite of the overall unfavourable picture of the position of women in Bangladesh, there have been certain break-

throughs, observes Rana Haider. Early marriage of girls has declined and fertility rate has significantly come down.

Also, contraceptive prevalence rate, vaccination against tetanus, girl child education, female labour force are increasing at a faster rate.

Women in a predominantly Muslim society have come out of their veil. Presently, more rural women have access to rural credit. Some 3 million women have taken loans from Grameen Bank, Swanirvar, BRAC, Palli Karma Shahayak Foundation and other PVDOS.

The perspective of society for the womenfolk is different from that of men. She can closely observe society as she has to

gather fuel for cooking, collect potable water and vegetables from the backyard, look after poultry and cattle, preserve seeds, raise children and of course keep her family going. In return, she gets neglect from society.

Media communications have discovered that women — and not men are receptive to development messages. Whether it is child immunization or vaccines for pregnant women, use of safe water or protection from diarrheal diseases, health, hygiene or child education, wage discrimination or social taboos, it is the women who react positively.

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