

Law and Our Rights

"All citizens are equal before law and are entitled to equal protection of law"-Article 27 of the Constitution of the People's Republic of Bangladesh

Women Members of Parliament

Towards Alternative Modes of Election

By Md Abdul Halim

ACCORDING to the existing provisions of the Constitution of Bangladesh women members may be of two types — general women members and special women members. Those who according to Article 65(2) of the constitution are elected from single territorial constituencies by direct election are called general women members of parliament. And those who according to Article 65(3) of the constitution are elected indirectly in reserved seats for women by the directly elected members of parliament may be called as special women members of parliament.

Mode of Election in Reserved Seats

Article 65(3) of the constitution provides that in thirty reserved seats women members shall be elected according to law by the 300 members who are directly elected under Article 65(2). So direct election in 300 constituencies is held first and thereby 300 general members are elected. Then anytime before the sitting of the first session of the parliament these 300 general members elect by secret ballot 30 women members. After these 30 women members in reserved seats are elected the parliament is constituted by 330 members in total.

Status of Women Member elected in the Reserved Seats

Though the 30 women members in the reserved seats not elected directly by the people, they enjoy the same status, from legal point of view, as directly elected MPs do. They enjoy the same opportunities and privileges and have the same rights and standing in all kinds of functions in the parliament as general MPs in the House do and have. But from the view point of representation they have weaker status than that of directly elected members. Because these 30 women do not really represent any one except the party which has selected them. Though they have national geographical constituency they have no link with it, for the people of that constituency do not elect them and, therefore, they constituents they represent are fictitious only. They also cannot be said to represent women in general, as the women of the country have no role in their election. Again, since these women members of parliament have not gone through a competitive election process, they are taken less seriously by their directly elected colleagues who actually consider them as a mere vote bank.

Justification of Women Members' Reserved Seats

The constitution of the country recognises that all citizens are equal before law and undertakes to give them equal opportunities. It is also accepted that in reality all sections of society are not equal and, therefore, the need for special provisions for any disadvantaged sections of the society is also recognised. In question of reserved seats for women members in parliament it is argued that compare men women

voters (MPs) the candidate would be declared automatically elected.

Third, these 30 women members act as puppets for the ruling party to gear its expectation in legislative business. Because in making laws, approving ordinances or in defending a no-confidence motion the ruling party uses them as mere tool. They can never raise even a minimum voice against the decision of the ruling party, for they do not represent truly any locality; neither they represent women of Bangladesh; they are to remain under the grip of the ruling party. It is due to this dependency relationship and low profile that the female MPs in reserved seats so far have been

logistically this would not be a major problem if different coloured ballot papers are used.

One argument against this method would be that the constituencies would become too large and would be difficult for women candidates to mount an effective campaign. The other argument would be that in practice, only major party candidates could contest. The answer to these arguments are that in any case 88 per cent of the voters in 1991 and 100% in 1996 election respectively voted for the four major parties. General elections are based on party lines and modern democracies are based on the party system. If we take this premise as a base, then women party candidates

would lack geographical representation.

A second method of proportional representation would be to allot seats to parties in relation to their strengths in the parliament. Here also the members elected would not reflect the purpose for which the constitutional provision has been provided.

Alternative Three: Election by MPs of the General Seats

The election law provides for 30 women constituencies with geographical areas. The law also says that a candidate would have to be nominated for a particular women's seat and election would be seat-wise. Every women reserved seat, therefore, comprises more than

candidates. Gono Forum nominated the highest 7, the AL 4, BNP 3, JP 3, smaller parties 15 and independents 4. All these female candidates contested from 44 constituencies. Like the 1991 election, the fundamentalist JI did not put up any female candidate. In 1996 election 5 women candidates came out successful from 11 constituencies. These female contestants who defeated their male rivals was from the AL, BNP and JP. Later in the by-election held in September 1996, another 2 women candidates came out successful from general seats. It may be mentioned that there has been a gradual increase in the number of directly elected women MPs in national elections. In 1986 the figure had been 2, in 1988, 4, in 1995, 5, and in 1996 it became 7.

It is for the method of election that these 30 women members are being used as a ready tool or a 'vote bank' at the hand of the majority party rather than true representation. Because they are elected by the general members of parliament. In practice therefore, it means that the winner takes all i.e. the party that can muster 151 votes can bag these 30 additional seats. The majority party nominates 30 women candidates and since election is forgone conclusion, other parties do not bother with nominating anybody. A democratic people's Assembly should discourage an influx of members through this process of 'backdoor styles'. The practice is being viewed by conscious people with contempt calling it 'backdoor democracy'. This provision for reserve seats for women in our constitution is being misused as a 'vote bank' or a 'balance of power' in the following ways creating a bad impact over the constitutionalism in Bangladesh:

First, a party gaining simple majority in a general election can use these 30 seats as a total to achieve its absolute majority. For instance, the result of the 1991 election i.e. the 5th Parliament Election gave the BNP 140 seats, AL and allies 100, the JP 35, the JI 18 and others 7. This did not give any party and absolute majority (151). So it was not possible for the BNP to form government without power-sharing with another party. However, the BNP got support from the JI and according to the understanding between them the BNP took 28 women seats and the JI 2. Bagging these 28 seats the BNP then acquired its absolute majority. So had there been no reserved women seats or had it not been a 'vote bank' system, the BNP would have to have some power-sharing agreement with other parties if it were to form a government.

Second, sometimes even in bringing a constitutional amendment these 30 women can play a crucial role. For instance, it was possible for Ershad to pass the 7th Amendment to the constitution mustering a two-third majority only because he could bag these 30 women member as his ready weapon. Ershad was so paranoid about winning the 30 women seats that he did not even trust his own party member in voting for the party women candidates. He promulgated a special Ordinance (Ordinance No XL VII of 1986) which said that if the returning officer receives a nomination paper proposed and seconded by more than half of eligible

would be supported by the party organisation and the party candidates in the general seats. Whereas a candidate in a general seat would campaign at union and village levels, these women candidates would campaign at thana levels with projection meetings at major centre. The advantage of this method would be that:

i) all major parties would nominate candidates to the 30 seats and therefore more women would be in electoral process;

ii) this would ensure better selection of candidates;

iii) they would be exposed to an effective electoral campaign;

iv) general voters would see women on the campaign hustings and would be more amicable to future women candidates in general seats;

v) the distribution of seats to political parties would reflect more accurately the popular mandate;

vi) gradually, more women could enter the general electoral process so that this particular constitutional provision would succeed in its objectives.

Alternative Two: Proportional Representation

A second alternative to electing members to the reserved women seats could be through proportional representation. There can be two ways of doing this. One could be based on the total popular votes obtained by political parties in national elections. Each party would nominate 30 women candidates, and this lists would be published in order of priority. Seats would then be appropriated to the parties based on the votes obtained by them. The advantage of this method is that, as the political parties would have to list their candidates, a larger number of women would be exposed to the political field. The selection process would be prior to the election, and not awarded later. However, since the lists would be on a national basis there would not be any particular women's constituency, and therefore it

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Alternative One: Direct Election

Among the various ways of electing representatives, direct elections are considered the most democratic. If we were to follow a system of one person two ballots, women candidates could be directly elected by the people to the women seats. Each political party would nominate candidates to the women seats as it does in general seats. Each voter would have to fill up two ballot papers; one for the candidates to the general seats, and other for the women seat. He or she would cast one ballot for the general seat and one for the women seat resulting in 330 directly elected Members of Parliament. Administratively or

logistically this would not be a major problem if different coloured ballot papers are used.

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