



HUMAN RIGHTS monitor



DIPLOMATIC IMMUNITY

International law hurts women's rights!

CHAUMTOLI HUQ

URED by labour recruiters with promises of better employment and increased educational opportunities for her children, Shamela Begum left her native country Bangladesh to work as a domestic worker in Bahrain. Within a few days of her



arrival in Bahrain, Shamela found herself travelling to New York City to work for her employer's relative -- a Bahraini diplomat to the United Nations. In New York, her new employers confiscated her passport and travel documents. She was isolated from the public and prevented from leaving the apartment where she worked except on three occasions when she accompanied the wife of the diplomat. She was forced to work for \$100 a month. She suffered

humiliating treatment such as sitting on the floor rather than the sofa and ate left over food.

She endured physical and verbal abuse from the wife of the diplomat who instilled fear in her about America. After nine months, no longer able to endure the abuse, she escaped with the help of an intricate yet informal

the diplomat and urged the federal court to dismiss Shamela's lawsuit on grounds that the diplomat could not be sued for any action in domestic courts.

The United States Department estimates that thousands of migrant domestic workers are brought from developing countries to work in the households of diplomats in United States and in host countries all over the world. Many Bangladeshi women who work as domestic workers find themselves in similar situations to that of Shamela. Tales of slave-like conditions experienced by migrant domestic workers regularly occur on the geographic territory of the United States and other host countries.

Despite international and national laws prohibiting slavery or slave-like conditions, domestic workers of diplomats find themselves facing a legal obstacle in the form of diplomatic immunity. Diplomatic immunity, once a courtesy afforded to nations to facilitate international relations, has since been codified in the Vienna Convention on Diplomatic Relations. Diplomatic immunity is considered to be the oldest branch of international law and is generally defined as the freedom from local jurisdiction accorded to duly accredited diplomatic agents and members of their households. But contrary to some legal scholars who view diplomatic immunity as a static and fixed principle ignore modifications of the immunity from "the king can do no wrong" to its current incarnations in the Vienna Convention of Diplomatic Relations where the diplomat while enjoying full immunity could be subject to legal process under specific conditions.

The worker could sue the diplomat in her home country if her employer shares the same nationality but she is often scared, alone and isolated and in the host country when she experiences the abuse going back to her home country is not feasible. Also, because the diplomat may hold a politically powerful position in her home country, it is impractical to conceive that she could launch such a legal battle against the diplomat. And in Shamela case, where her diplomat employers hailed from another country, it was impossible for her to fight any legal challenge in the diplomat's home country.

In 2007, it is a shame that migrant domestic workers must endure the abuse of their diplomatic employers in the name of international relations. There has been much publicity on this issue, and I have sadly had to assist migrant domestic workers like Shamela only to see the court house door close because of the enormous privilege given to select group of employers under international law but whose conduct clearly violate established norms of human rights. As we celebrate International Women's Day, we should rejoice in the advancements made by women. We should also be ashamed also at the injustice that female migrant domestic workers bear daily in the name of preserving international relations.

The author is a lawyer and the Coordinator for Human Rights Defender Network.

network of supporters comprising a fruit vendor, ethnic media, community-based organisation and lawyer. With the moral and political support of a community organisation Shamela brought a lawsuit against the diplomat and his wife challenging the abusive working conditions. She found herself challenging not only the Government of Bahrain and its diplomatic envoy but the United States government who intervened in the lawsuit on the side of the diplomat. She was forced to work for \$100 a month. She suffered

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HUMAN RIGHTS analysis

International day for women's rights and international peace

BARRISTER HARUN UR RASHID

MARCH 8 is the observance of International Day for women's rights and International Peace. The two concepts - women's rights and peace - have been interlinked because promotion of women's rights promotes peace. In other words, peace prevails in society when women's rights are established and protected as those with men.

This definition is very comprehensive and covers all women's rights as those for men. States-parties are obliged to adopt legislative and administrative measures for rights of women on an equal basis with men.

The UN Commission of Status of Women held Women's Rights Conference in 1995 in Beijing and in New York in 2000. The two conferences have focused promotion of women's rights and mechanisms for promotion and protection in this field.

Factors against women's rights

The UN Decade for Women (1976-85) served to internationalise women's concern and contributed to making the women's movement a transnational pressure group. Some critics to the observance of the Decade had argued that it had limited practical consequences.

Some say this is because poverty among women in developing countries impedes the promotion of human rights for them. Elimination of poverty is the mother of human rights and until and unless poverty is eliminated, poor women will not be able to secure their rights.

Another reason is the lack of education among women. Unless women are educated, they will not know their rights. According education for women and girls will automatically generate an environment in which women cannot be denied their basic rights.

In traditional economies, women's role was not recognized in the field of economic development. Traditional economists did not construe women as belonging in the



economic sphere except as exceptions. Moreover rational economic man is pre-eminently masculine.

In 1970 Esther Boserup's work titled, 'Women's role in Economic Development' (1989) is undoubtedly seminal in this respect. She argued that the recruitment of women into the modern sector accelerated economic development. She also argued that industrialization

affects women differently in different societies and technology and cash crops often benefited men while increasing women's burden.

Although nationally various approaches towards women's rights are promoted, modernization, such

according to some writers, has tended to consolidate patriarchy and expand its control, because women have inadequate access to resources and receive low wages.

Another important issue is who decides when to have children. It is men who control it. As far as rural women are concerned, increased productivity without relief from reproductive tasks increases women's burden.

Although women have played an important role in national liberation struggle, they did not benefit collectively from their active participation. In the developing countries, women have achieved legal equality, such

as the right to vote, education and property but the basic problem of women's subordination remains.

Where nationalism is combined with Islamic fundamentalism, women are literally made invisible in public life and male dominance is increased over women's life and conduct.

Women's rights and peace

If women are allowed to have a say in public life as integral part of human rights, it is argued that international peace shall prevail. Many female writers argue that women are, by nature and nurture, pacific. Women's natural alienation from war arises from the contradiction between mothering and war. Nonviolence, is a natural extension of maternal practice, and represents the powerful image of the "Moral Mother", symbol of compassionate vision of women as innately pacifist. Some argue that there is a logical connection between maternity and pacifism in the liberal principle of the inalienable right to life and liberty underlying both.

The implicit corollary of innately peaceable women is that men are inherently warmongering. There is also a connection between male aggressiveness and war and patriarchy and militarism. Some however argue that women have frequently encouraged their husbands and sons to go to war and are cautious about simplistic gender equations.

Bangladesh and women's rights

The most important reason why women's rights have been neglected is the prevalent belief that women have no role to play in public life, dominated by men. Women are destined to raise children and manage housekeeping. That is why most of the women designate themselves as "housewife" as their profession.

Although the 1972 Constitution provides equality of men and women, traditional social practices and orthodox religious precepts have discriminated between men and women in society.

For examples, marriage without the consent of girls occurs regularly in the countryside. Most young girls are married off to men because families cannot either protect them or maintain them because of weak implementation of law and poverty.

Violence on girls is a constant fear among parents, when they go out.

In the matter of seeking divorce, women face numerous difficulties and have to present very strong reasons for it. The rule 18 of Nikahnama allows men to divorce the wife any time and even without assigning any reason. Rule 5 of the Nikahnama provides women to say whether she is unmarried, or widow or divorced while men are exempt to say anything about their marital status.

It is heartening to note that Women Human Groups and NGOs in Bangladesh have been vigorously campaigning for promotion, protection and preservation of human rights for women. They have carried out awareness campaign among women about their rights under the laws of the country, especially in the field of age of marriage and their consent to marriage, inheritance, property, divorce and custody of children and children's maintenance.

Side by side the government's programme since 1993 to spread education to girls has been a good effort in making aware of their rights in society.

Concluding remark

In Bangladesh on this day, there needs to be a pledge that women are not to be discriminated in society. The state institutions and mechanisms established to implement laws are to be strengthened. Few areas of national and international life remain untouched by the influence of human rights and a society is known by what kind of rights women enjoy in the country. Enjoyment of human rights and equality with men is a mirror of nation's morality, civility and respect for women.

The author is former Bangladesh Ambassador to the UN, Geneva.

FACTfile



How violence against women can be stopped?

Rape in Mauritania, domestic violence in Mexico and Romania, child marriage in Bangladesh, and female genital mutilation/cutting in Kenya are just a few of the abuses visited on women and girls explored in a new United Nations Population Fund report released today in New York.

Unlike other publications that simply chronicle the extent of the problem, Programming to Address Violence Against Women offers 10 case studies that show how carefully targeted and planned interventions can actually reduce gender-based violence.

"What is unusual about this manual is that we have actually demonstrated how entire communities can change their attitudes to violence against women as a result of a few, specifically targeted interventions," says Thoraya Ahmed Obaid, Executive Director of UNFPA, the United Nations Population Fund.

"In many of these cases, the extent of violence against women was so prevalent and so entrenched that it first seemed impossible to budge the prevailing mindset," she says. "What we learned is that persistent advocacy targeting community leaders and the larger public can bring about huge changes in a relatively short time."

"Gender-based violence is not a given in any society," adds Ms. Obaid. "Not even the most traditional ones. We have definitely proven that with these case histories." The lessons from the 10 case studies are distilled in a companion booklet, Ending Violence Against Women: Programming for Prevention, Protection and Care. And, a dynamic new online multimedia exhibit integrates the text from both booklets with videos from each of the ten countries, and links all this material to related UNFPA resources.

As well as working with national and community leaders including religious authorities, doctors and politicians, UNFPA and its partners assist victims to seek legal redress and, if young, return to school. Because victims of violence face so much stigma, UNFPA and partners also help affected women and girls learn new skills so that they can enjoy economic independence. The organization also backs advocacy efforts to reduce stigma and raise awareness of the prevalence, causes and consequences of gender-based violence.

"Communities can and will change, but the dire consequences associated with gender-based violence constitute a human emergency that requires global and local action," says Ms. Obaid. "We need to treat it as such."

Source: UNFPA

