

LAW ANALYSIS 

An evaluation of laws for protection of women

WOMEN have been struggling to attain a secure position in the society in all respect since last century yet not been satisfied with their achievement. Even though in both our religious and social perspective women are entitled to advantageous position in the society and protection from adversities, presently the women in the society are insecure and prone to adversities. The feminist movement had to be initiated due to moral degeneration of the society which is still continuing. Women are being harassed very day, everywhere. In a recent survey it has been seen that from 01 January 2005 to 28 February 2011, 1257 women were killed, 348 were ill-treated and 243 committed suicide due to dowry related violence; 526

Division of the supreme court of Bangladesh has articulated a direction recapitulate the new sorts of violence called 'sexual harassment' even though we are failing to provide security to the women in it all the laws show their futility in fact. The measures are showing their inefficacy due to their inadequate and inappropriate nature. The measures are not adequate to control the violence against women as those do not have any measure to eradicate the cause of violence. The measures are only putting embargo on the violent acts no law of the land is in operation to prevent the cause of violence. No lawmakers have ever described the way to prevent the violence; they are only making laws to punish the actors of the punishable acts. We have social security scheme, legal right to earn, to accumulate and hold property - on the

unintentionally allure the men to go with their instinct, which is the source of vice of violence. In order to check this violence we need measure which puts a balance burden both on the source of attraction and attracted person; any one-sided measure to check the violence is bound to fail in this society as, in that case other side will be still working to produce violence. Social protection is a fundamental right of every citizen ensured by the constitution of the country; but in our process of giving protection at enhanced level to the women we unintentionally depriving the other part of the society and imposing unreasonable and unlawful burden on them.

Unreasonable treatment cannot give birth to any reasonable end it will only enhance misconception, misunderstanding, unfair competition, and disrespect between two parts of same element i.e the society. Every time any unreasonable burden will be imposed on any one it is certain that they will react in an undesired manner and that is happening in our society. If we analyze our laws against gender discrimination we will see how the over sensitivity to the women related issue makes some legal provisions unreasonable and burdensome to men.

Last year a remarkable progress in women's protection has taken place; it was a guideline from the Hon'ble High Court Division against sexual harassment. The Hon'ble High Court Division directed all the educational and professional institutions to follow the guideline. In a nutshell the guideline states that the women shall be treated with extra treatment for not to being harassed by other sex; they shall not feel personally disturbed in any way they can't even be unwantedly appreciated; the problem is how men can judge a particular incident - when the appreciation would be unwanted and when that is not? In this general guideline we forgot to put any reasonable burden on the women. If the women of the society need to be protected from this kind of harassment they have to assume some responsibility not to create any situation where the men can reasonably be attracted by their act or appearance. In other way they can raise a voice against this society where they are being treated as a product and forced to be harassed in this way.

Nari Nirzaton O Daman Ain 2000 is a very effective legislation to protect the women from household assault. In order to make it a harsh law against

household assault we put an unreasonable provision in it, i.e the provision of non-bailable arrest at the time of investigation. This unreasonable provision makes it a tool for men oppression. The very law is putting the tool in the hand of ill intent person to use it for their benefit.

If we are not gender biased (biased to protect the women only) we should enact every law which balances the rights and the burden. We can't only put the entire burden on the men and let the women enjoy an absolute right to be protected without putting any duty to take reasonable care not to attract the opposite sex.

Men and women are the counterpart for each other and shall not be treated as separate group; we shall not put them in any confrontation. If any dissatisfaction arises we shall remit that with required care and attention to both the side. Men (human being) are error if we want to make laws to control those errors we should analyze the nature of Men first and then enact law which will corresponds to that nature. At the time of making law we shall not deny the basic nature of the subject (men or women) and put unreasonable burden to control it one can not deny its basic nature.

Women lost their honour through moral degeneration of the society, is it possible to regain that honour by enacting laws? Is it possible to achieve honour by enforcement of law? No Not at all. The society has to learn again that the women should be honoured; they shall not be treated as commodity for decoration (here society means both men and women).

Women shall be treated as women at the time of taking any measure - they shall not be treated as equivalent or similar creature to men. There are basis natural difference between men and women. Women are vulnerable, shy, succumbed to the mental and physical pressure, inciting and caring, and rearer of the family and above all beholder of this civilization the consideration to these basic natures shall be reflected in the measures related to the gender issues. Similarly men's basic nature shall be considered as it is they shall not be treated as devil or saint. If we fail to do this justice to the basic nature we never can bring any effective gender solution. Unreasonable or one-eyed law only widens the gap between men and women, and produce disrespect for each other which initiate the destruction of social equilibrium.

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WOMEN RIGHTS SPECIAL Women's rights: Law and reality

JENNIFER ASHRAF KASHMI

ONCE again it is that time of the year which has come around, the time when women's rights are focused on as the International Women's Day is celebrated worldwide. In Bangladesh the spotlight remains on the glaring distinction of what women are legally entitled to and what, in reality, they are truly subjected to.

The 1972 Constitution of Bangladesh safeguards women's rights broadly in terms of equality and participation. Articles 10, 19(1), 27, 28(1) and 28(2) all cumulatively state that women participation in all fields of national life should be present and that everyone should receive equal opportunity irrespective of religion, race, caste, sex or place of birth. Therefore, men and women will both be treated equally and no discrimination shall exist. However, the reality is miles from what the situation should ideally be. In Bangladesh, although laws exist to protect women's rights, the mass society as a whole is generally ignorant and unaccepting of the basic women's rights.

One prime example of this is displayed through the National Women's Development Policy which, although first passed in 1997, has still not been implemented till 2012 it has been 15 years since. The Policy concentrates and focuses mainly on protecting women from harassment and deprivation. However, the fact remains that in spite of numerous rumors of implementation, nothing concrete has materialized yet. On 8th March 2008, when the Women's Developments Policy was unveiled after much deliberation, an all-engulfing chaotic situation descended on the streets of Dhaka and a lot of Islamic activists strongly opposed the Policy. The Government relented and allowed for an ulema committee to be formed, which then focused on drastically amending and deleting sections of the Policy. "A woman cannot enjoy rights equal to a man's because a woman is not equal to a man by birth. Can there be two prime ministers one male and one female in a country at the same time?" Mufti Mohammad Nuruddin, acting



khatib of Baitul Mukarram National Mosque who headed the review committee, quoted to Daily Star on 18th April 2008.

This comment of Nuruddin was countered by Suraiya Ashraf Sisily on 17 June 2011, Morning Tea Magazine, The Daily Sun. As per Sisily, "What's interesting about this point is that it's virtually impossible for two Prime Ministers to exist in a country at the same time and the situation will remain unchanged no matter which of the following scenarios apply if both the Prime Ministers are male, if both the Prime Ministers are female or, as Nuruddin so delicately phrases it, if both Prime Ministers are "one male and one female". It seems that mistaken emphasis was given here to the wrong question the question isn't whether one country can have two Prime Ministers or not, the question should have been whether both a male candidate and a female candidate are given the equal opportunity to enable them to be elected as a Prime Minister."

Yet, all is not lost and progress in this sector has been slowly but surely creeping up on us. Wife abuse, dowries for marriage, and bigamy have decreased considerably, even though it is still a long way from being obliterated completely. Previously, village elders known as Mullahs used Salish courts in villages for relentless and unfair persecution of women over insignificant issues. Although these Salish courts have no valid legal standings, they still take it upon themselves to administer 'justice' as they see fit, despite no prior legal education, no realistic knowledge of the legal framework, and just through their pre-perceived ideas and notions. As per these Salish courts, widowed mothers were not considered to have any entitlement to land left over by their deceased husband, daughters were not considered as ethical and legal beneficiaries of their father's property. Women, united in numbers, are also getting the confidence now to stand up to village Mullahs and make their feelings and opinions being taken seriously. In villages and rural areas, the change is slow, but it's happening one day at a time.

It is a point to be noted that although dowry was considered illegal by say as per the Dowry Prohibition Act 1980, it is only recently that this is seriously being accepted and put into effect in the rural and underdeveloped sectors of our country. The Child Marriage Restraint Act 1929 has been specifically designed to hold child marriage as illegal, but this system of ensuring that legal reach the legal age of 18 before marriage has only been recently put into practice, owing to the collective efforts of NGOs and other humanitarian organizations. The new concepts of Talaq which was introduced by MFLO 1961 whereby even the single utterance in any form whatsoever (except third of three) has effect of being single and revocable, and also has procedures of recovery of den-mahr with punishment for non-compliance.

To work together in improvement of women's rights, law and society will have to come together. One cannot coexist peacefully and successfully without the other and all changes will have to be brought forward through broadening of our ideas, thoughts and perceptions.

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women were victims of acid violence; and 1876 women and 1598 girl children were victims of rape. The same source also shows that in 2010, 216 girls and women were victims of harassment.

Killing, rape, suicide are most common news of today's news papers. We have sufficient laws to prevent sexual assault and rape; Bangladesh government, police administration and the court are very keen in relation to the matter related to the violence against women; even though the violence against women is increasing day by day.

Our constitution provides the women extra protection; we have separate court to deal with the matter related to violence against women; we have Nari O Shishu Nirjaton Doman Ain 2000; we have Penal Code to protect physical and mental violence; on top of everything on May 14, 2009 the High Court

other hand we have laws of dispossession; we have laws of income and right to income - on its counterpart have the laws of anti-corruption; likewise we should have some protective measure in respect of the cause of violence and then shall impose punishment for doing violence without any cause.

The society has been infected by the vices of violence, in this situation it is more necessary to prevent further infection then to cure it (of course cure is important but without preventing further infection cure will be an endless process).

Ours is a pro-western capitalist society, where mainstream people motivated by the financial benefit of every elements women and their beauty has been used here as a product which has monetary exchange value. The women are not only being used, they are also using themselves as product. By doing this the society

Empowering rural women key to boosting welfare of societies



CALLING for women's increased political participation and economic empowerment, with a focus this year on rural women, Under-Secretary-General and UN Women Executive Director Michelle Bachelet underlines urgent actions needed to ensure gender equality, in her 2012 International Women's Day message. Ms. Bachelet Underlined the need for women in the region to be fully involved in the democratic transition processes. "Women's full and equal participation in the political and economic arena is fundamental to democracy and justice, which people are demanding," she says in her message. "Equal rights and opportunity

underpin healthy economies and societies." The official UN observance for International Women's Day, with the theme "Empower Rural Women: End Poverty and Hunger," was held at UN Headquarters in New York on 7 March, UN Secretary-General Ban Ki-moon addressed the event along with other high-level officials and activists who work on issues related to rural women worldwide. "The plight of the world's rural women and girls mirrors that of women and girls throughout society," Mr. Ban told an event at UN Headquarters to commemorate the Day, which is observed annually on 8 March. This year's theme is 'Empower Rural Women End Hunger

and Poverty.' He acknowledged that women are increasingly exercising greater influence in business, government, politics, public administration and other professions. Also, more girls are going to school and are growing up healthier and better equipped to realize their potential. "But, despite this momentum, there is a long way to go before women and girls can be said to enjoy the fundamental rights, freedom and dignity that are their birthright and that will guarantee their well-being," said the Secretary-General.

Rural women and girls make up a quarter of the global population, yet they routinely figure at the bottom of every economic, social and political

indicator, from income, education and health to participation in decision-making, Mr. Ban said.

They perform most of the unpaid care work in rural areas and are a major part of the agricultural labour force, making up almost half a billion smallholder farmers and landless workers.

"Countries where women lack land ownership rights or access to credit have significantly more malnourished children. By empowering rural women we could end the hidden development tragedy of stunting, which affects almost 200 million children worldwide," said the Secretary-General.

Source: UN.ORG.