

LAW INTERVIEW

The development aspirations of a nation cannot be fulfilled unless women are integrated within the process

Nobonita Chowdhury is the Director of Gender, Justice and Diversity (GJD) and Preventing Violence Against Women Initiative at BRAC. A law graduate from the University of Dhaka, Ms. Chowdhury holds over two decades of outstanding experience in journalism, media and communications in Bangladesh and in the UK. She did her MA in Human Rights Law from the School of Oriental and African Studies (SOAS), University of London. On the occasion of International Women's Day 2022, Tahseen Lubaba from Law Desk talks to her on some of the pertinent challenges faced by women in Bangladesh and around the world.

Law Desk (LD): What lessons can we take from the COVID-19 pandemic in order to protect women from facing differentiated impacts of disasters/public health crises?

Nobonita Chowdhury (NC): The pandemic has affected women disproportionately; crises such as war, disaster, or public health emergencies always affect women disproportionately. From the surveys that we conducted through BRAC after the first lockdown in 2020, we got to know that 3 women lost jobs for every 1 man, particularly in the informal economy where women make up more than 90% of the labor force. Women also face hurdles in accessing the stimulus packages offered by governments failing to meet the criteria not fit for women. Moreover, the burden of household and care work has also gone up significantly for women. On the other hand, a large number of women entrepreneurs and workers were affected severely as the business sector, the SME and MSME sectors have suffered the most. Now while we have started recovering from the pandemic, women also started facing higher obstacles in returning to work.

The biggest problem is that we still do not know the exact scale of impact the pandemic has had on women. We do not have the numbers required to understand the vastness of the problem. However, based on what we know, there are two lessons here. Firstly, we must work specifically to reinstate women in their workplaces and in positions where they were before the pandemic. Secondly, we must work to build long-term resilience so that women are better prepared to tackle similar crises in future. The criteria applied in offering stimulus packages or similar benefits will have to be designed through a gendered lens so that women can receive the necessary support during such pandemic. Another long-term change required is that of division of labor within the household – until men and women share household work equally, women will always face inordinate pressure which will keep them from building resilience to face crisis situations.

LD: How has the pandemic affected women and girls, particularly with respect to instances of domestic violence and child marriage?

NC: Domestic violence was extremely high even before the pandemic – so we can imagine how the already worse



PHOTO:
NOBONITA
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situation could have exacerbated during a time where there were increasing socio-economic pressure. The surveys also show an increase in child marriage. However, we do not have nationwide data. Such data cannot be obtained without governmental initiative. Unfortunately, district administrations do not keep proper record of rates of child marriage and many a times, non-governmental organisations are discouraged, and their records are refuted by government entities as being too high. Therefore, it is nearly impossible to get data that properly reflect the ground scenario. During the pandemic, all emergency service providers were overburdened and they could not respond sufficiently to victims of domestic violence and the few government shelters which were previously providing support to victims were shut down.

LD: What is the present situation of women in climate vulnerable areas in Bangladesh? What is your appraisal of the measures being taken to protect them?

NC: Women are more likely to “stay back” with the most vulnerable in the families

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like children and older people. They do not have equal opportunities like men of migrating to a different area when climate disasters affect their habitats. Some of these areas are extremely conservative, for example, in Cox's Bazar, where the communities are particularly resistant to allowing their women and girl children to attain education or any skills training or engage in income generating activities. The state and non-state actors must work to bring about behavioral change in order to make the communities more open to allowing women and girls to build resilience and attain financial independence in order to deal with crisis induced vulnerabilities.

LD: How do you evaluate the role of state and non-state actors in protecting women in conflict situations? Do you think women in leadership positions have the potential to reduce conflicts?

NC: Situations of armed conflicts set women back by many years. This is a multidimensional issue – women face multifaceted impacts of conflicts and we cannot fully grasp these impacts. For many years, conflict has gone on in Afghanistan to remove Taliban from power. However, after 20 years when

Taliban came back, there is a lack of presence of international community or any political power to resist them from sending women back home and not allowing to go to school or work. The most uncertain situation is being faced by the women and girls in any war or conflict as they do not have any unified political force or they generally do not share the leadership positions in any political force. Leadership is not necessarily limited to role of heads of states or governments; one needs to understand the ratio of women at all levels of decision-making. When seen that way, it is evident that the world is still overwhelmingly patriarchal. While each individual may view conflicts from their own perspective, the global policies are still dominated by males, hence male perspectives control the global political discourse. We are far away from women being in leadership positions from where they can protect and nurture the collective interests of women.

LD: How do you evaluate the role played by women in media in combatting misogyny and violence against women?

NC: A very small percentage of women work in media and even fewer assume leadership positions. It creates a big difference when women are telling the stories of women. Otherwise, all stories are written from very one-sided perspective when those are written, edited and even published by male dominated newsrooms. However, the number of women viewers and readers have increased and this is something that is pushing media outlets to produce contents that speak to these women and contents which represent women as having voice and putting themselves on the map.

LD: Please give your observations on the 2022 women's day theme: Gender Equality for a Sustainable Tomorrow.

NC: As we focus on development as a nation, it should be relayed to every community and every household, like a mantra, that the development aspirations of the nation cannot be fulfilled unless women are integrated within the process. If women are not given the opportunity to join the labor force, have access and control over resources and opportunities, we cannot reach our full potentials. This is a narrative that has not been adequately brought forth in the ongoing discussions on sustainable development.

RIGHTS WATCH

Time to take CEDAW seriously

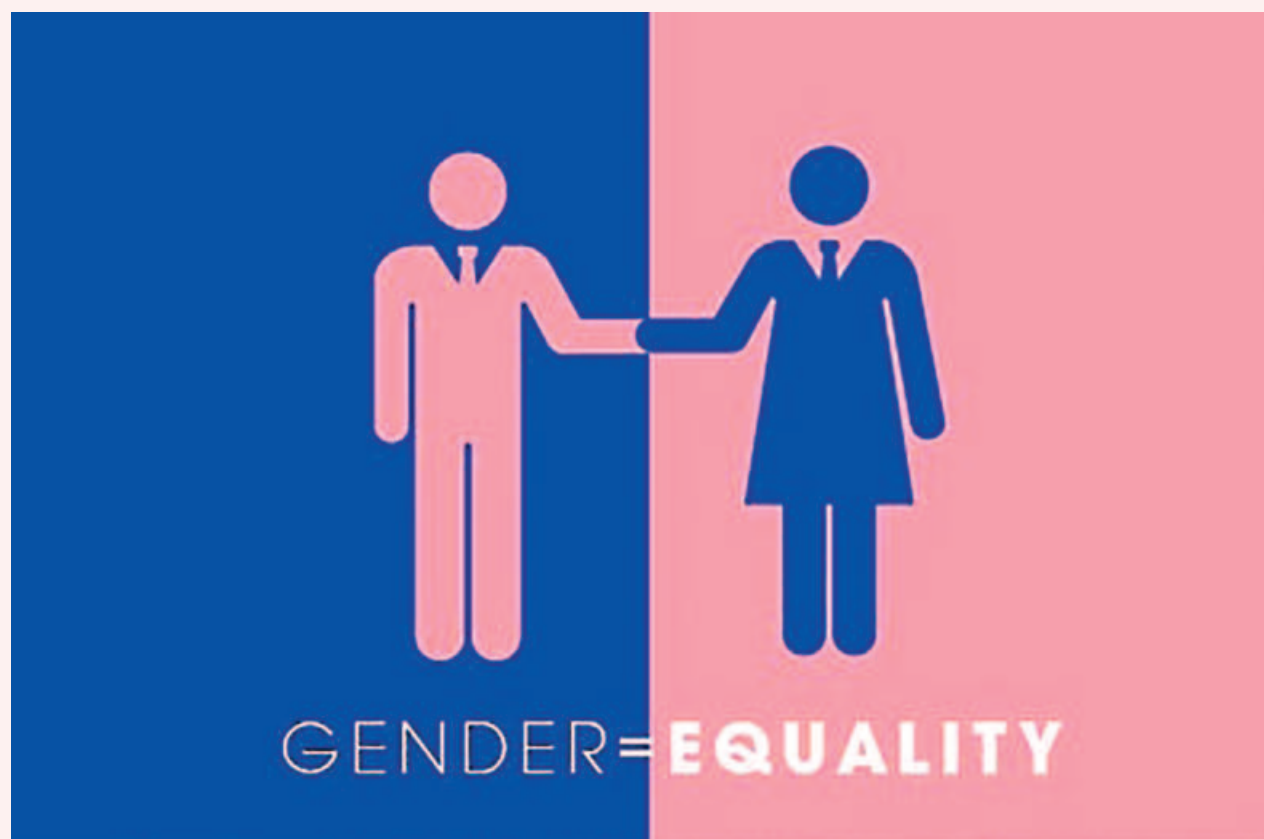
The second justification for the reservation is that the Bangladesh Constitution already grants equal rights to women therefore the need to lift those reservations does not exist. This blatant statement raises more questions than it is supposed to give answers to. If gender equality is already present in the legal framework of the country, there is no harm in nullifying those reservations.

MOHSENA AKTER DRISHTY

The Convention on Elimination of All Forms of Discrimination against Women (CEDAW) is the key international human rights treaty to oppose the effects of discrimination against women and to ensure gender equality worldwide. CEDAW, also known as the Women's Bill of Rights was adopted in 1979; came into force in 1981 and to date, 189 states-parties have ratified it. The convention most articulately defines discrimination against women and is based on three core principles: the obligation to respect (equality in laws and policies); protect (non-discrimination) and fulfill (to uphold equality and eliminate gender discrimination in the entire sphere of the social and economic life).

Bangladesh ratified the convention in 1984 with reservations on several articles. Of those reservations two were lifted and two remain: Article 2 and Article 16(1c). Article 2 states the obligations of the countries to eliminate discrimination whereas Article 16(1c) emphasises equal rights and responsibilities during marriage and its dissolution. These two articles are considered to be central to the objects and purpose of the convention. Article 28(2) of the CEDAW and Article 19(c) of the Vienna Convention on the Law of Treaties (VCLT) 1969 prohibits reservations that are “incompatible with the object and purpose of the treaty.”

To justify these reservations, the government of Bangladesh has repeatedly said that these two articles of CEDAW contradict the Sharia Law based on the Holy Quran and Sunnah. However, several arguments can be



made against this argument.

Firstly, Sharia governed Muslim countries like Jordan, Kuwait, Lebanon, Turkey, Tunisia, Yemen, etc. have ratified CEDAW without any reservations. It is doubtful that Islamic religious belief is the prime motivator of these reservations. Political and evolving socio-economic considerations influenced by strategic alliances play a vital role here.

Secondly, how the lawmakers interpret Sharia Law is a big determining factor of women's rights.

Politicising Sharia law and using Islam as a political tool to obtain indulgence from other parties should be strictly condemned. Denying women equal rights in a way undermines the basic principles of Islam and religious, traditional or cultural practices cannot justify the violation of the convention. The right interpretation of the scriptures could set things right if they acknowledge and promote the dynamic nature of Islam as a religion.

Thirdly, Bangladesh is a Muslim majority country but there are

significant number of people, who are not governed by Sharia law. However, the effects of the reservations on them are unaccounted for. The reservations on the ground of Sharia law also defeat the purpose of the secular nature of the State, one of the fundamental principles of the Constitution of Bangladesh.

Fourthly, it is imperative to acknowledge the deep-rooted patriarchy in play. Bangladesh has passed and enacted laws and ratified different conventions that did not

strictly adhere to Sharia principles. The resistance to laws concerning gender equality in the private sphere comes from widespread misogynistic attitudes.

The second justification for the reservation is that the Bangladesh Constitution already grants equal rights to women therefore the need to lift those reservations does not exist. This blatant statement raises more questions than it is supposed to give answers to. If gender equality is already present in the legal framework of the country, there is no harm in nullifying those reservations. Indeed, a full ratification will not solve the problem of discrimination but it will make the States obligated to implement equality through bringing likewise changes in the national legislations.

A quick overview of the situation tragically shows why CEDAW only has a referral value and little legislative significance after decades of its ratification. There is a reason why CEDAW is different from all other core human rights treaties which also protect women's human rights. One of the key elements of Sustainable Development Goals is Gender equality and CEDAW is exclusively devoted to attaining it through non-discrimination. The alarming rate of violence against women which accelerated dangerously during the COVID-19 pandemic demands a full ratification of CEDAW without any reservations. Bangladesh should resolutely discourage laws, practices and institutions that promote notions of inequality and discrimination.

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