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GENDERING THE NATION AND ENDANGERING GENDER: BANGLADESH NATIONAL REGIMES

Abstract

The paper argues that for women, politics starts at the personal level. Cutting through the binaries of high and low, public and private, the paper examines the process of nation creation with the infusion of rationalist and modernist principles. This in the process marginalised women by placing them within the private domain, thus excluding them from arenas of 'high' politics where issues critical to women and their lived lives are decided. Taking Bangladesh as its case in point, the paper examines the various national regimes, the constitution, the political, the economic, the religious, the legal, and examines the contradiction between the apparent and the real. Women's agencies brought forth through women's organisations and movements have played a critical role in putting right the discriminations yet the task is an arduous and long one since the seeds of discrimination are structural. The paper concludes by calling for relocating women by bringing about systemic transformations.

1. INTRODUCTION

The issues - deprivations, marginalisation, discriminations surrounding women and their lived lives are not only varied and multilayered but are weaved into the fabric of the entity that is called nation-state, which constitutes the basic unit of the international system. Women and feminists have in their own ways and with varied tools been attempting to change and transform the system to make it women as well as people friendly. These interventions have taken place at various levels with women trying to define and interpret the system in their favour. Cutting across the divides of class, ethnicity, religion, abilities, disabilities, touchabilities and untouchabilities, the paper argues that the interventions are there. Whether these are incorporated within the formal domain of the knowledge system and discourses is another area of debate, which the feminist movements and women organisations in Bangladesh as elsewhere in the

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world have to reckon with. What is significant is that through these interventions pathways are being trenched out by women and they are carving out spaces for themselves as active equal citizens of the state.

Articles 27, 28, 29 of Part III (Fundamental Rights) of the Constitution of Bangladesh contain various provisions relating to equal treatment of women with men. One may therefore quite logically argue about the point of raising the issue of equality at all. This paper is an attempt to interrogate the notion and myth of **equality** as it is woven in the societal as well national system and examine the limits of the various national regimes that profess to bring about a system based on equality. The paper is divided into seven sections. The first section is the Introduction. The second section examines the gendering of the nation and the **constitution** of women as it evolved historically in the colonial context. The third section is an analysis of politics of nation building in Bangladesh and its impact upon women. The fourth, fifth and sixth sections take up three different but interlinked arenas of women's spaces, the political, livelihood and legal domains. In the final section, the paper makes some recommendations to bring about structural transformations for a humane democratic system.

2. THE GENDERING OF THE NATION AND THE CONSTITUTION OF WOMEN

The social reforms movements that began in colonial India were highly gendered. As the reformists took upon themselves the task of modernising the society women came in the central fore. *Sati* (widow immolation) which was abolished by the British in 1829 is regarded as a landmark in emancipation of women belonging to the Hindu faith. The legislative prohibition of *Sati* was the culmination of a debate that saw the emergence of three discourses around *sati* - the official, the progressive and the conservative orthodox. The official championed by the colonial powers, the progressives by social reformers like Ram Mohan Roy and the orthodox by the Hindu priests. However, what remained unproblematised were the **content** of traditional and modernity and the location of women in this entire debate. What is ironic is that the entire issue was debated within an extremely orthodox mode. The debate as it emerged was not if *sati* was a barbaric or inhuman act inflicted upon women, but if the religious scriptures enjoined *sati* to be mandatory for Hindu widows. The contention was what was authentic scripture *vis-à-vis* what constituted customs and practices. Interestingly, the three discourses revolved round the religious interpretation of *sati*. Based on the interpretations, differences were made between 'bad' *sati* and 'good' *sati*. If a woman was forced into it, the *sati* was bad; and if she went willingly it was good. This entire divide made women not only emblems of religion and customs but also devoid of agency and a thinking being. If she was coerced then she lacked the power to resist and if she went willingly, again she lacked the proper understanding of religion. In both cases, she was portrayed as the victim. In other words, modernity was gendered and orthodoxised, with

women and their bodies and minds being endangered.¹ What appeared to be more detrimental for women was the privileging of scriptures both Brahmanic and Islamic containing rules of social behaviour even when the assertion of these were problematic and open to interpretations. However, Warren Hastings in 1772 made these texts the basis of personal laws, the implications of this, as will be discussed later, was far reaching for women.

As the nationalist movement gained hold in colonial India, modernity was firmly genderised. The binaries between the public and the private, the cultural/spiritual and the material were inventions of colonial India. Partha Chatterjee² in his seminal work on “The Nationalist Resolution of the Women’s Question” has brought this out most pointedly. Raising the question of the challenge of modernising, i.e., acquiring and internalising the western/colonial knowledge, technology and system; yet retaining the primordial and traditional, the tension between the two according to Chatterjee was resolved by the nationalists according to their own preferred agenda. A binary was drawn. As he puts it,

The discourse of nationalism shows that the material/spiritual distinction was condensed into an analogous, but ideologically far more powerful dichotomy; that between the outer and the inner. The material domain lies outside us – a mere external, which influences us, conditions us, and to which we are forced to adjust. But ultimately it is unimportant. It is the spiritual that lies within, which is our true self, and it is that which is genuinely essential ... The world is the external, the domain of the material; the home represents our inner spiritual self, our true identity. The world is a treacherous terrain of the pursuit of material interests... it is also typically the domain of the male. The home in its essence must remain unaffected by the profane activities of the material world – and woman is its representative. And so we get the identification of social roles by gender to correspond with the separation of the social space into *ghar* and *bahir*.³

This gendering of spaces and roles so essential to the creation of nationalism dictated that women could not be treated as equal citizens. Despite the romanticisation with the spiritual, it is the material - the *bahir* that ultimately rules and sets the parameters for the *ghar* - the interior/home. The parameter, one may argue starts with body politics, where the body of the woman becomes the embodiment of the nation as the biological bearer of the nation. She also becomes the object of cultural politics since culture, more specifically authentic culture is the quintessence of a nation. In other words, women, their bodies and

¹ For a detailed exposition see, Lata Mani, “Contentious Traditions: The Debate on Sati in Colonial India”, in Kumkum Sangari and Sudesh Vaid (eds.), *Recasting Women Essays in Colonial History*, Kali for Women, Delhi, 1989, pp. 88-126.

² Partha Chatterjee, “The Nationalist Resolution of the Women’s Question”, in *ibid.*, pp. 233-253.

³ *Ibid.*, pp. 238-239.

lived lives are appropriated by the nation. The genderisation of the nation thus endangers the woman, since one may quite logically raise the notion of autonomy and personhood of woman. Quite poignantly Edward Said had suggested because of Orientalism, the Orient was not a free subject,⁴ one can extend the same argument here.

The quest for constituting the woman according to the nationalist agenda soon found its space in the realm of education. This later came to be genderised as well. Sir Syed Ahmed Khan, often regarded as the founder of Muslim modernism appealed to the Muslim elite classes to prevent their daughters from getting a western modern education. He urged that Muslim women should be given a traditional, domestic education so that they can serve the nation by being moral and virtuous mothers and wives; men were to acquire education in science and technology. Sir Syed openly expressed his anxiety about women's education as he said,

I cannot approve of the modern system of education devised for the education of women. Developing institutions for women's education and fashioning them along the lines of *European women's* institutions, is inappropriate for contemporary conditions of India ... I am also not in favour of the kind of knowledge being imparted to women as it does not suit *our conditions*, and *our women* do not need this knowledge for centuries to come (emphasis added).⁵

It is important to note that in colonial Bengal the nationalist construct of the new woman derived its strength from notion of cultural refinement. The *bhadramahila* (gentle woman) captured the imagination of the middle class women. It was taken up by them as a way of claiming their superiority at various levels, superiority from the European women who acquired knowledge for the material thus losing the feminine virtues, superiority over the preceding generation of women who were denied this opportunity and superiority over women of lower classes who were incapable of appreciating the finer tunes of the spiritual, the feminine. The patriarchy inherent in this education was quite sharp as constant references were made by women writers of the need to develop feminine virtues, of devotion, submission and housework and not to have any place in the heart for *mem sahib* (European women were referred to as *mem sahib*) like behaviour.⁶

The construction of *our women* is a critical signifier of the differentiations of culture and women became the markers and signifiers of these differences while

⁴ Edward Said, *Orientalism: Western Conceptions of the Orient*, Penguin Books, 1995.

⁵ Speech on Muslim women's education by Sir Syed Ahmed Khan, delivered in Lahore in 1888, *Khutbaat-e- Sir Syed*, p. 61. Cited, in Rubina Saigol, "The Gendering of Modernity: Nineteenth Century Educational Discourse", in Neelam Hussain et.als (eds.), *Engendering the Nation-State*, Simorgh Women's Resource and Publication Centre, Lahore, 1997, p. 167.

⁶ Partha Chaterjee, *op.cit*, pp. 246-247.

the men could compete and acquire the western knowledge of the material world. This construction, as it can be seen not only had a clear gender divide but also class differentiations became pronounced and articulated in a political language. Gellner⁷ constantly reminded us of the construction of a high and low culture in the nationalist agenda. In post colonial Bangladesh one sees a rage of this as the debate on Bengali vs. Bangladeshi nationalism engulfs the political elite, while the subordinate communities suffer, with women being more marginalised since the state that was born out of the nation after all is a patriarchal construct and the public or *bahir* remains the domain of men in the ideology of nation-state.

3. THE BANGLADESH STATE

The Bangladesh State started off its journey as an independent State premised on very strong nationalist ethos, which has strong moral overtones as well. The state in its early years of independence in an attempt to establish its authenticity as a nation decided to send away the war babies on the plea of not keeping any polluted blood in the country. Little respect or concern was shown for the mothers who had wanted to keep their babies. The society and Bengali men were not ready to accept the rape victims of 1971 and all attempts were taken to 'rehabilitate' them by suppressing or erasing their traumas of war time. Rehabilitation meant either marrying them off or providing them with employment.⁸ No space was provided for their psychological rehabilitation, women being property and honour of the nation were thus to be integrated and rape being a stigma and shame for the nation was not to be recognised or discussed. Instead the State 'honoured' them with the title *Birangonas* (war heroines). This had the effect of marking them off and identified. It needs to be emphasised that a nation builds itself upon the claims of authenticity and purity, which has its own connotations as stated earlier within the parlance of the nationalist discourse as 'spiritual'. The notion of 'our women' could not be disturbed. Operating within this formulation, without any change in the popular psyche about *our* women the bestowing of the title held little meaning for the women at that point of time. This intertwining of public and private robbed the recognition of the sacrifices of women. But indeed death and sacrifices of men were recognised and valorised. The new State thus began its journey by marginalising the sufferings and sacrifices of women. The ideology of patriarchy and nationalism indeed had its sway while the woman question remained subordinated and marginalised.⁹

⁷ Ernest Gellner, *Nations and Nationalism*, Basil Blackwell, London, 1983.

⁸ For details see, Meghna Guhathakurta, "The Bangladesh Liberation War: A Summon to Memory", in Abul Kalam (ed.) *Bangladesh: Internal Dynamics and External Linkages*, University Press Limited (UPL), Dhaka, 1996.

⁹ For details see, Amena Mohsin, "Armed Conflict and Gender", *Women and Gender Studies*, University of Dhaka, June, 2006.

Bengali nationalism based on Bengali culture and language was incorporated into the constitution of Bangladesh as the basis of citizenship and nationalism. This, one may argue, was a logical outcome of the Liberation Movement of Bangladesh which was premised on a secular Bengali identity. This however created ethnic minorities as the ethnic communities in the Chittagong Hill Tracts (CHT) refused to identify themselves with Bengali nationalism. The insurgency in the CHT started off with the Hill people demanding cultural autonomy and a constitutional recognition of their rights. The insurgency continued for over two decades and ended with the signing of a Peace Accord on December 2, 1997. It is understandable that the major brunt of such conflicts is inflicted upon women and children as internally displaced persons and refugees. Even those who remained within their homes had to live a life of insecurity and constant trauma. The nationalism that emerged in the CHT in the name of *Jumma* nationalism and the peace accord that ended the armed conflict also remains highly gendered. Bangladeshi nationalism resulted in the creation of religious minorities. Again minority women get most affected when identities get politicised, since women are looked upon as identity bearers of a community. Their physical security becomes the first casualty. The electoral violence following the national elections of 2001 bears this out.

Bangladeshi nationalism introduced religion as an element of nationalism. Secularism, a fundamental principle of the constitution was dropped. This paved the way for the politicisation of religion, though it may be noted that secularism in the Bangladesh context never implied the absence of religion. It was a matter of individual practice and belief. Bangladeshi nationalism brought religion into the public domain. Politics make strange bed fellows, Bangladesh politics is no exception to this. The State witnessed the alliance and even power sharing between mainstream political parties and religion based political forces. This problematised the question of women's empowerment as the state made compromises at varying points since religion became a critical factor in the political debates surrounding the State and women's rights.

On the surface the State maintained its getup of egalitarianism. The Constitution of Bangladesh in its Articles 9, 10, 27, 28 (1), 28 (2), 28 (3), 28 (4), 65 (3) calls for equality of women in all spheres of life and ensures women's participation in national and local politics. The Constitution also provides that the government can make special laws for improving the status of women. The State is also a signatory to the Convention on Elimination of all Forms of Discrimination Against Women (CEDAW). Initially, it had imposed reservations on CEDAW Articles 2, 13 (a), 16-1 (c) and 16-1 (f) on the ground that they conflict with the traditional law and Sharia law based on the Holy Quran. In 1997, the government withdrew its reservations from Articles 13 (a) and 16-1 (f). The reservations on Articles 2 and 16-1 (c) however remain, the government position is that they conflict with the Sharia law. However, women organisations

and movements have been making their interventions *vis-à-vis* the state. It is to an examination of three domains that the paper now turns.

4. THE POLITICAL¹⁰

Due to the private/public divide, women have remained under represented in the formal arena of politics all over the world and to redress their historic exclusion, quotas emerged as a global fast tract strategy, which has been regarded as an effective tool in ensuring women's presence in various levels of political structure. But this strategy also raised issues on the nature and modalities of gender quota and its limitations to empower women in politics. It has been argued by many that without addressing the *structural* constraints to women's political exclusion, their inclusion through gender quota cannot ensure effective representation. They call for the redistribution of socio-economic resources within societies so that women can enjoy civil and economic rights and become able to exercise their political rights fully. Moreover, by bringing more women in the system will not necessarily fill up the gap in politics. Women who enter the political arena through quota system cannot transform the sexual politics of the state institutions, rather they are forced to play on male's terms. Bangladesh's experience is a classical example in this regard. Instead of contributing to women's political agency, the quota system accentuated women's dependence on patriarchal politics – thus reinforcing their marginality.¹¹ Although women's representation in political elites has increased steadily over the past three decades, it remains low when compared to many other countries and to the democratic ideal of proportional representation.

One of the major reasons for the low visibility of women's participation in the political arena is the patriarchal nature of our society. Patriarchy as a system construct the imaginary hierarchy of gender relations where women are seen as unfit to do politics and placed within the private arena of home as mothers and wives. Although the divisions between public and private lives are often blurred in the daily lives of women in Bangladesh, they are defined repeatedly as private actors resulting in exclusion from politics. The socio-cultural mechanism of sex-segregation and *purdah* (veil) are also responsible for restricting women's mobility to interact with the public. However, it needs to be emphasised that increasingly *purdah* is being redefined by women as a mode of inclusion and greater mobility in the public sphere; since according to them it provides them with greater social respectability and acceptability. Despite this interpretation,

¹⁰ The author acknowledges Sajjadur Rahman, Assistant Professor, Department of International Relations, Chittagong University in helping her write this section.

¹¹ Najma Chowdhury, "The Implementation of Quotas: Bangladesh Experience - Dependence and Marginality in Politics", Paper presented at a Workshop organised by International Institute for Democracy and Electoral Assistance (IDEA) on 25 September 2002 in Jakarta, Indonesia.

what again becomes more alarming and restricting for women in the structural sense is the reinforcing of patriarchal values that allows a woman in the public sphere with certain social norms mostly defined in terms of modesty in dress and behaviour. This is true for women holding the highest echelons of State power as well. This problematises the notion of empowerment for women.

Moreover, politics is no longer viewed as a conscious and deliberate participation in activities by which various resources are allocated among the citizens of a particular State. Rather the current trend does suggest that the political activities are conducted within an already given power-structure where women's perspectives are often ignored or marginalised by the male leadership\counterparts. The socio-cultural dependence of women is one of the most detrimental factors to their participation in the political domain. This is evident in the low resource allocation to women's human development by almost every State thus creating gender disparities in education, health, employment, ownership of productive resources and above all in political activities.

However, the Constitution of Bangladesh grants fundamental rights to its citizens irrespective of sex, race and religion (Article 36-39) and does not discriminate between women and men in contesting and voting for public representative offices (Article 66, 122). Through Article 65, the Constitution also provides for reserved seats for women in order to ensure their participation in the legislature and in the local government institutions (Article 9). The Constitution articulates the necessary steps toward facilitating women's participation in all spheres of national life (Article 9) and grants permission to adopt special measures in favour of women and children (Article 28) which gives the legitimacy for affirmative actions to attain gender equality and equity in the political arena.

The Constitution of Bangladesh also provides for a 300-member Parliament known as the *Jatiya Sangsad* (National Parliament). In the initial stage, 15 seats were reserved for women for a period of 10 years who would be elected indirectly by the Members of Parliament (MP) elected through general seats. At that time in 1972, the framers of the constitution expected that 10 years would be enough for women to acquire the required skills and resources to successfully enter the arena of electoral politics. The prime consideration behind this system was to ensure 'protected' representation in the legislature in view of women's drastically unequal political strength in contesting male contenders for the general seats. Therefore, quota was treated as the main avenue for women's entry into the Parliament while general seats remained under the monopoly of male politicians. In 1978, a Presidential proclamation increased the number of reserved seats to 30 and extended the period of reservation to 15 years from the date of promulgation of the Constitution in December 1972. In December 1987, this Constitutional provision lapsed and in 1990 the same system was reincorporated for 10 years in the Constitution by an amendment. The provision

also lapsed in 2001. On May 16, 2004, the *Jatiya Sangsad Reserved Women Seats Election Bill 2004* was initiated and passed on the November 29 of the same year which increased the number of women seats to 45.¹² These reserved seats are to be allocated among the political parties and alliances on the basis of their proportional representation in the national parliament. The Awami League in its election manifesto of 2008 promised to increase the number of reserve seats to 100 on the basis of direct elections.

Historically, the number of women who were elected MPs from general seats in the general elections had been very low. In the first election of 1973, the ruling party did not nominate any woman candidate and two women who contested from the general seats lost. In 1979, two women were elected, in 1986, five, four in 1991, and in 2001, twelve women were elected. Elections in 2008 saw the largest number of 88 women submitting applications to their parties in 299 constituencies. 58 women were either nominated by different parties or contested as independents. Out of this number only 19 were elected, (6.3% in a house of 300). With the selection of 45 women to reserved seats, the percentage of women in the Ninth Parliament has risen to 18.5% from 4.3% in the Eighth Parliament. One woman has been appointed as Whip by the majority party of the Parliament. No woman has been selected to chair a standing committee.

Since 1991, Bangladesh holds a unique position in the world where both the posts of the Leader of the Parliament and the Leader of the Opposition are occupied by women. Both Khaleda Zia and Sheikh Hasina were drawn to politics after the violent deaths of their family members. This pattern of ascension to the leadership position by women is of course common in the South Asian region where the notion of 'legitimate successor' is a major factor for maintaining party unity. However, despite the kinship factor in Bangladesh, both Khaleda and Hasina proved that they are well able to contain and counter defection and bring some sort of discipline within their parties. It has been alleged widely that the main women leaders have treated the general seats as a reservoir of political power (as both of them contested in direct election from multiple constituencies) but failed to take any proactive measures to encourage other women to contest in general seats. However, women's participation in politics has increased over the years and votes received by women in the past successive election indicate that they have been regarded as credible candidates by the general voters. For example, in 1991 election, women candidates secured more than 30% of the valid votes cast in the contests for 16 seats. Again in 1996, female contenders received more than 50% votes in the five seats.¹³ A few women, however, from all the three major parties that held State power received nominations to contest

¹² As a result of this bill, the total number of MPs is now 345 and this provision is valid for the next 10 years.

¹³ Shawkat Ara Husain, "Women Participation in Electoral Politics", *Empowerment*, Vol. 7, 2000, pp. 67-82.

in the general seats and won. But their political strength came mostly from the close blood or marriage ties with the party leadership. Therefore, the tremendous visibility of the two women could not ensure an integrated presence of women in the top echelons of party leadership or in the ministerial cabinets, although the recently held elections under the Caretaker Governments have witnessed huge participation of women voters. Political parties have also incorporated gender concerns into their manifestos. Both the Awami League (AL) and the Bangladesh Nationalist Party (BNP) have mainly remained confined within the practical gender needs. Strategic needs perhaps are considered too volatile and sensitive as an electoral issue. The more extensive manifestos of *Jamaat-i-Islami*, on the other hand, reflect their ideological position regarding Islam and prescribe a rather separate and sub-ordinate status and space for women. These examples show the low level of commitment of our political parties towards women's issues and reveal their inherent patriarchal nature. Parties are regarded as the gatekeepers to the world of politics. Unless they categorically speak out for women, the dream of creating a 'critical mass' will remain unfulfilled. The following tables illustrate the points well. Women's representation in decision making forums in political parties remains low with numbers in central working committees varying between 2.7% to 11.2%.

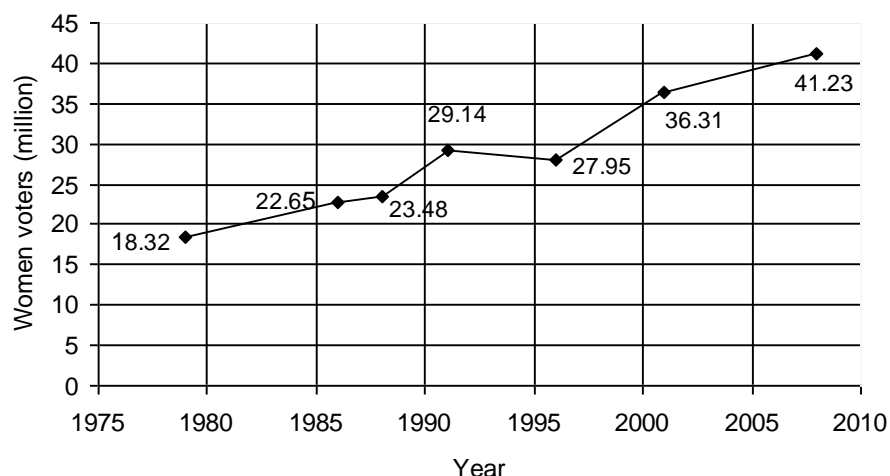
Table-1: Female Members in the Party Hierarchy of Major Parties in Bangladesh

Committee	AL	BNP	Jatiya Party	JSD	Workers' Party	Communist Party	Gonoforum
Presidium and Secretariat	5 (36)	--	--	--	--	--	--
Central Working Committee	8 (71)	11(148)	10(346)	4 (112)	2 (53)	4 (45)	6 (100)
Percentage	11.2	7.4	2.8	3.5	3.78	8.8	6

Source: Mahila Parishad

Exercise of Voting Rights

An increasing number of women have participated in successive elections, which indicates their interest in engaging with democratic decision making processes. The percentage of women voters has increased from 48.42% out of a total voter list of 75.00 million in 2001 to 50.87% out of a voter list of 81.05 million in 2008. Women voters have significantly increased from 27.95 million in 1996 to 41.23 million in 2008 (Figure-1). Women members of political parties have been very active in house to house campaigns, and addressing political meetings. The role of media in projecting women's voices and concerns has also been critical in the 2008 elections.

Figure-1: Trends of Women Voters in Bangladesh, 1979-2008**Table-2: Women in Cabinet**

Period	Total Minister	Female Minister	% of Women Minister
1972-75 (AL)	50	2	4.0
1976-82 (BNP)	101	6	5.9
1982-90 (JP)	133	4	3.0
1991-1996 (BNP)	39	3	7.7
1996-2001 (AL)	42	4	9.5
2001- 2006 (BNP led Coalition Government)	60	3	5.0
2009 (AL led Mohajote)	32	5	15.62

Source: *Women Representations at the Jatiya Sangsad: A Study Report, 2003*, Democracy Watch, The 2009 (figure based on present position).

Again, the cabinet, which is the highest level of the executive branch of the government, has traditionally witnessed marginal representation or at times, no representation of women. In the past, three things were noteworthy. Firstly, number of women with full ministerial status had never reached more than two in a cabinet of 40 or 60 ministers. Secondly, women ministers, deputy ministers and ministers of State had been mainly allocated portfolios that were not regarded as important and often associated with the term 'feminine' ministries. These include Women and Children Affairs, Social Welfare, Cultural Affairs, Primary Education etc. Thirdly, most of such ministers were not elected directly and hence lacked political strength to exercise authority in the cabinet. The present cabinet is a major exception and departure from the past, where important ministries, like Foreign Affairs and Home, are held by women elected MPs.

These have traditionally been regarded as areas of **High Security** monopolised by men. The appointment of women who had been directly elected with full ministerial ranks into these positions indeed is a major departure and important factor in the empowerment process of women. What remains critical here is whether these inductions would result in or at the minimum start the process of deconstructing the binaries of high and low security, and transform the state into a gender-sensitive system.

It is worth noting here that the 12th Amendment (1991) of the Constitution in Article 56(2) provides, while referring to appointments of Prime Minister, Full Ministers, Ministers, Ministers of State and Deputy Ministers, that not less than nine-tenths of their numbers shall be appointed from among members of Parliament and no more than one-tenth of their number may be chosen from among persons qualified for election as members of Parliament.

A similar provision, Article 58 (4), was earlier incorporated in the Constitution by the Second Proclamation Order No IV of 1978, which fixed the ceiling for members so appointed to the Council of Ministers to be 'not more than one-fifth'. The 4th Amendment in 1975 of the Constitution in Article 58 (3) had also provided for appointment of 'persons qualified to be elected as members of Parliament', but laid down no ceiling.

Such provisions offer the scope to include in the cabinet technocrats, professionals, and administrators, as well as persons from the Services or those otherwise qualified but not willing to face elections. However, it seems that since 1975, during periods when the Parliament functioned, this Constitutional provision was hardly used to appoint women to the Council of Ministers. This particular provision could be used as a strategy to supplement the intake of women into the cabinet from the Parliament.

In Bangladesh where money, muscle and *mastan* (hooligan) determine the course of politics, women MPs often find themselves to be the target of defamatory comments which also reflects the patriarchal nature of power-politics dominating in the society. Back in the Ershad regime, a political weekly even commented that the women MPs elected through reserved seats are nothing but the 'ornaments' of the Parliament. Sometimes they were dubbed as 'rented' MPs or 'MPs of five thousand taka'. More frustrating fact for these MPs is that such comments were often uttered by their own party members. A remarkable study by Jalal Firoj¹⁴ revealed that the female MPs confront various hurdles in serving women community. As many of them are indirectly elected, the local administration and concerned government officials do not accept them with due respect and such non-cooperation make things difficult for the female MPs to

¹⁴ Jalal Firoj, "Performance of Women in Bangladesh Parliament: Opinions of the Women MPs of the Fifth and Seventh Parliament", *Empowerment*, Vol. 10, 2003, pp. 1-20.

conduct developmental works. Besides, party whipping and pressures also constrain female MPs to act neutrally.

The presence and performance of female MPs in the Parliamentary Committees can also be a determinant factor in order to evaluate their power-position in the decision-making level. Though it is a well-known fact that women members of the committees are very active, no women member has yet been elected as Chairperson of any committee.¹⁵ Unlike the House, where rhetoric speeches are common, women members feel more comfortable in the concrete discussions of the committee and gain experiences over the ministerial affairs. It is now widely acknowledged that female chairpersonship can bring more dynamism in the functioning of the committees.

MPs are also known as the key lawmakers of any country. But in the case of Bangladesh, women MPs are seldom found to be active in this particular area. The study of Jalal Firoj showed that female MPs are not encouraged to initiate any Bill by their party members. Besides, female MPs themselves are not very enthusiastic in the technical procedures of initiating Bills. In his survey conducted on the female MPs, Jalal also found that not a single MP (female) could recall the name of any bill on which they worked in the committee. This is indeed a frustrating performance that should be taken into account seriously.

Table-3: Alternative Proposals for Women's Participation¹⁶

Proposals	Increased Representation	Direct Election
BNP led Alliance Government Increase parliamentary seats to 345, of which 45 reserved for women Women's seats allotted to parties based on their strengths in the Parliament.	45	No
Awami League Increase women's seats to 100	100	Yes
Mahila Parishad Increase Parliamentary seats to 450 of which 150 reserved for women Each women MP to be directly elected from 3 general seats	150 to 450 or 33%	Yes
Women for Women Fixed one third parliamentary seats reserved permanently for women	100 of 300 or 33%	Yes

¹⁵ However, in the 7th Parliament, one women member was allowed to chair a committee *in absence of the Chairperson*.

¹⁶ Badiul Alam Majumdar, "Increasing Women's Representation in Parliament: What is the Best Alternative?" *The Daily Star*, 14 March 2004. The AL's proposal has been cited from the party's election manifesto 2008.

The issue over reserved seats has been one of the hot-spurred debates in the political arena of Bangladesh. Because in the previous system, the debate over the reserved seats centered around the claim that the 30 constituencies for the 30 reserved seats were too big for women candidates compared to the area of the general seats for which the country was divided in 300 constituencies for 300 general seats. But in the present system, the reserved seats do not even represent any constituency, thus making women MPs more dependent on the high command of their respective parties. They will not be accountable to any people of any electoral area and as they do not have any specific job responsibility, their works are confined only to the decorative functions.

Moreover, the uncontested, certain and easy method of electing women MPs for the reserved seats is making women candidates to rely on lobbying and patronage. Besides, it has been criticised for long that the party with the highest general seats has always tended to exploit this reserve system that is often regarded as the 'vote bank' for the party in power. This explains to some extent the approach of the two major parties in Bangladesh to the ongoing discourse on quotas. Some observers argue that there is a greater need for quotas in the decision-making body of successive units of the party organisation. Although almost all major parties have their own women's fronts, these are relatively isolated bodies in terms of their interaction with the party leadership.

Thus, it is important to *feminize* the power spaces so that there would be increasing number of women in the spaces where critical decisions are made nationally. Concomitantly, women's movement as a political lobbying force needs to be strengthened so that they can dialogue with the major actors in the power structures. Moreover, measures to increase the number of female MPs need to be accompanied by concrete steps to improve the quality of political participation. In order to ensure *effective* participation of women in the political arena, particularly in the *Jatiya Sangsad* where reservation system is being practiced, the following factors are most critical.

Firstly, the reservation system must be able to generate a critical mass of women in the Parliament so that they can voice their demands in a meaningful way, rather than allowing tokenism which only reflects the generosity of the male policymakers. Moreover, the system should have a built-in mechanism to cultivate a new generation of women leaders with strong grassroots connections who would force the reservation system unnecessary in the future. It may be noted that an attempt towards grassroots connections in nominating party candidates is in the agenda of the Election Commission.

Secondly, the system should not contradict with the democratic principle of direct election in a particular constituency. The current reservation system for women which does not require direct election, to some extent, contradict with the constitution which calls for MPs to be "elected in accordance with law from single territorial constituencies by direct election ..." [Article 65 (2)]. Thus,

without direct election, the basic structure of our constitution will be compromised.

Thirdly, the system should be able to make female MPs accountable directly to the people, not to the party higher-ups. The reservation system must not be used as a patronage tool for bestowing favours to women in the political party or family.

Fourthly, the system must ensure specific constituencies for female MPs so that there would not be any overlapping responsibilities. The voters of a constituency have their right to know whom to hold accountable for.

Fifthly, the system should be such that the female MPs are no longer viewed as peripheral actors whose doings are regarded as nothing but symbolic. Their nomination should be based on their 'electibility' so that the common allegations over the 'selling' of reserved seats can be stamped out.

The theory of critical mass tells the strategic importance of numbers and proportions regarding the capacity of a social group to influence the policy environment of any given institution. A 1992 Study by UN Division for Advancement of Women (UNDAW) determined that such critical mass of about 30 to 35 % women is needed for effective voicing of women's priorities in the government institutions, political parties and in the Parliament. The forces of globalisation and the consequences of developmental policies are also interconnected with the creation of enabling environment for women's political participation. A strong civil society that works toward building transformative community where people are conscious about their political rights is another critical factor for creating greater space for women in governance processes and structures. Women leaders within the parties should also recognise that they are in the right position to insist on and obtain a quota of party nominations for women politicians. However, women groups have continuously demanded for direct election for the women candidates. But a source of weakness in the movement is that of the varied and shifting stand on the number of seats or method of election that undermined the unity of purpose. Besides, the continuous regrouping or remapping of strategic options by the groups and organisations in order to control the movement has weakened their role in bringing any change. The recent growth of fundamentalism also poses threats to the consolidation of women's status in the public arena. Therefore, women leaders who are active in the public arena need to recognise that power can be and indeed need to be exercised with a view to removing hindrances to women's political participation and accelerating the process of advancement.¹⁷

¹⁷ For a detailed exposition of the issues also see, Roushan Jahan, Sayeda Rowshan Qadir, Hamida Akhter Begum and Jahanara Huq, (eds.) *Empowerment of Women: Nairobi to Beijing (1985-1995)*, Women for Women, Dhaka, 1995; Salma Khan (ed.) *Role of NGO in Effective Implementation of PFA and CEDAW in Bangladesh*, NGO

5. DEVELOPMENT

The close linkage between rights and development can hardly be overemphasised. The UN General Assembly in 1986 adopted the Declaration on the Right to Development. Article 1 of the document proclaims the right to development to be an inalienable human right. This tying up of development with human rights is a landmark development and widens up the scope and parameters of development. Conventional wisdom, however, views development as linear then cyclical. It assumes that the human ability to control and influence the natural and social environment is development whereas agrarian and subsistence societies that live in harmony with nature are viewed as backward and traditional. Such a notion is derived from western rational secular thought. The attributes of rational, control and influence are associated with masculinity, it is no surprise, therefore, as the discussion below would reveal that development has followed a masculine paradigm and has generally been male biased. The above notion of development not only has a distinct western and male bias, it is also too narrow since development is defined in purely economic terms. Development, as suggested here, is the human capacity and ability to choose between options and the freedom to have this option. Rights provide the space where this development can take place. In the context of human rights as well as the women dimension has been largely overlooked. Though the Universal Declaration of Human Rights adopted in 1948, in its' Article 2 entitled all to "the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status." Yet, women remain the most vulnerable section of society. It, however, needs to be emphasised again that women are not a homogenous category. They and their experiences vary according to their race, class, religion, culture and education. Despite the variations a common thread of violations though varied, bind their experiences. This, it is argued here, is due to the dominant ideology of patriarchy that violations against women are often sanctioned in the name of culture, religion, social values and even nurtured and sustained through education. The violations are regarded as normal and private, though in reality it is political and sustains the asymmetry in power relations. The violations against women start even before their birth and continue through their lifetime. The following will evince this.

Before birth, amniocentesis is used for sex selection leading to the abortion of more female than male foetuses at rates as high as 99% in Bombay. In China the most populous country, more males are born than female, even though natural birth ratios would produce more females. In childhood, according to the World Health Organization (WHO) reports, in many countries, girls are fed less,

Coalition on Beijing Plus Five Bangladesh (NCBP) & Secretariat, Women for Women, Dhaka, 2003.

breast fed for shorter periods, and taken to doctors less frequently. In adulthood, women are denied control over their bodies and are the targets of family planning programmes. Gender-based violence in the form of rape, sexual harassment, wife battery, and incest and dowry death is rampant. Such violations cut across race, class and religion.¹⁸

Amartya Sen has pointed out the deadly cost of social and economic inequalities between men and women by analysing the sex ratio of men and women in the developing countries. Whereas there are 106 women per 100 men in Europe and North America, there are 97 women per 100 men in the developing countries as a whole. Sen called this number the number of 'missing women'. The numbers that Sen gives us are quite chilling. The number of missing women in Southeast Asia is 2.4 million, in Latin America 4.4, in North Africa 2.4, in Iran 1.4, in China 44.0, in Bangladesh 3.7, in India 36.7, in Pakistan 5.2, in West Asia 4.3. If one considers the ratio of the number of missing women to the number of actual women in a country, for Pakistan it is 12.9%, for India 9.5%, for Bangladesh 8.7 %, for China 8.6%, for Iran 8.5%, for West Asia 7.8%, for North Africa 3.9 %, for Latin America 2.2%, and for Southeast Asia 1.2%.¹⁹

Economics is a major factor behind the systematic violations of women. Men are looked upon as the breadwinners, while women's work is undervalued and remains invisible. According to a UN report women performed two-thirds of the world's work and received only 10% of all income, and owned only 1 % of the means of production.²⁰ The pervasive idea that men are the primary earners led to formulation of development strategies and plan that excluded or diminished women's work. Women were regarded as passive dependants and relegated to reproductive rather than productive roles, thereby confining them to domestic spheres. This further shrunk the spaces for women. Women's activism and feminist scholarship stepped in to correct the situation. They challenged the existing notions of work and development. Ester Boserup's work on "Women's Role in Economic Development" in 1970 was a path breaker in this respect. She established empirically the vital role of women in agricultural economies and also documented the negative impact of development on women and their lives. It was argued that modernisation costs were largely borne by women. This

¹⁸ Charlotte Bunch and Roxanna Carillo, "Global Violence against Women: The Challenge to Human Rights and Development", in Michael T. Clare and Daniel C. Thomas (eds.), *World Security: Challenges for a New Century*, St. Martins, New York, 1994, p. 258.

¹⁹ Martha Nussbaum and Jonathan Glover (eds.), *Women, Culture and Development: A Study of Human Capabilities*, Oxford University Press, New Delhi, 1995, p. 3.

²⁰ Edna Belen Costa and Christine E. Bose, "From Structural Subordination to Empowerment: Women and Development in Third World Contexts", *Gender and Society*, Vol. 4, No. 3, September 1993, p. 305.

opened the movement for the integration of women into development as workers and producers. In 1970, the General Assembly included in the International Development Strategy for the Second Development Decade a phrase, which stated the importance of encouraging 'full integration of women in the total development effort'. The UN had declared 1975 as International Women's Year and the first UN Conference on 'Women in Development' was held in 1975. A women's decade was declared from 1976 to 1985 with the objectives of peace, equality and development.²¹ Equality of women in all spheres of life was a major objective behind this movement, so development for women was not confined to economics rather it was a move towards empowerment, efficiency, equity and justice. It emphasised that women's work be recognised as work. The recognition was considered vital for the rightful and just place of women in society. Over the years, states experimented with different approaches to integrate women in the development process. Recognition was given to the fact that women had both practical and strategic needs. While practical needs addressed the day to day issues of women, strategic needs questioned the fundamentals i.e., subordination of women. The attempts to integrate women in the development process also juggled with these issues.

The initial attempts, however, did not come out of the stereotype perceptions and treated women as passive recipients of development and continued to emphasise upon the traditional role of women. The welfare approach is most mentionable in this context. The equity approach, which is widely regarded as the original approach to integrate women in development called for equity between men and women in all walks of life, thereby, questioning and challenging the naturalness of the unequal power relations between genders and, thereby, addressing the strategic needs of women by fulfilling their practical needs. This, however, touched the cultural sensitivity of many societies. The donors, therefore, shifted their focus from gender to economics and through the anti-poverty approach, they aimed to eradicate poverty of women and thereby meet their practical gender needs. Then the attempt was made to increase the efficiency of women through increased economic participation, which was linked with equity for them. Finally, through the attempts of the women of developing countries, the empowerment approach evolved. It emphasised upon self-reliance and internal strength of women and called for redistribution of power within and between societies.

The above attempts though not adequate in mitigating the inequalities between men and women were, however, a major challenge to the male biasness of the society. Though the initial emphasis of integrating women in development was on economics, which indeed was too narrow a perspective on development,

²¹ Ashequa Irshad, "The National Women Development Policy of Bangladesh: A Critique", *Social Science Review*, Vol. 16, No.2, December, 1999, Dhaka University Studies, Part-D, Faculty of Social Sciences, Dhaka University, Dhaka, p. 148.

the focus and the movement gradually shifted towards equality, education, employment and empowerment.

The UN also adopted CEDAW in 1979. It is widely regarded as the Charter of Rights for women. The UN World Conference on women held in Beijing in 1995 demanded that women's rights be recognised as human rights. It challenged the separation of family, traditional and customary law, and civil and public law that privileged men's control over households and women. It demanded that same punishment be meted out for crimes within family as in public. It also demanded women's control over their fertility, bodies and rights to land and housing. In other words, women were challenging the public/private dichotomy that is at the root of patriarchy and the subordination of women. This dominant gender ideology, it is argued here, is woven into the sinews and fabric of our society, which systematically marginalises women and renders all State 'attempts' at change quite futile since the changes are sought within a masculine paradigm, this again, it is suggested here, due to the notion of nation that premises itself on hegemony.

The development policies of the State have also added to the insecurity of women in many instances, especially those of the marginalised sections of the population. Agriculture is the mainstay of Bangladesh economy and women have traditionally been a part of this. Introduction of mechanised means into this sector has displaced the rural poor women from this sector. They have been deprived from their main means of livelihood. This has increased their economic and social vulnerability. It is common knowledge that there is a linkage between poverty and violence against women - an increase in one leads to the increase in the other as well. The mechanisation of agriculture also affects men. Many of them have migrated to urban areas in search of jobs. This further increases the vulnerability of women who are left alone to look after the family. Women often have become victims of sexual harassment and violations by the village 'leaders' due to the above. Many young women have also migrated to towns in search of jobs. In many instances, they have ended up in brothels or have become victims of the women trafficking chains. According to one estimate, between 1989 to 1999 around 200,000 Bangladeshi women have been trafficked. Every month 120 to 150 Bangladeshi women are trafficked to Pakistan and sold to brothels. The percentage of women active as sex workers in Calcutta is 13.50.²²

Women of the minority communities have also been affected by the development paradigms of the State. For instance, the Garo women in the bordering area of Birishiri are victims of poverty. 80% of the Garo families in the area are dependent upon forest resources for their survival. But most of the forests have been taken over by the State as Reserved Forests. The women go

²² Yasmin Akhtar, "Woman Trafficking: A Global Malady", *The Independent*, 03 April, 2000.

into these forests to collect fuel wood and also their food items. Most of the time they also cross the borders because most of the forests on the Bangladesh side have been denuded while these are still lush and thick on the other side. While crossing the border the women are often caught by the Bangladesh Rifles (BDR) personnel. They then are forced to satisfy their physical desires. The situation is not different on the other side of the border. They are often caught by the Border Security Forces (BSF) and again they have to satisfy their physical demands. The Garos are extremely poor and the women are bearing these violations for the sake of their families and children.²³ The insurgency in the CHT also affected the livelihood of the Hill people. As forests were being cut down in the name of counter insurgency, many of the Hill people dependent upon *jhum* (swidden) cultivation lost their only means of livelihood. The Forest Department also declared large tracts of forest land as Reserve Forests. Entry into the forest was declared as a criminal act. This placed many of the Hill communities, specially the numerically smaller ones into the most vulnerable position. Women are integral part of the subsistence economy system, they became doubly marginalised. Many of the large NGOs made their entry into the CHT following the peace accord with their micro credit programmes, but Hill people are not well integrated into the money economy, so many women took to wine making to pay the loans. According to many Hill women, development without taking into cognizance the socio- cultural specificities of society only results in dependence and marginalisation. Women being home makers have to take the major brunt of such marginalisation.²⁴

The Readymade Garments (RMG) sector is often regarded as a case of successful women's empowerment in Bangladesh as about 85% of the RMG employed workers are women. This has led to feminisation of labour. On the surface of it, the employment of a large number of women in a vital employment sector is a positive trend, it has made the women visible in an otherwise traditional society where *purdah* is regarded as an important aspect of women's chastity and not only the women's but family's honour is also associated with it. But it needs to be emphasised that women belonging to the bottom strata of the society have traditionally been working outside their homes so there is a class dimension to the concept of *purdah* as well.

The Structural Adjustment Programs (SAP) uprooted many women from their traditional agricultural work forcing them to migrate in the urban areas in search of work. The RMG provided them with a niche and perhaps the only option. While the notion of option may be debated²⁵, there is also no denying that

²³ *Bangla Bazar*, (A Vernacular Daily), 05 January 1999.

²⁴ For details see, Amena Mohsin, *The Chittagong Hill Tracts, Bangladesh: On the Difficult Road to Peace*, Lynne Publishers, New York, 2003.

²⁵ Hameeda Hossain, Rowshan Jahan and Salma Sobhan, *No Better Option? Industrial Women Workers in Bangladesh*, University Press Limited (UPL), Dhaka, 1990.

for most young women migrating to Dhaka garment factories remain the locus of employment. Naila Kabeer's work on Bangladeshi garment workers, makes the point that despite exploitative conditions (discussed below), individual women are able to exercise a certain degree of autonomy and choice in their lives.²⁶ Petra Dannecker reiterates the same. She argues that though a 'we feeling' is yet to evolve among the female garment workers; yet they do exercise a certain degree of individual and collective agency and cannot be regarded a manipulated mass.²⁷ Nonetheless, the RMG sector is infested with human insecurities. Human insecurity includes both physical and psychological insecurities. Job satisfaction is an important component of the psychological well-being of the workers. A study conducted by Pratima Paul-Majumder²⁸ found a wide gap between the female worker's expectations and actual realisations in the garments sector with negative consequences on their mental health. Women are mostly employed in low skilled and hazardous jobs like operators and helpers. The works are not contractual and they get no appointment letters only identity cards are issued to them, which allows them entry and exit into the factories. Job insecurity is, therefore, a constant fear lingering with them. Her study found that 50% of the garment workers worked in the factory in tensed mood. Comparatively more female workers suffer from tension than male workers. 61% of the female workers as opposed to only 20% of the male workers reported that while working they were always occupied with various worries, such as how to reach home at night safely, how to protect themselves from supervisor's anger and how to save their job. In the absence of day care facilities, the mother workers also remain worried about their small children. It may be mentioned that the existing labour laws of the country allows for day care provisions, but there is none so in these factories.

Psychological insecurity is indeed closely linked to physical insecurity. Most of the factories are ill planned and there is inadequate provision for air and ventilation. Fatigue and tiredness is a common complain of the factory workers. The extent of physical hazards varies according to the job categories. As pointed out earlier women are mostly employed in hazardous jobs like operators. This requires sitting at a stretch for a long time, they are also more prone to occupational hazards like exposure to toxic substance, noise hazards, electrical

²⁶ Naila Kabeer, *The Power to Choose: Bangladeshi Garment Workers in London and Dhaka*, Verso, 2002.

²⁷ Petra Dannecker, *Between Conformity and Resistance: Women Garment Workers in Bangladesh*, University Press Limited (UPL), Dhaka, 2002.

²⁸ Pratima Paul Majumdar, "Occupational Hazards and Health Consequences of the Growth of Garment Industry in Bangladesh", in Pratima Paul-Majumdar and Binayak Sen (ed.) *Growth of Garment Industry in Bangladesh: Economic and Social Dimensions*, Bangladesh Institute of Development Studies and Oxfam GB Bangladesh, Dhaka 2001, pp. 72-207.

hazards, accidents such as pricking by needles, wrapping of modesty scarf with the sewing machine, etc. The survey showed that the incidence of physical weakness is significantly high among the operators and helpers compared to other workers. Chemicals used in clothes, small particles of cloth, and dust always irritated the operator's and helper's nose. It increases their chances of getting cold and coughs. Helpers also suffer from leg ache and swelling as they were required to remain standing for most of the working hours. The miscarriage rate among garment workers is high. The survey showed that about 18% of married workers experienced miscarriage. And about half of them had undergone miscarriage more than once. Due to unplanned structures workers mostly work in hot and humid conditions, consequently they often suffer from heat strokes and heat exhaustion. The noise and toxic pollution might cause long-term permanent damages to organs and hearing. The sanitation conditions are also deplorable. The survey revealed that on an average there is one latrine for 71 workers, whereas Factory Act 1965 provides that there should be 1 latrine for every 25 workers. There is no formal provision for maternity leave in most of the factories, though some of the factories do it on their own volition. In some instances, even if they are granted leave this is without pay, also there are no health insurance schemes, though a few factories have physicians but these are mostly informal. Safety and environmental regulations are more often violated.

Women also suffer from extreme bodily insecurity. Fear of sexual harassment, rape, and teasing is common. The female garment workers normally commute together for security reasons. The fear of being raped always lurks at the back of their minds. A survey carried out in 1999 revealed that about 52% of garment workers are unmarried young girls. They are often maltreated and abused both verbally and physically by the male supervisors, but for fear of losing their jobs they do not protest or complain. There is also no mechanism or channel of lodging formal complains. Wage discrimination exists between men and women. Legal provisions exist for the protection of women against harassment, but they are unaware of their rights since most of the workers are young and migrants from villages. The factories have mostly been built in unplanned ways and very few have provisions for proper fire exits. Often factory gates are locked during working hours. Consequently, deaths due to fire are on the increase in the factories and among the dead women constitute the majority. The International Textile, Garment and Leather Workers' Federation (ITGLWF) observed that garment fire death toll is the highest in Bangladesh.²⁹

The employment in the garments sector, it is suggested here, may bring temporary relief or material well-being to the women and their families, but its long term implications are quite dire. One may also suggest that they take up these jobs for the sake of survival rather than as a matter of choice given the lack of options. They leave the jobs after three to four years with physical

²⁹ *The Independent*, 17 October 2002.

impairments with little prospects for future jobs due to their physical conditions. The notion of empowerment of women through employment in the RMG sector, therefore, needs critical examination within the matrix of its long-term implications and the options available to the women.

Monetary benefit is the major objective for work. Although the situation has improved, in terms of wages, women workers still receive less compared to their male counterparts. As stated in Bangladesh Bank Policy Paper (2008), according to the Labour Force Survey (LFS) 2003, the daily average wage of paid labour for men was 68% higher than what the women received in rural areas. The difference was 79% in case of urban areas. Similarly, the LFS 2000 also shows that average women's wage rates were considerably lower than men, i.e., women's earnings were approximately 58.5% of men's. 41.7% women earned between Tk 1-750 per month compared to 7.3% by men. Again, 14.5% men earned between Tk 2501-3000 per month whereas for women it is only 5.9%. According to a survey conducted by *Karmajibi Nari* (2009), 41% female garment workers faced discriminations in wages, 60% faced discriminations in getting promotions, and 39% did not get maternity leave with payments.³⁰ Similar discrimination of wages occurs in case of farm labourers. The *Daily New Age* (2009) reported that, for the task of harvesting, a man is hired for Tk. 250 and a woman for Tk. 120 for the same duration of work.³¹

As argued earlier, women are seen as the culture bearers of nation, this visibility of women is seen as a threat to the core cultural ethos of the nation by a large section of the population who believe that the proper place of women is within their homes and in order to protect themselves they must keep themselves covered. The market is regarded as men's domain thus the public private divide comes to the fore. The mobility of women and activities of the non-government organisations (NGO) in the rural sector and most importantly the rise of militant forces in the name of religion has given a vent to fundamentalist forces. The women as the bearers and markers of national culture are expected to conform to the patriarchal notions of "proper" and "propriety". Their mobility is perceived as a threat to the traditional structure. In order to stop this, recourse often is taken in religious sermons, which in all instances are interpreted and preached by men. There has been an increase in the number of *fatwas* given against women in the rural areas for their so-called improper behaviour. The major brunt of this rising fundamentalism is, however, borne by the marginalised women. However, it is critical to note that women have started questioning the "Holy" and reshaping it.³² Women do have an understanding of religion and modesty and maintain that the veil is for both men and women. They argue that by serving humanity and

³⁰ *The New Age*, 01May 2009.

³¹ *The New Age*, 01May 2009.

³² Elora Shehabuddin, *Reshaping the Holy: Democracy, Development, and Muslim Women in Bangladesh*, Columbia University Press, New York, 2008.

their families they are performing their religious obligations.³³ The journey from the private to the public, their visibility and mobility is indeed bringing about transformations, though slow, in the popular imagination about gender roles, women and their agencies.

However, the following articles of the Bangladesh Constitution have provided legal scope for the Government to enact national legislations requiring women's advancement:

- Article 10: Participation of women in national life;
- Article 14: Emancipation of peasants and workers;
- Article 15 (2): Provision of basic necessities;
- Article 19(1): Equality of opportunity;
- Article 20 (1): Work as a right and duty;
- Article 28 (2 and 3): Discrimination on grounds of religion, etc; and
- Article 29 (2): Equality of opportunity in public employment.

The Government of Bangladesh (GOB) adopted the National Policy for the Advancement of Women in 1997 which embodied commitments to eliminate discrimination against women and girls in all spheres of life and promote women's equality in areas such as education and training, health and nutrition, housing and shelter, political empowerment and public administration and the economy. In 2008, the GOB adopted another policy guidelines document entitled, "The National Women Development Policy (NWDP)". The key objectives of this policy is to ensure equal rights for women in all spheres of national life and also to ensure safety and security for women in the national, social and family environment. The main features of the policy document include increasing the duration of maternity leave provisions to five months, reserving one-third of parliamentary seats for women and their direct election, as well as to ensure equal opportunity of women in terms of control of their earned property. It reinstates special attention for communication, sanitation, rest room facilities, day-care centre and health care facilities at the working places. The policy guidelines further affirm to take necessary steps to stop the sufferings of women working abroad, as well as launching special programmes to help women with distress. The GOB enacted 'Bangladesh Labour Law 2006' on 11 October 2006 to ensure employment security for women. This Act is considered a step forward because it has effectively unified 25 separate acts into one comprehensive law. There are a number of sections where the employment and protection of women have been mentioned. To implement the Bangladesh Labour Law 2006, the GOB has drafted Labour Rules-2008 encompassing issues related to women employment rights. The Bangladesh poverty reduction strategy paper entitled *Unlocking the Potential: National Strategy for Accelerated Poverty (NSARP)*

³³ Author's personal interviews with garment workers in Dhaka and Narayanganj in 2006.

was published in October 2005. It was preceded by an interim PRSP (I-PRSP) entitled, *A National Strategy for Economic Growth, Poverty Reduction and Social Development* which was completed in March 2003. NSARP included women's advancement and rights issues in two ways: (i) integrating a policy matrix specifically addressing women's advancement issues such as employment, political empowerment of women, violence against women, etc., and (ii) prioritising women advancement issues in 17 policy matrix that covered all sectors.³⁴ For the first time in the budget for the FY 2009-10, a separate statement has been made regarding the allocation that have been earmarked for women's advancement for the Ministries of Education, Social Welfare, Health and Family Welfare.³⁵ While the above indeed are appreciable but separate allocation for women in the agricultural and industrial sectors would have been more meaningful in terms of immediate livelihood concerns.

The State also undertook several measures to ensure increased participation of women in all walks of life. In this regard the Ministry of Women's Affairs was established in 1978. Women in Development (WID) focal points were established in all ministries, directories, departments and agencies in 1992 and the National Council for Women's Development (NCWD) was established in 1995 as the highest decision making body for women's advancement. The government also established a parliamentary standing committee for reviewing and advising on women's development programme. The WID coordination committee has been expanded at district and thana level for linkage and coordination.

The government has reserved 10% of high official posts for women. 10% of gazetted posts, 15% of non-gazetted posts, 60% of vacant posts at primary school and 90% of telephone and telegraph operator's posts have been reserved for women.

Despite the above measures, women continue to remain marginalised and their rights violated. It is submitted here that equality is not ensured through the framing of laws or adoption of economic measures, the question is more fundamental i.e., whether the societal and cultural values allow the space as well as opportunity for the implementation of the above. The paper argues that the very existence of patriarchal values privilege men. Right from childhood, a girl child is socialised into the context of a subordinate position to men in society. It has also been observed that in the rural areas more boys are being treated in the

³⁴ Kaniz N Siddique, "Women's Advancement and Rights Issues in National Strategy for Accelerated Reduction of Poverty Reduction (NSARP) and their Implementation and Monitoring", Dhaka: Gender and PRSP Group, *Steps Towards Development*, 2008, p. 5.

³⁵ "National Budget 2009-10: Gender Analysis", *Steps Towards Development*, June 18, 2009.

paediatric wards than girls. Parents do not feel much encouraged to spend money for the treatment of their female children.³⁶

6. THE PERSONAL AND THE LEGAL

As stated earlier, the enactment of the personal laws had far reaching implications for women. Matters relating to the private sphere were brought within the realm of state laws. The contradictions became apparent within a modern state, where the constitution, on the one hand, gave equality to women in all spheres of life but curtailed it through the personal laws. However, as the old saying goes charity begins at home, for women (in) justice also begins at home. To quote from the human rights activist Eleanor Roosevelt,

Where after all, do universal human rights begin? In small places close to home – so small that they cannot be seen on any maps of the world ... Unless these rights have any meaning there, they have little meaning anywhere. Without concerted citizen action to uphold them close to home, we shall look in vain for progress in the larger world.³⁷

Women rights activists, therefore, have insisted that personal is political. It is the home where discrimination starts, power relations and roles are played out within the private, supposedly the domain of women. Discussed below are the issues related to Muslim marriage and inheritance – the two critical areas of security for women in a society like Bangladesh.

Marriage: A marriage under Muslim law is essentially a contract between a man and a woman. This contract is civil in nature requiring mutual consent and form. Since, it is a contract it requires the participation of two **equal** parties. However, an examination of marriages show that woman appears in most instances as secondary. The Act prescribes a form, called *Kabinnama*. It incorporates conditions, such as the amount of dower,³⁸ the mode of its payment, the form of divorce, custody of children and all other conditions which the spouses want to stipulate. Section 5 of this form mentions if the bride is a virgin, a widow or a divorcee, but no such query is made regarding the status of man. Although consent is an essential part of Muslim marriage, but given the location of majority of women in Bangladesh, this consent is often defective. While polyandry is absolutely prohibited, polygamy of up to four wives is permitted for

³⁶ Author's personal conversations with paediatricians and nurses working in the rural areas in 2003 and 2007.

³⁷ Eleanor Roosevelt, *In Your Hands: A Guide for Community Action for the Tenth Anniversary of the Universal Declaration of Human Rights*, United Nations, New York, 1958, Cited from *Who Answers to Women? Gender and Accountability*, UNIFEM, 2008/2009, p. 71.

³⁸ Dower or *mehr* is a sum of money payable to the wife by the husband in consideration of marriage. Sura 4, Ayat 4 requires this. It is an essential condition of Muslim marriage, can be prompt or deferred.

a Muslim man. However, it is qualified by the Muslim Family Laws Ordinance, 1961 that it requires the permission in writing of the Arbitration Council, and an application stating the reasons for the proposed marriage and the consent of the existing wife or wives. Although the Ordinance is an improvement in bringing about changes in the arbitrary practice of polygamy, but permission of existing wife/ves is often acquired through coercion, threats and physical torture. Muslim law allows the parties to separate from one another if every attempt to maintain the marriage fails. Divorce is referred to as *Talaq*. It is a power available exclusively to the husband, although he may delegate the power to his wife, or even to a third person who can pronounce *talaq* on the wife on his behalf if the husband for some reason is unable to do so. There are different forms of divorce.³⁹ Even in the case of judicial divorce, disparity exists between Muslim men and women in relation to the right to divorce. A man can obtain a divorce under any circumstance by pronouncing *talaq*, giving a notice to the Arbitration council and waiting for 90 days for it to take effect. A woman, on the other hand, who has not been delegated the right to divorce has to take recourse to a court and prove one or more of the grounds set out by the Dissolution of the Muslim Marriage Act 1939, which provides a woman with a number of specific grounds for seeking divorce.

A Muslim man may validly marry a Christian or Jewish woman but a Muslim woman may marry only a Muslim man. Even if a Muslim man did marry a non-*Kitabiya*, the marriage would not be void but irregular, i.e., the children would be legitimate but the parties would not inherit from each other. But a Sunni Muslim woman is not allowed to marry a non Muslim man, *Kitabiya* or non-*Kitabiya*.⁴⁰

Under Muslim law, a mother is not the legal guardian of her children as of right. Being the primary care giver she has the first claim of custody, in the case of her male child until the age of seven, and in the case of girl child till the attainment of puberty. But the father continues to be the legal guardian and maintainer. After his death, guardianship falls on the paternal side of the children.

Inheritance: The Quran designated 12 people, including 8 women as heirs. These are the wife, mother, daughter, sister (full, uterine and consanguine), son's daughter and grandmother. But they cannot all inherit concurrently. Depending upon the priority one excludes the other. The Quran does not lay down specific share for a son. But a text, however, specifies that a son's share should be twice that of a daughter. Widows receive 1/8th of the husband's share. Husbands receive 1/4th of his wife's estate. It is clear that Quran made women as heirs.

³⁹ For details see Faustina Pereira, *The Fractured Scales, The Search for a Uniform Personal Code*, University Press Limited (UPL), Dhaka, 2002.

⁴⁰ *Ibid.*, p. 15.

However, Quranic verses are often interpreted to suggest a divine indication that men are superior to women. Whereas Hammudah Abd al Ali makes the point that the implied leadership given to men was no more instrumental leadership allied to responsibility rather than to gender. He further adds that Quran does not state that men are superior to women. Rather it is the financial role of men as a factor which designates them as guardians of women.⁴¹ It is indeed extraordinary but not surprising that this reading is not commonly accepted.

Besides the above, one also observes that even citizenship, a fundamental right had for long been mediated through a man. A child acquired her/his citizenship through the father. However through constant interventions by women's movements, organisations and CEDAW recommendation, the law has been changed in Bangladesh. The Citizenship Act 1951 had been amended in March 2009. Now children can claim citizenship, both through mother and father. Yet, the law remains discriminatory. If a man marries a foreigner, the wife acquires her husband's citizenship automatically but this does not apply in the case of a woman marrying a foreigner. This in other words implies that women do not have the same freedom and citizenship rights as those of men. The state has also delegated women to a secondary position by certain specific laws. For instance, the Head of household is the man. He is considered to be the breadwinner and master of the house. Family is the basic unit of the state. A child is thereby exposed to the power politics of gender at a very early age and is socialised into the notion of a male being the dominant figure or head.

The State has enacted some specific laws for the protection of women, like the Muslim Marriage and Divorce Registration Act of 1974, the Dowry Prohibition Act of 1980 and 1986. But these did not change the position of women in any substantial way. The effectiveness of a legal regime depends to a large extent on the cultivation of values and a culture that can stand as an impediment towards the perpetuation of those acts of violations and crimes. The Bangladesh polity has not done the former, consequently patriarchal values remain strong and women continue to remain insecure. The continued existence of family laws, specially the provisions on inheritance and child custody rights marginalises women, both of the Muslim and Hindu communities. The latter do not even have any rights of divorce, as Hindu marriages are not registered. It is important to bear in mind that Bangladesh is signatory to the CEDAW, the persistence of family laws thereby is not only a violation of the above, but also strengthens and privileges the patriarchal system.

⁴¹ Cited in Salma Sobhan, "Women, Religion and the Law", in Imtiaz Ahmed (ed.), *Women Bangladesh and International Security: Methods, Discourses and Policies*, Bangladesh Freedom Foundation (BFF) and University Press Limited (UPL), Dhaka, 2004, pp. 50-51.

The State on 30 January 2000 passed the Suppression of Violence against Women and Children Act, 2000. Certain provisions of the Act are reflective of the patriarchal values of the state. Section 31 of the said Act provides the placement of a child or woman into ‘safe custody’ if the tribunal considers it necessary. The very notion of ‘safe custody’ for women smacks of a male dominated society. It implies that women need to be protected and confined to safe place. Ironically enough, it is the victim who is being confined not the offender. In Bangladesh normally the following categories of women have been confined under ‘safe custody’:

- i) women marrying men of other religions or against the wishes of their parents;
- ii) Rape victims;
- iii) Women and girl child rescued from the brothels;
- iv) Women rescued from traffickers;
- v) Victims of domestic violence;
- vi) Lost or mentally un-balance children⁴²

The law requires the safe custody to be situated outside the jail. But there is no such place in Bangladesh and women and children have been confined in jails under the pretext of ‘safe custody’. From the above categories it is evident that these people require a secure and healthy environment not the confines of jail.

Section 13 of the Act says that the rapist would bear the responsibility of the child born out of the pregnancy; and if convicted the rapist would be detained in jail. It is therefore, not very clear that how he would perform his responsibility towards meeting the expenses of the child from the jail. The Act also states that a man would be considered to have committed rape if he has had sexual intercourse with a woman under the following circumstances:

- i) against her will;
- ii) without her consent;
- iii) with consent, but the consent has been obtained under threat of death or of hurt;
- iv) with or without her consent when she is under 16 years of age.

But in many instances the victim finds it either difficult or is unable to prove the elements of threat and non-consent.

7. RECOMMENDATION AND CONCLUSION

The review suggests that despite the existence of explicit principles of equality between men and women in the constitution, creation of specific institutions for gender equality and women’s rights, the latter continue to remain

⁴² Ain O Shalish Kendra (ASK), “Nirapottahin Safe Custody” (Unsafe Safe Custody), *Bulletin*, Dhaka, September 1998, p. 4.

subordinate and marginalised. State ideology and practices based on patriarchal notions are largely responsible for the insecurity of women. The vortex indeed is complex, multifaceted and deep rooted. Interventions at various levels are required.

The Private/Public Divide: The nationalist construction of the private/public divide, it has been argued, has much to do with women insecurities. The lines between the divide however, are not fixed and increasingly being contested and redrawn. Contestations are emerging from the global to the local levels. Globalisation has, on the one hand, forced many women to come out of the private, migrate and undertake jobs in markets both within and outside the borders of the state. On the other hand, one also observes a rise of conservative forces with women once again becoming the identity bearers of their communities since globalisation is perceived to have a homogenising impact on cultures. Interestingly, one observes not only a political economy but also class politics associated with this divide. It is suggested that in many spaces and locale, the private has blurred and women, as the analyses above suggests, despite barriers are contesting and carving out spaces for themselves and making their voices heard. This is true of an educated political party woman as well a village girl who has migrated to urban areas in search of work. In other words, women are negotiating their spaces and roles in the private as well public realm.

The Legal Regime: The notion of equality makes the legal regime neutral and negates the power equations and relations existing within the society. This neutral, objective and biased stance is rooted in the tyranny of male objectivity and male norms. The law sees and treat women as men see and treat women. The masculine foundations of legal norms based on reasonable behaviour dismiss the experiences of those who refuse to conform to the societal standards of proper behaviour. Legal interpretations of sufferings also failed to acknowledge the distinct quality of women's sufferings. In other words, the law has been unkind and unjust in treating un-equals as equals thereby, obscuring the power inherent in the social world. The law has also been found harsh in its treatment of women. The "evil woman" thesis is often invoked and women are expected more than men to conform to societal values and norms.⁴³ The legal regime ought to engender itself for the fulfillment and incorporation of women's rights and experiences.

Women's movements have long called for a uniform personal code. However, one needs to be mindful that personal laws despite many of its discriminatory provisions are a sensitive issue for indigenous communities and many women. Women's movements therefore, need to open up this debate from a socio-economic and political perspective. This would require the women's

⁴³ Lynne A Haney, "Feminist State Theory: Applications to Jurisprudence, Criminology, and the Welfare State", *Annual Reviews*, 2000, pp. 3-4.

movements to be more inclusive and reach out to the community people, specially the indigenous communities with issues of their livelihood and survival. It is the systematic deprivation and dispossession of their economic and political rights which make them more militant about their personal laws, as these are viewed as markers of their identity.

The Development Paradigm: The development paradigm also follows the above logic, centralisation and westernisation of the paradigm deprives women of their traditional means of livelihood. Women's development and participation ought to be an important component of the state development policies. Women being the home managers have insights of economics and 'development' unavailable in formal textbooks. Women's contribution to economics not being part of the formal system has remained invisible and unaccounted for. This invisibility has only strengthened and privileged men. Consequently, they are recognised as the bread earners and thereby head of household. It is time the State makes an endeavour towards equal headed households by recognising and thereby making visible the contribution of women towards 'development'. Women's experiences and knowledge must be made an integral part of the State development planning and strategies. In this regard, the State development budget ought to be gender sensitive and allocate a meaningful amount towards gender sensitive programmes.

Technology - a major tool of development is also not innocent. It has a distinct masculine bias and foundation. The slogan "user friendly" in the promotion of different new technological advancements is in fact a move towards commodification and commercialisation of products that are more often than not friendly towards the rich and the dominant. It overlooks the economic vulnerabilities and dependence of women and does not take into account their experiences. "Mother Friendly" is another slogan, which some of the multinational companies have been trying to popularise but this only reemphasises the patriarchal values of the society and State. The "equal opportunity" principle obscures the structural and systemic inequalities in the social system. This inequality is most blatant in the constitution of the family, the basic unit of the State and the citizenship laws of the state.

Knowledge Production: It is another sphere where fundamental and critical changes are urgently called for. The present curricula starting from the primary till the tertiary levels inculcate the traditional values and system, which as argued, are patriarchal and hegemonic. It is only recently that the gender component is making its inroads at the tertiary levels. The Dhaka University has opened a Department of Women's Studies, which again had to be renamed as the Department of Women and Gender Studies largely due to the pressure from the male students of the department. Different disciplines in the arts and social sciences have introduced courses in gender studies. Such initiatives, while welcoming, must however be introduced from the primary levels when the mind

is still young and at a formative stage. The introduction of gender sensitive curricula, it is expected will create a generation imbued with human values and respect for diversity and humanity.

The Political Arena: Finally, politics is the realm where women's rights can be realised. Here the theory can be transformed into practice. The systematic exclusion of women is sanctioned by religious and cultural norms since women, as argued earlier, are considered to be private and politics is public. This dichotomy is political and based on core masculine values, and there is an urgent need to deconstruct this frame and divide. Despite having two women at the helm of national politics, it is indeed sad that women representation in the Parliament is quite negligible. A fundamental and qualitative shift is needed in the political arena. This can only be brought about by incorporating women's perspectives of collective empowerment, nurturance and life in the political vocabulary of the State. This would require women's participation in politics from the community to the State level.

The above changes are indeed difficult to come by. The civil society, citizens groups, the non governmental sector indeed has a major role to play in this respect. Globalisation despite its many discontents has opened up spaces for citizen's interventions. The Rights groups have transcended political/territorial boundaries and the State is under *watch*. Women along with their diversities constitute a major component of the above. They endeavour to build a non hegemonic, non homogenous and engendered State where people can speak and voices can be heard. Through experience, women have learnt that the difference between voice and silence is like between life and death.