The Establishment of Women’s Rights in Bangladesh: Concept & Analysis

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Introduction;
Etymologically “women’s rights” to a set of rights which are exclusively enjoyed, or rather enjoyable by women in particular, to the exclusion of men. In narrow sense, the phrase implies only those rights that are recognized in an individual state. In this regard, the definitional formats of rights are the socio-economic-cultural-religious and legal settings of a particular country in which women stand.

If we look back in the past history of the status of women’s rights, we can realize that there were no rights of women at all. They were treated not less than like beasts. They were not given perfect dignity as a human being!!

But with the gradual advancement and civilization of our society, we, today’s women are living far better than our ancestors lived. Today’s women are much aware about ensuring their rights in every aspect of their life. However, even in this 21st century, how far “women’s rights” are established and prevented from gross violation is a big question. Because statistics show that there had not been such deterioration of women’s rights that have been occurring for a couple of years and still continuing till today.

However, let’s see an analysis of every footstep forwarded towards establishment of “women’s rights” which are in the following:

INTERNATIONAL RECOGNITION OF WOMEN’S RIGHTS AS HUMAN RIGHTS:
Women’s rights gained international recognition for the first time in the United Nations (UN) Charter, 1945. Since then, a series of international covenants, treaties and conferences have been concluded under UN auspices to reaffirm and elaborate women’s rights. The International Bill Of Rights was pioneering in providing list of women’s rights.

To address women’s rights exclusively, some specific international treaties were also developed. For example, the Convention the Political Rights of Women,1953, the Convention on the Nationality of Married Women,1957, the Convention against Discrimination in Education,1960 and more importantly the Convention on the Elimination of all Forms of Discrimination Against Women(CEDAW),1979.

These instruments provide provisions, aiming to place women in parallel with men in the public sphere. The CEDAW is the most comprehensive attempt in the international arena to address gender equality and to develop almost all aspects of women’s rights.

ESTABLISHMENT OF WOMEN’S RIGHTS IN ISLAM:
Islam is the first religion that recognized women as equal to men in many aspects and even provided women much higher dignity than men in some cases. In Islam, woman is a completely independent personality. She can make contract in her name and can inherit property as mother, wife, sister, and daughter.
Islam prohibits forced marriage, by giving women the right and liberty to choose their husbands. In Islam, there is absolutely no distinction between men and women as far as their relationship to God is concerned, as both are promised the same reward for good conduct and same punishment for evil conduct. The Holy Quran says:-

"And for women are rights over men similar to those of men over women."

Islam has also encouraged to support widows. Abu Hurairah reported that from Prophet (pbuh) said: “One who makes effort to help a widow in the path of God is like one who stands up for prayers all of the night and fasts for all of the day.”

Women as mother command the greatest respect in Islam. Our Prophet (pbuh) states that the rights of the mother are paramount. Abu Hurairah reported that a man came to Prophet (pbuh) and asked, “O Messenger of God, who is the person who has the greatest right on me with regards to kindness and attention?” He replied, “Your Mother”. Then who? He replied, “Your Mother”. Then who? He replied, “Your Father”.

This proves that how Islam recognizes women’s rights and enhances their dignity even over men in some respects. Hence in Shariah (Islamic Law), women are spiritual and intellectual equals of men.

3. LEGAL FRAMEWORK OF WOMEN’S RIGHTS IN BANGLADESH:-

In Bangladesh, a range of legislative measures have been undertaken to safeguard women’s rights. Beginning with the supreme law of the land, i.e.; The Constitution of People’s Republic of Bangladesh,1972 there are also many other laws that provide provisions against infringement of women’s rights in every aspect of their life. Such noteworthy laws are in the following:-

The Constitution of People’s Republic of Bangladesh,1972:-

Under part III of the Constitution of Bangladesh, are the fundamental rights where there are various provisions relating to women, both directly and indirectly.

Article 27 ensures right to equal protection of law.

Article 28(1) prohibits discrimination on grounds of religion, race, caste, sex or place of birth. Article 28(2) specifically mentions about equal rights of women with in all spheres of the state and of public life.

Article 28(3) provides:-“No citizen shall, on grounds only of religion, race, caste, sex or place of birth be subjected to any disability, liability, restriction or condition with regard to access to any place of public entertainment or resort, or admission to any educational institution.”

Article 28(4) provides:-“Nothing in this article shall prevent the State from making special provision in favour of women or children...”

Article 29 ensures equality of opportunity for all citizens in public employment and prohibits discrimination on grounds of religion, race, caste, sex or place of birth.

The Penal Code, 1860 defines some crimes such as rape, abduction and kidnapping, against women and provides stringent punishment for them. The Dowry Prohibition Act, 1980 was enacted to address multi dimensional forms of dowry, and was amended many times.

Another significant law, The Nari O’ Shishu Nirjatan Daman Ain, 2000 which has been amended in 2003, describes punishment for crimes like women trafficking, kidnapping and abduction, rape and death for rape, provoking suicide, sexual harassment, causing death for dowry and cruelty to women.
Immoral Trafficking Act, 1993 is another important law on women, penalizing, among other things, forced prostitution. In labour law, The Bangladesh Labour Act, 2006 provides right to maternity benefit for women and also has provision regarding proper behavior towards women in the employment. Apart from these, personal laws such as Shariah (Muslim Personal law) for Muslims and Hindu law for Hindus constitute significant portion of formal rules in providing rights for women.

All personal laws are concerned with personal affairs like marriage, dissolution of marriage, dower, maintenance and guardianship are dealt by family courts that were established in 1986 under the Family courts Ordinance, 1985. Certain reformatory measures were adopted during the last decades on Muslim personal law. Some of the noteworthy laws are:- The Muslim Family Laws Ordinance, 1961, Child marriage Restraint Act, 1929, The Dissolution of Muslim Marriages Act, 1939, the Muslim Marriages and Divorces (Registration) Act, 1974, The Guardians and Wards Act, 1890. By enacting these laws many of the women’s rights are recognized and through these laws remedies are also ensured.

On the other hand, in Hindu Law, laws regarding personal affairs like marriage, maintenance, succession are provided but unlike Muslim Personal law, their, women’s rights are actually infringed in Bangladesh in the name of ancient Hindu customs and traditions which are the main sources of Hindu law. Specifically, The Hindu Women’s Rights to Property Act, 1937 has certain provisions which deprive Hindu women’s rights to inherit property since the Act provides limited ownership of women regarding inheritance. Moreover, no law regarding the registration of marriages exists in our country which makes the women more vulnerable towards injustice. However, Widow’s Remarriage Act, 1856 allows a Hindu widow to remarry.

Moreover, in Bangladesh there are some associations which are now consciously working for the promotion of women’s rights. Among them are Mahila Parishad, Women’s Lawyer’s Association, and the committee for Resistance to Violence to Women and Social Justice are working seriously towards reformation of laws as well as speedy adjudication of the same. Such results of long struggles of women in Bangladesh is the promulgation of the existing laws.

4. REMEDIES AGAINST INFRINGEMENT OF WOMEN’S RIGHTS IN BANGLADESH:- The nature of remedies against infringement of women’s rights under the prevailing laws in Bangladesh can be categorized into four types:-

Firstly, the rights of women ensured by the fundamental rights of the Constitution of Bangladesh can be enforced by Supreme Court of the country. To this end, specific provisions are embodied in Articles 44 and 102 of the constitution. Article 102 empowers the High Court Division to issue orders and directions to enforce fundamental rights.

Secondly, personal laws that provide women with the rights to dower from husbands, maintenance, dissolution of marriage, and restitution of conjugal rights are subject matters of Family Court.

Thirdly, right to inheritance for women invokes civil jurisdiction.

Fourthly, rights under Dowry Prohibition Act, 1980 and Nari O Shishu Nirjatan Daman Ain, 2003 provide stringent punishment for violation of women’s rights that fall within the purview of the Criminal and Penal Codes of the country.
5. COMMENTS AND RECOMMENDATIONS:-
Unfortunately, in spite of the establishment of so many laws regarding women, many women are still experiencing gross violation of their rights. Crimes like abduction, acid-throwing, rape, sexual harassment have been increasing in an alarming rate in the name of a social disease called ‘eve-teasing’ or stalking. Moreover, torture and death for dowry are raising constantly. The consequences of all such crimes are the commission of suicides by considerable number of women today who let go-off their lives to save themselves completely from living with such humiliating experiences in their life.

But pragmatically thinking is this the way we should set such fragile figures of women towards our society? Certainly not. So first of all, to prevent the violation of our rights, we, the women, should be much more conscious about our religious, social, economic, political as well as legal position. According a legal maxim, “Ubi jus ibi remedium” which means, ‘where there is a right, there is a remedy’. So being women, we should not think ourselves frail; rather we should take the initiative against crimes and be confident enough to struggle for the achievement of the remedies of the wrongs.

Further, there are a lot more factors that depend upon the establishment of women’s rights. There are already several laws protecting women’s rights, but lack of effective implementation is the main cause of the deterioration of these rights. Besides, reformations in the existing laws regarding women shall also ensure better prevention of the violation of their rights. In such case, limited provisions of law regarding the protection of women’s rights and less severe penalties for infringement of such rights for committing such heinous crimes are the impediments that should be widened and modified to make the existing laws much more forceful.

Such as Hindu law must be reformed to ensure greater proprietary rights to Hindu women and Hindu marriages must be registered in our country. So appropriate laws should be made for these minorities in Bangladesh.

Furthermore, it can be said there are effectual laws securing women’s rights of which, forceful implementation can actually restrain the declination of their rights. But the effective implementation depends upon the due process of law, good governance, an independent and strong judiciary, efficient law enforcing agencies, greater social awareness, harassment free judicial procedure and above all, on the honest commitment of the Government.

6. CONCLUSION

Ultimately, it is high time that we should think about the establishment of women’s rights in order to make women truly independent from all kinds of physical and mental harassments and live a better and happier life.