

Combined Sixth and Seventh
Alternative Report
to the
UN CEDAW Committee

Submitted by
Citizens' Initiatives on CEDAW-Bangladesh
(CiC-BD)

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Combined Sixth and Seventh UN CEDAW Alternative Report

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Abbreviations

AIDS	Acquired Immune Deficiency Syndrome
ARROW	Asian-Pacific Resource and Research Centre for Women
BAIRA	Bangladesh Association of International Recruiting Agencies
BANBEIS	Bangladesh Bureau of Educational Information and statistics
BBS	Bangladesh Bureau of Statistics
BDHS	Bangladesh Demographic Health Survey
BDR	Bangladesh Rifles (renamed in 2010 as Bangladesh Border Guards)
Beijing PoA	Beijing Platform of Action
BMET	Bureau of Manpower, Employment and Training
BMI	Body Mass Index
BNWLA	Bangladesh National Women Lawyers Association
BOESL	Bangladesh Overseas Employment and Services Ltd.
CBOs	Community Based Organizations
CEDAW	Convention on Elimination of All Forms of Discrimination against Women
CERD	Convention on the Elimination of all forms of Racial Discrimination
CHT	Chittagong Hill Tracts
CiC-BD	Citizens' Initiatives on CEDAW, Bangladesh
CRC	Convention on the Rights of the Child
CSOs	Civil Society Organizations
DEMO	District Employment and Manpower Office
DNA	Deoxyribonucleic Acid
DSS	The Department of Social Services
GOB	Government of Bangladesh
HIV	Human Immune Virus
HNPSP	Health, Nutrition and Population Sector Program
HRC	Human Rights Commission
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICPD PoA	ICPD Platform of Action
ICPD	International Conference on Population and Development
ICT	Information Communication Technology

ILO	International Labor Organization
LBW	Low Birth Weight
LFS	Labor Force Survey
LGRD	Local Government and Rural Development
MDGs	Millennium Development Goals
MEWOE	Ministry of Expatriate Welfare and Overseas Employment
MoE	Ministry of Education
MOHA	Ministry of Home Affairs
MoHFW	Ministry of Health and Family Welfare
MSM	Men who have sex with men
NAPA	National Adaptation Program of Action
NCTB	National Curriculum and Text Book Board
NFE	Non-formal Education
NGOs	Non-Government Organizations
NPA	National Plans of Action
NSARP	National Strategy for Accelerated Reduction of Poverty
OCC	One-stop Crisis Centers
PEDP	Primary Education Development Program
RAB	Rapid Action Battalion
SAARC	South Asian Association for Regional Cooperation
SMS	Short Message Service
SRHR	Sexual and Reproductive Health and Rights
TV	Television
UDHR	Universal Declaration of Human Rights
UK	United Kingdom
UN	United Nations
UNICEF	United Nations International Children's Emergency Fund
UPR	Universal Periodic Review
VAW	Violence Against Women
WHO	World Health Organization

Glossary

Dalit community	Low caste Hindu community treated as untouchable because of their occupation or ethnic origin
Fatwa	A non-binding interpretation of Muslim law by a jurist, not recognized by law in Bangladesh.
Hijras	Transgender or 'third sex'
Hilla marriage	A requirement under Islamic law for an intervening marriage, to enable a woman irrevocably divorced through oral repudiation (pronounced three times) to remarry her husband
Imam	Muslim religious leader
Jatiyo Sangsad	National Parliament
Kothis	'Effeminate' males who have sex with other males
Madrassahs	Muslim religious educational institutions
Nari o Shishu Nirjatan Daman Ain, 2000	Suppression of Violence against Women and Children Act, 2000, revised in 2003
Nikah registrar	Registrar for Muslim marriages
Nikah	Muslim marriage contract
Nikahnama	Marriage registration form
Pardanashin	Women who observe rules of seclusion/segregation
Pauroshabhas	Municipalities
Pro bono	Voluntary or free service
Shalish	Local arbitration/informal conflict resolution forum
Shariah	Muslim religious law
Quran	The holy book of the Muslims
Sunnah	Code of conduct and rules derived from the sayings and practices of the Prophet Muhammad
Thana	An administrative unit in Bangladesh; it can refer to a police station
Union Parishad	Lowest elected tier of local government in Bangladesh
Upazila Parishad	Second tier of local government
Upazila	Sub-district

Introduction

About the Report

This report provides an account of the present state of implementation of CEDAW and its Optional Protocol in Bangladesh. The concerns and the recommendations of the UNCEDAW Committee on the Fifth Report submitted by the Government of Bangladesh in 2004 have been used as the primary benchmark from which to measure progress made in the intervening years.¹

The Alternative Report has been prepared by the Citizens' Initiatives on UNCEDAW, Bangladesh (CiC-BD) which is a citizens' platform comprised of 38 women's and human rights organizations. The platform came together in October 2007. As the secretariat of this collective platform, Steps Towards Development coordinated activities related to the report writing process.

In order to prepare the Alternative Report, CiC-BD commissioned 21 thematic groups to produce 21 thematic reports that directly addressed the concerns of the 2004 UN CEDAW Committee. The contents of the thematic reports were developed through consultations with more than 500 grassroots organizations across the country. In sum, CiC-BD has tried to make the process of writing this report as representative and consultative as possible.

Progress since 2004

In the years since the submission of the Fifth Report to the Committee, significant initiatives have been taken for legal reform and policies to advance women's rights in partial compliance with Bangladesh's treaty obligations. These positive changes are the outcome of the sustained activism of the women's movement, working in conjunction with a progressive judiciary, to transform longstanding demands into reality. Landmark legal, policy and judicial initiatives include:

Legal Initiatives

- The Citizenship Amendment Act, 2009: Under the provisions of the amended Act, Bangladeshi women married to foreigners, can now pass on citizenship rights to their children. Previously, only Bangladeshi men married to foreigners could confer citizenship on their children.
- Domestic Violence (Prevention and Protection) Bill 2010: The Cabinet has formally approved the Draft Bill on July 12, 2010. It has yet to be tabled in Parliament.
- Fourteenth Amendment to the Constitution allows for an increase in women's reserved seats from 30 to 45.²
- The Representation of People's (Amendment) Ordinance 2008, makes it mandatory for a woman to be elected to one out of two posts of vice-chairpersons in each upazila.³

¹ We have also looked at the reports submitted by the Government to the Universal Periodic Review (UPR), 2009, the Committee on Child Rights and Committee on the Convention on Elimination of Racial Discrimination.

² See Chapter III, section 5.4.

³ Second tier of local government.

- Bangladesh Labour Act 2006 prescribes equal pay for equal work, extends maternity leave to four months and other provisions which recognize women workers' rights.⁴
- The Right to Information Act, 2009.
- The National Human Rights Act, 2009.
- The Legal Aid Fund Act, 2000 as amended in 2006.
- Village Courts Act, 2006.
- Birth and Death Registration Act, 2004.

Policy Initiatives

Bangladesh has also adopted the following policies for the advancement of women between 2004 and 2010:

- National Plan of Action Against the Sexual Abuse and Exploitation of Children including Trafficking for the period 2002-2007.
- National Plan of Action to combat Trafficking in Women and Children 2008.
- National Strategy for Accelerated Poverty Reduction II (October 2008), and the Revised version FY2009-11 (December 2009), which includes significant initiatives for gender sensitive budgeting with the involvement of line ministries and participation of citizens' groups.
- The National Policy for the Advancement of Women announced in 1997 is under consideration by the Government.
- The National Education Policy Formulation Committee formed in April 2009 has recommended reforms for increase in women's enrolment and quality education. Other measures for improving education of young women include (a) Reaching Out of School Children (ROSC) Project (2004), (b) Approval of Non-formal Education Policy Framework (2006), (c) Teachers Quality Improvement (TQI) Program (2006), (d) Flexible School Calendar 2008.

Judicial Initiatives

Public interest petitions filed by women's groups have led to favourable judgments and directions by the High Court.

- High Court Ruling on *Fatwas*: On July 8 2010, the High Court declared all extra-judicial punishments, including those made in the name of *fatwas* (religious edicts), to be illegal.⁵
- Other significant judgments were given in petitions on sexual harassment, forced marriage, guardianship, post divorce maintenance, discrimination on basis of marital status in selection of public employees, discrimination in allocation of responsibilities to elected members.⁶

The impact can be seen in several sectors. In the education sector, gender parity has been achieved in enrolment in the primary and secondary levels.⁷ The introduction of stipend systems can be counted as a major success in promoting girls' education. Progress on health has shown an improvement in infant and under five mortality rates; maternal mortality rates have gone down from 574 per 100,000 births to 351 in 2007.⁸ Women's participation in the labor force has increased significantly from 9.4 per cent

⁴ See chapter III, section 8.4.

⁵ *The Daily Star*, July 9, 2010. See Annexure II.

⁶ See Annexure II.

⁷ Government of Bangladesh, *Millenium Development Goals: Bangladesh Progress Report*, 2008

⁸ *Ibid*, p. xvi

in 1985/86 to 24.4 per cent in 2005-06. This is particularly due to the demand for their labour in export industries. In the poverty reduction strategies drawn for implementation of the MDGs, safety net provisions have considered the special needs of widows and women of other vulnerable groups. Women's representation in elected local government has increased as a result of the Representation of People's Order 2008, under which one of two posts of Vice Chairperson of the Upazila Parishad was required to be a woman. In the parliamentary elections held in December 2008, a larger number of women contested for general seats and the numbers elected added to the 45 seats reserved for women. At the national level, in addition to the Prime Minister, women now hold high ranking cabinet positions for Home, Foreign, Agriculture, Labor and Employment. The 2009 Parliament has 63 women lawmakers (including 18 elected through direct elections), the highest number to date.

Much of this was owing to the campaigns and advocacy by women's rights and human rights groups who were supported by development agencies, community organizations, the media and cultural activists. This Report highlights strategies that women's rights activists have used with success, particularly in applying directives from favorable legal judgments in the absence of actual laws. This has enabled them to secure access to justice in individual cases, and to press for legal reform.

Limitations

Progress in women's participation, however, is subject to serious limitations. In the education sector, an increase in enrolment rates does not give a full picture as drop out rates are quite high and the quality of education is often poor, and girls' needs are not adequately addressed as patriarchal values predominate in the design and implementation of the education system. The prevailing climate of insecurity, especially a rise in stalking and sexual harassment of school and college age girls, has added an alarming dimension to families' reluctance to continue their daughters' education. Further, over the last decade or so, the entire education system has become disturbingly marketized, which discriminates against women/girls from the poor and disadvantaged communities. In the health sector, the result is mixed. The proportion of births attended by skilled attendants is inching up gradually but improving maternal mortality rates remains a serious challenge. Further, in both health and education, there is considerable geographical variation. In the coastal belts and the dry regions of the North, over half the population lives under the poverty line.

Women's work in the informal sector is not regulated by law, so that the large number of women in agriculture, domestic work and tea plantations are unable to negotiate for benefits offered to formal sector workers. The garment and shrimp sectors, both leading foreign exchange earners with high concentration of female labor have flexible labor regimes characterized by low wages sub-standard working conditions and high job insecurity.

The participation of women in Parliament could have been more effective if they had been elected by direct vote from specific constituencies. Their nomination by parties in Parliament does not hold them accountable to a women's constituency. The political parties also failed to observe the Election Commission's recommendation for nominating 33 per cent women to contest elections to the Parliament.

The Report notes with concern inadequacies in enforcement of laws and implementation of policies and programs. Judgments directing administrative action have often not been circulated to stakeholders which leads to a recurrence of

incidence of discrimination or violence against women. Institutional failure and administrative lapses, whether through lack of commitment or inadequate capacity, have been fundamental enablers of women's rights violations in the country. In this context, we note with concern both the rise in incidents of stalking and sexual harassment, and the apparent inability/unwillingness of the state to bring to justice perpetrators of gender-based crimes.

Weakness of institutions/mechanisms and flaws in planning without proper consultation are impediments for implementation, monitoring and supervision of programs for elimination of discrimination. For instance, the Ministry of Women and Children Affairs lacks the capacity to carry out its mandate to coordinate and monitor sector wise progress. Other factors which impede implementation of programs for advancement of women include corruption, misuse of funds, inadequate financial and human resources.

Challenges and Concerns

Several overarching concerns frame the Report. The first reflects our concern with the prevailing patriarchal values and traditional norms which regulate social relations and profoundly shape institutional culture. Women have turned to the State to transform these relationships through legal reforms and policy changes, but even when such reforms are introduced, their implementation is not effective in challenging deeply embedded patriarchal values and structures. Governments and political parties appear to capitulate to the demands of constituencies that are antithetical to the interests of women. This tendency occasionally contributes to strengthening political agendas that directly violate the premises of gender equality.

Policies and programs for elimination of discrimination face the challenge of bridging the social divide created by class and gender, along with ethnicity, religion, rural/urban location and other social disadvantages. As in other stratified societies, in Bangladesh an individual's access opportunities for education, health or employment and control over resources depends upon his or her structural position. Of these divides gender is arguably the most pervasive, permeating all social institutions from the family to the state. However gendered divisions are always mediated by other kinds of inequalities.

The Report draws attention to the adverse impact of the marketisation of the rural and urban economy on women, especially poor women who are most likely to be excluded from the benefits of market-led economic development. It cautions against the tendency toward the privatization of public goods, especially of basic health services, such as the introduction of user fees in public health facilities. Global markets have led to wide scale shrimp cultivation for export on land cleared of mangrove forests or agricultural land formerly cultivated by women for subsistence production. The latter have been displaced and are now dependent on a cash economy. Further, the forced intrusion of saline water into the soil renders it permanently infertile. Aside from widespread environmental degradation of the coastal belt, the work itself is hazardous. Shrimp cultivation is also characterized by a high incidence of social conflict. In sum, because the export of shrimp brings in much needed foreign currency, the government has been supportive of the industry, regardless of the peasant dispossession, violence and environmental costs involved.

Globalization processes have not only encouraged labor migration across borders; they have exacerbated trafficking in persons, including in women and girls. Rising

income inequality and limits on legal migration imposed by rich Northern countries have a direct bearing on the rise in incidences of trafficking.

In this backdrop, we need to question the dominant development paradigm that informs national policy making. Current neo-liberal models of development invariably discount the inequality, social dispossession and unsustainability for the sake of “growth above all else”. Such a trajectory is inimical to the rights of the very women on whose cheapened labor such growth depends.

Another concern is with the implications of “extra-judicial” deaths reported as “accidental crossfire” by the media or extra-legal sanctions imposed on women through informal tribunals. Though most crossfire victims are men, individual women’s rights are undermined in multiple ways. Apart from the emotional loss, women usually lose the primary breadwinner of their families. A male relative lost to “crossfire” is automatically labeled a criminal in official realms. This makes recovering pensions and other benefits, if there are any, particularly difficult. Relatives have little recourse to justice once a “crossfire” death takes place. RAB has enjoyed total immunity since its inception. Prosecuting an “accidental” death by the authorities as wrongful and intentional killing is a difficult task for individuals.

Media reports have shown that *fatwas* (non-binding interpretations of Muslim law or customary practice which have no legal standing in Bangladesh) are resorted to in rural mediation council to impose physical penalties on women such as whipping, lashing, social boycotts, etc., in cases where she has exercised her choice in marriage or other social relations. The High Court has in 2009/2010 declared such penalties illegal but the challenge is to create awareness of the community to the violation of the law and to sensitize it to respect a woman’s fundamental right to bodily integrity and choice. The state has a responsibility to ensure zero tolerance in compliance with the High Court directives.

The 2010 Alternative Report builds on the idea that the Convention is a living document. As such, in addition to addressing the concerns and recommendations made by the UNCEDAW Committee in 2004 and 1997, this report includes a brief section on a set of emerging issues that are not directly covered by any CEDAW article. These have been included in Chapter Four for consideration of the Committee. These urgent issues constitute a wide spectrum, from the impact of climate change on gender equality to the rights of women of the marginalized Dalit community. Further, for the first time ever, the Bangladesh Alternative report provides a situational analysis of the rights of gender and sexual minorities as well as of sexual and reproductive rights as a whole (SRHR).

The Report ends with a set of recommendations and suggested policy measures to the GoB. Amongst these the priorities would be:

- Withdrawal of reservations to Articles 2 and 16.1(c).
- Identify and reform all gender discriminatory provisions in the laws.
- Reform institutions for implementation of UNCEDAW.
- Set up mechanisms such as a Gender Equality Commission/National UNCEDAW Monitoring Committee to monitor progress on elimination of discriminatory laws and policies, and recommend time bound measures for implementing equality provisions.

- Strengthen the capacity of MOWCA for coordination of inter-sectoral programs for elimination of discrimination.
- Declare time lines for an action plan for implementation of the National Policy for Women's Advancement (2009/2010).
- Amend the Constitution to allow for direct elections for women to reserved seats in Parliament.
- Enact laws in compliance with judgments that uphold the rights of women.
- Persuade regional bodies, of which Bangladesh is a member, such as SAARC, the OIC, D8, to integrate CEDAW provisions into their charters and develop a set of indicators to monitor progress in CEDAW implementation.

Chapter One

Bangladesh's Commitments to promoting Equality

and Non-discrimination

This chapter identifies the international human rights laws and mechanisms ratified by the People's Republic of Bangladesh that have a bearing on the exercise of women's rights under CEDAW, and the limitations it has placed on its obligations through reservations or declarations on specific articles. The State has reinforced its commitment to equality and non-discrimination by its adoption of regional conventions and standards and the rights granted in the national constitution. Some of the steps taken to further women's advancement are included in the Government's submissions under the Universal Periodical Report to the Human Rights Council in 2009, but the report suggests no time line for reform of laws affecting women's personal rights. In conclusion the chapter lists positive steps taken by way of legislation, policy announcements and programs for the advancement of women.

I. International Obligations

Bangladesh is party to a number of international human rights treaties, as listed below, which contain clear provisions on the state's obligation to ensure the exercise of economic, social, political and cultural rights, to equality before law, and to equal protection of the law, as well as to the right to personal liberty and security, freedom from torture and cruel, inhuman and degrading treatment or punishment. Equality of rights at work are further elaborated in ILO Conventions and Recommendations.

- International Covenant on Civil and Political Rights, (ICCPR), 1966.
- International Covenant on Economic, Social and Cultural Rights, (ICESCR), 1966.
- Convention on the Elimination of All Forms of Racial Discrimination, (ICERD), (1965).
- Convention on the Rights of the Child (CRC), 1989.
- Optional Protocol to the CRC on the sale of children, child prostitution and child pornography, 2000.
- Convention on the Rights of Persons with Disabilities, 2006.
- Convention on the Political Rights of Women, 1953.
- Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages, 1962.
- ILO Equal Remuneration Convention, (C100) 1951.
- ILO Discrimination (Employment and Occupation) Recommendation, 1958 (C111).
- The Optional Protocol to CEDAW 2000, although a reservation was placed on Article 10.1 of the Optional Protocol.

II. State of Implementation

The State's ratification of ICESCR is subject to declarations on Articles 2 (state obligations to guarantee the rights enunciated in the Covenant), 3 (Equality of men and women), 7 (The right to the enjoyment of just and favorable conditions of work), 8 (The right of trade unions), 10 (Right to Family and protection of mother and child), and 13 (the right of everyone to education). These discriminate against women and contradict the provisions of CEDAW.

The Government has not submitted periodical reports to most of the treaty bodies with exception to the CRU, CERD and CEDAW, which detracts from a proper appraisal of the implementation of international human rights.

III. Universal Periodical Review, 2009

In 2009 the Government submitted its Universal Periodical Report for consideration in the Human Rights Council.⁹

The Report referred to measures for women's participation in political decision making by competing for 300 general seats and for 45 reserved seats for women in Parliament, and one-third reserved seats in all local elected bodies including Municipal Corporations. A 10 to 15 per cent quota for appointment of women in government services and 60 per cent for women teachers in primary schools has encouraged women's entry into public services. The Report also mentioned that participation of women in the formal labor market had significantly increased due to changes in rural livelihood patterns, economic expansion and rural-to-urban migration. The inclusion of the mother's name alongside that of the father was made mandatory in all documents/certificates and passports. Special laws had also been enacted to curb gender-based violence.

The Universal Periodic Forum, a coalition of 17 human rights organizations, submitted an alternative report, titled *Universal Periodic Review (UPR), Bangladesh Report* in January 2009¹⁰ which attributed the causes of continued gender discrimination to (a) primacy of personal laws based on religion in matters of inheritance, marriage, divorce, maintenance, child custody and adoption that discriminate against women in respect of rights within the family, (b) obstacles to access opportunities for education and employment as well as access to resources and to services, in particular health care, (c) low participation and visibility in public space, (d) violence, in public and private, which continues to be a significant feature of the everyday experience of many Bangladeshi women, and in particular through illegal penalties imposed by unauthorized tribunals in the form of *fatwas*.

The Universal Periodic Forum urged the Government to clarify what steps it would take, and when, to reform gender-discriminatory personal laws, adopt the draft domestic violence law submitted by the **Citizens' Initiative Against Domestic Violence** to the Ministry of Law, and implement the High Court directives for Guidelines on Sexual Harassment, ensure sector-wide implementation (in particular on health, education, employment and agriculture) of the National Policy for Women's Advancement (1997 & 2008).

⁹ UNGA, National Report submitted in accordance with Paragraph 15/A of the Annex to Human Rights Council Resolution 5/1, A/HRC/WG.6/4/BGD/1, See section C.I "Women's Rights and Empowerment", p 6 and section H, "Institutional Arrangements to address Violence against Women and Children", p 9, "Gender Governance", p 14.

¹⁰ *Universal Periodic Review (UPR), Bangladesh, Compilation of Reports*, Dhaka, HR Forum on UPR, January 2009.

IV. International Plans of Action

To further promote equality and non-discrimination Bangladesh has adopted the following plans of action and declarations at several international conferences:

- Alma Ata Declaration on Health for all, 1978 (World Health Organization).
- Declaration on Violence against Women at the Vienna Conference on Human Rights, 1993.
- Cairo Declaration at the ICPD.
- Beijing Declaration and Platform of Action (1995).
- International Conference on Population and Development (ICPD), 1995.
- Dakar Forum and Platform for Education for All, 2000.

As a party to the Millennium Development Goals (MDGs) 2000, Bangladesh is committed to women's advancement by eradicating extreme poverty (goal 1), achieving universal primary education (goal 2), promoting gender equality and empowerment of women (goal 3), improving maternal health (goal 5).

A mid term progress report prepared by the Planning Commission showed that by 2005:

1. The proportion of population below the national poverty line was 40%, (Goal I). The data was not disaggregated by sex.
2. While gender parity in enrolment was said to have been exceeded in primary schools (74% boys to 76% girls) and secondary schools (59% boys to 71% girls), the Report did not take into account subsequent drop out rates. Retention of girls was subject to a substantial number of drop outs and exclusion of out of reach students (Goal II).¹¹
3. Reservations in the electoral system had contributed to an increase in women's quotas in elected bodies. (See below).

Despite these indicators of improvement, lingering gender disparities point to the weakness of implementation of government initiatives. Though life expectancy has improved (49.1 for women as against 48.2 for men), women in the reproductive age cohort are afflicted by high maternal mortality rates (3.20) which is below the MDG target. The low nutritional status especially among pregnant women (32%) remains alarmingly high. High drop outs contribute to low participation at the higher level of formal education; as a result only 25% of the total students at the tertiary level are women.¹²

The Labor Force Survey (2006) shows that in the economically active population (49.5 per cent of the total population) only 12.1 per cent were women while 37.4 per cent were men. Of the total employed population (47.4 per cent) women formed 11.3 per cent and men formed 36.1 per cent. In other words women constitute only one-fourth of the employed population.¹³

V. Regional Obligations

Bangladesh, along with other states of South Asia has signed the SAARC Convention on Prevention of Trafficking of Women and Children in Prostitution, 2002; it has adopted the SAARC Social Charter, 2004 and SAARC Development Goals, 2006. Several of the recommendations in these documents have yet to be operationalised.

¹¹ *Millennium Development Goals Mid-Term Bangladesh Progress Report 2007*, Planning Commission, Government of Bangladesh, December 2007, p 13-15.

¹² See Chapter III, section 7.4.

¹³ See Appendix III, Tables 1 and 2.

VI. Constitutional Framework of Rights

Reflecting many of the international human rights standards noted above, the Constitution of Bangladesh in Chapter III guarantees fundamental rights. It provides for equality before the law and equal protection of the law (Art. 27). It prohibits the State from carrying out any form of discrimination on the basis of religion, race, caste, sex or place of birth; provides that women are to “have equal rights with men in all spheres of the State and of public life” and imposes a positive obligation on the state to take affirmative action to ensure women’s rights by requiring it to take “special measures for the advancement of women...” (Art. 28). In addition, it protects the right to life and liberty, to be treated in accordance with law (Art. 31 and Art. 32) and the right to freedom from torture and a speedy trial (Art.33). Articles 44 and 102 of the Constitution provides for the right to enforce fundamental right.

In addition to these judicially enforceable fundamental rights, the Constitution also provides for directive principles of state policy, which are to be taken into consideration by state agencies in formulating policies or laws.

Chapter Two

Limits of State Obligations to CEDAW Continuing Reservations

This chapter reviews the CEDAW Committee's concerns and recommendations expressed in its meetings held in 1997 and 2004 in response to the Government's submissions on its reservations to Article 2 and 16.1(c). It explains the rationale for withdrawing reservations.

II.1 ARTICLE 2: ELIMINATE DISCRIMINATION AGAINST WOMEN

II.1.1 CEDAW Committee's Concerns¹⁴

- (i) In 2004: (235) "...that reservations to article 2 and article 16(1)(c) of the Convention which in the opinion of the Committee go against the object and purpose of the Convention continue to be retained."
- (ii) In 1997: (433) "...over the Government's remaining reservations to articles 2 and 16, paragraph (1)(c). The Committee noted that it regards article 2 as a fundamental and core provision of the Convention, while article 16 is critical to the full enjoyment by women of their rights."

II.1.2 Government Submissions

- (i) In 2004: (220) The Government representative "emphasized her Government's strong commitment to the advancement of women. ... The Ministry of Law, Justice and Parliamentary Affairs had opined in favour of withdrawal of reservations to Articles 2 and 16.1(c)."
- (ii) In 1997: "The Ministry of Women and Children's Affairs constituted an inter-ministerial committee in November 1996 to review the reservations made to the Convention and make recommendations. It has members from the Ministries of Information, Law, Home Affairs and Women and Children's Affairs...The Constitution of the country embodies the principle of equality between women and men and declares that constitutional principles take precedence over all other existing laws...Bangladesh does not have 'Shariah law' as such...certain provisions are codified into legislation...and provisions of the Shariah are not immutable but subject to reinterpretation based on the needs of the time. In addition Muslims are not the only population in the country. There is a sizeable non-Muslim population for whom the Shariah is not applicable".¹⁵

¹⁴ Excerpted from Supplement No 38(A/59/38) of the 31st Session of the Committee on the Elimination of all Forms of Discrimination against Women, July 2004. Numerals in parenthesis refer to numerals in the report.

¹⁵ Combined Third and Fourth Periodic Report submitted by Bangladesh in Accordance with Article 18 of CEDAW, Ministry of Women and Children Affairs, CEDAW/C/BGD/3-4, 1 April 1997, (2.1.4).

II.1.3 CEDAW Committee's Recommendations

- (i) In 2004: (236): "... urges the State Party to expedite the decision on the withdrawal of the remaining reservations to the Convention within a concrete time frame."
- (ii) In 1997: (449) "... urged the Government of Bangladesh, in order to comply both with its own Constitution and the Convention, to review its remaining reservations to articles 2 and 16 paragraph 1(c) with a view to eventually withdrawing them."

II.2 ARTICLE 16.1(C): MARRIAGE AND FAMILY LAW

II.2.1 CEDAW Committee's Concerns

- (i) In 2004: (245) "...traditional and cultural discriminatory practices, including polygamy, and strong stereotypical attitudes persist with respect to the roles and responsibilities of women in the family and society, negatively affecting women's enjoyment of their rights and impeding the full implementation of the Convention."

II.2.2 Government Submissions

- (i) In 2004: "The Constitution guarantees equal rights of men and women in all public spheres. Various discriminatory customs and practices persist, however, which are gradually being addressed and removed through appropriate measures...The Constitution allows for Personal Laws in the private sphere which are in some cases discriminatory against women. Unequal provisions in personal laws such as in the case of inheritance, guardianship of children, marriage and divorce contributes to their inferior social, economic, political and legal status."¹⁶

II.3 CIC-BD: RATIONALE FOR WITHDRAWING RESERVATIONS FROM ARTICLES 2 and 16.1(c)

- II.3.1 Article 2 is fundamental to implementation of all other provisions of CEDAW. Reservations placed on it, therefore, appear to negate Bangladesh's commitment to the elimination of all forms of discrimination.
- II.3.2 Article 16(1)(c) guarantees equal rights in marriage and its dissolution and the reservations placed on this article deprive at least half the Muslim population of Bangladesh of their rights.
- II.3.3 Jordan, Kuwait, Lebanon, Maldives, Oman, Syria, Tunisia, Turkey, Yemen are amongst Muslim majority countries that have placed no reservations on Article 2.¹⁷
- II.3.4 Bangladesh's reservation to Article 2 is in contradiction with Constitutional guarantees provided under Articles 10, 19, 27, 28, 29 which pledge that the State shall not discriminate against any citizen on the ground of religion, race, caste, sex or place of birth and women shall have equal rights with men in all spheres of the State and public life. Bangladesh is also under a legal obligation to comply with international human rights instruments by enforcing, enacting and reforming national laws so that they conform to the principle of non-discrimination and equality.¹⁸

¹⁶ Fifth Periodic Report submitted by the Government of the People's Republic of Bangladesh to the CEDAW Committee, Ministry of Women's Affairs, Dhaka, 2004, p. 15.

¹⁷ Source IWRAW.

¹⁸ Faustina Pereira, *The Fractured Scales, The Search for a Uniform Personal Code*, University Press Limited, Dhaka, 2002, p. 112.

- II.3.5 Bangladesh is not governed by *Shariah* law. Some of its provisions had been incorporated into personal laws under British colonial rule. Since then the Muslim Family Laws Ordinance 1961 which applies to Muslim women, introduced a few changes in favor of women's rights in marriage and divorce, by making polygamy subject to certain procedural conditions, facilitating women's right to divorce, and allowing for rights of the child to receive a share in her/his deceased parent's inheritance.
- II.3.6 Over ten per cent of Bangladesh's population is non-Muslim (of other religions and ethnicity), and their lives are governed by laws other than the *Shariah* law. Therefore, maintaining reservations on account of the *Quran* and *Sunnah* is not universally applicable.
- II.3.7 Bangladesh's adoption of the Beijing Plan of Action (1995) and the National Action Plan for Implementation of Beijing PFA (1997) take forward its commitment to:
- (i) implement equality between men and women in all spheres of national life,
 - (ii) eliminate all forms of discrimination in political, economic, social and cultural spheres of activity,
 - (iii) amend or repeal discriminatory laws, in compliance with CEDAW articles,
 - (iv) ensure women's equal access to and control over resources, which are essential for economic empowerment of women, such as... earned property, credit...and right to land, discriminate,
 - (v) prevent misuse of religion to discriminate against women.
- II.3.8 The National Strategy to Accelerate Reduction of Poverty (NSARP) has set targets for implementing the Millennium Development Goals for women's empowerment, preventing violence and enhancing access to justice. These goals can only be reached if women and men have substantive equality and women are not subject to any form of discrimination in public and private life.
- II.3.9 The present Government in its election manifesto (2008) made a commitment to implement the National Policy for the Advancement of Women (1997).

II.5 OPTIONAL PROTOCOL TO CEDAW ARTICLE 10

II.5.1 CEDAW Committee's Concern

In 2004: (263) "The Committee encourages the State Party to withdraw its declaration to article 10.1 of the Optional Protocol."

II.5.2 Government's Submission

In 2004, a member of the Government delegation explained that the purpose of the reservation was to reduce the burden of reporting on the Government. Since it had to report to several other UN Treaty Bodies and Rapporteurs, reservation to this article was placed to avoid duplication of reporting.

II.5.3 Summary Proceedings in Committee's hearings in 2004

Several of the Committee members remarked that the reservation to Article 10.1 sends wrong signals on the commitment of the Government, and reservations to CEDAW Article 2 itself makes the Optional Protocol inoperative. They felt that the Government had misunderstood the requirements of the Enquiry Procedure which would not duplicate its efforts, but would enable the Committee to enquire into complaints which had not been dealt with under the laws of the country.

Chapter Three

Status of Compliance with CEDAW Articles

This chapter reviews positive steps taken by Bangladesh in compliance with the provisions of Articles 1, 5, 6, 7, 10, 11, 12, 14, as well as General Recommendations 19 and 26 and remaining deficits. Only those articles on which the Committee raised concerns are discussed in this chapter. Attention is drawn to CEDAW Committee's concerns and recommendations expressed under each article in 1997 and 2004 in response to the submissions made by the Government in 2004 to explain the status of implementation of the provisions of the article. This is followed by an analysis of the variance in existing legislation/policies with the purpose of the CEDAW articles and weaknesses/gaps in their implementation.

III.1 ARTICLE 1: DEFINITION OF DISCRIMINATION

III.1.1 CEDAW Committee's Concerns

- (i) In 2004: (237) "...while the Constitution guarantees equal rights to men and women, the definition of discrimination in the State party's legislation is not in line with the Convention.
- (ii) 2004 (239): "...the Convention has not yet been incorporated into domestic law and its provisions cannot be invoked before the courts."

III.1.2 CEDAW Committee's Recommendations

- (i) In 2004: (238): "...that the definition of discrimination against women be brought into conformity with article 1 of the Convention, and in particular that the State party's responsibility to eliminate all forms of discrimination against women be extended to discrimination perpetrated by private actors."
- (240): "...to incorporate without delay the provisions of the Convention into its domestic law and ... to ensure that the provisions of the Convention be fully reflected in the Constitution and all legislation."

III.1.3 Analytical Review of Legislation, institutional mechanisms and access to justice

III.1.3.1 Definition of Discrimination

Article 28(1) of the Constitution guarantees freedom from discrimination on grounds of religion, race, caste, sex or place of birth. Article 28(4) enables the State to make "special provision in favor of women..." Article 29 (1) (2) provides for equality of opportunity in respect of public employment.

Article 28(2) refers to women's equal rights with men in spheres of the State and public life, but does not mention women's rights in the private sphere.

III.1.3.2 *Incorporation of CEDAW provisions into national laws*

The Ministry of Law was instructed in 1996 to examine if CEDAW provisions had been endorsed into civil and criminal laws. It has not, to date, made public any report on its findings. The Law Commission has yet to be tasked with examining discrimination in national laws and recommending necessary amendments.

Nevertheless, a few laws were enacted between 2004 to 2009 to advance women's rights in the personal sphere, and to increase opportunities for their political participation. Some of these apply to women of one particular religious group and are not universally applicable to women of all religions.

We give below the legal reforms between 2004 and 2009, relating to women's rights in the personal sphere and their political participation, along with a critique of the gaps/weaknesses in the laws which prevent women from exercising their rights in full.

(i) *Birth and Death Registration Act, 2004*

This Act came into effect from 3 July 2006, making birth registration compulsory for all citizens of Bangladesh. Birth certificates will now be required for school entry, passports, employment, etc. A 2007 UNICEF report stated that the present rate of birth registration in Bangladesh is between seven and ten per cent.¹⁹ According to the Bangladesh Bureau of Statistics (BBS), only one out of ten children under five had been registered in 2006.²⁰ A recent report from the Local Government Division shows that 40 per cent of the total population had received a birth certificate by the end of March 2008.²¹

(ii) *Recognition of mother's identity*

A Gazette notification (2000) requires that the names of the mother and/or father be included in all official documents relating to a child. Contrary to this some schools insisted on names of both parents, but in a 2009 Rule, the High Court Division has directed education boards to ensure that a mother's name be inserted in the school admission form, either alone or with that of the father.²²

(iii) *The Constitution (Fourteenth Amendment) Act 2004*

Article 65 of the Constitution was amended to establish 45 reserved seats for women in the National Parliament for a period of ten years, beginning from the sitting of the Eighth Parliament.

(iv) *The Jatiyo Sangsad (Reserved Seats for Women) Election (Amendment) Act 2005*

This Act repealed the earlier ordinance of 2004 and provided for increasing the number of reserved seats for women in the National Parliament from 30 to 45 for two terms.

¹⁹ UNICEF Bangladesh, Issue 7, September 2007, page 5, see http://www.unicef.org/bangladesh/Donor_Newsletter-7.pdf.

²⁰ M S Siddiqui, *Birth and Death Registration Act and name of citizen*, in *The Daily Financial Express*, 18 July 2009, <http://www.thefinancialexpress-bd.com/2009/07/04/71890.html>

²¹ *Ibid.*

²² See Annexure II.

The amendment provides for women to be selected by political parties, in proportion to the numerical strength of each party in Parliament. This is contrary to earlier commitments made by political parties in response to demands from the women's groups for direct elections to reserved seats, which would allow women to represent a constituency.

(v) *Muslim Marriages and Divorces (Registration)(Amendment) Rules, 2005*

This has replaced section 5 of the Muslim Marriages and Divorce (Registration) Act 1974 to enforce registration of marriage by the *Nikah* registrar within 30 days from the date of solemnization. The bridegroom is responsible for ensuring registration, within 30 days, where the marriage is solemnized by a person other than a *Nikah* register. Failure to do so is liable to simple imprisonment for a maximum of two years or a fine extending to taka 3,000.0 or both. Such offences are to be tried by the Court of a First Class Magistrate.

While this compulsory registration will be useful for Muslim women to make claims in marriage, inheritance or divorce, there is no legal provision for registration of marriages of women of other religious groups. Hindu marriages are not registered which makes it difficult for them to seek redress in marital disputes. Christian marriages are registered in the Church while an inter-religious marriage has to be registered under the Special Marriages Act, 1872.²³

(vi) *The Representation of People's (Amendment) Ordinance 2008*

Political parties are required to amend party constitutions to include provisions for reserving at least 33 per cent of all committee positions for women including in the central committee, and successively achieving this goal by the year 2020. Political parties have yet to comply with this conditionality. In the elections to the Ninth Parliament, held in 2008, political parties did not nominate women in 33 per cent of the constituencies.²⁴ Committees formed by the Awami League at their Council meeting held in June 2009, did not include 33 per cent women. The main opposition party the Bangladesh Nationalist Party has even fewer women in its committees. The reason usually given is that there are not sufficient number of experienced and qualified applicants.

(vii) *Citizenship (Amendment) Act, 2009*

This Act has amended the Citizenship Act 1951 by giving women the right to pass on their citizenship to their children.

On the other hand the woman's right to pass on her citizenship to her spouse is governed by the Citizenship Rules 1978 which requires her spouse applying for citizenship to be resident in the country for five years and to give up his own nationality, whereas the residential requirement for a foreign woman married to a Bangladeshi man is two years only.

III.1.3.3 *Discrimination in personal laws*

So-called personal laws (regulating marriage, divorce, maintenance inheritance, child custody and the like) derive from religious precepts, so that each religious community is governed by its own set of laws. Even though Bangladesh is not an

²³ See Annexure 1 for a breakdown of unequal provisions in three religious groups in Bangladesh and recommendations by women's groups for reform.

²⁴ See Chapter III, Section 5.4.

Islamic state, for Muslims, prevailing interpretations of Muslim law take precedence over civil laws in “personal” matters. Some reforms were adopted in 1961, thus suggesting the possibility of changes in women’s rights through legislative process. All laws other than personal laws are based on civil not religious laws, there is therefore no justification for retaining legal provisions that create inequality among women of different communities.

Religion has sometimes been used or misused to discriminate and also to justify violence against women. For example, *fatwas* (non-binding interpretations of Muslim law by jurists or clerics) have no legal standing in Bangladesh. Nevertheless, *fatwas* issued in village *shalish* have instigated and/or justified violence against women (whipping, lashes, social boycotts) or dictated intervening marriage (*hilla* marriage²⁵ in cases of an irrevocable divorce). These *fatwas* violate a woman’s right to fundamental freedom, choice and bodily integrity.²⁶ A High Court judgment issued on 25 August 2009 declared illegal such extra judicial penalties imposed on women.²⁷ Earlier, in 2001, the High Court issued a judgment specifying that: “Only the courts are empowered to decide all questions relating to legal opinions on Muslim laws and other laws in force.”²⁸ This judgment is, however, subject to an appeal in the Appellate Division.

Women of different communities are governed by different laws. For example: Hindu women in Bangladesh face discrimination in marriage, divorce, adoption and inheritance. Hindu women do not have the right to divorce, though there is no such bar for a Hindu man. A Hindu woman cannot adopt a child in her own right but only as a representative of her husband. A girl child cannot be adopted. A mother’s right to guardianship is secondary to that of the father. Hindu women have no right to inheritance of parental property. Only five categories amongst women, the wife, daughter, mother, father’s mother and mother of father’s father are entitled to inherit from the deceased but only for the period of her life. On her death her inherited property reverts to the male inheritor of the deceased.²⁹

Christian women have equal rights in marriage, inheritance, etc., but they do not have equal rights in divorce, guardianship and custody of children. The Divorce Act 1869 has no provision for registration of a decree *nisi* by the High Court Division for dissolution of marriage. They have a right to maintenance from the spouse and while there is no specific law on shares in marital property this is

²⁵ Under Islamic law, if a woman is divorced by her husband through an oral divorce, (pronounced three times) and the couple wish to resume married life, the woman is required first to undergo an intervening marriage with a third person. The 1961 Muslim Family Laws Ordinance did not ban intervening marriages outright but placed stringent conditions under which oral divorces are legally valid. Nevertheless, *hilla* marriages are often enforced through *fatwas* issued by religious leaders in villages.

²⁶ See Appendix VIII, Table 1 for compilation of *fatwas* issued between 2004 and 2009.

²⁷ See Annexure II, Writ Petition No.5863 /2009 was filed jointly by the Bangladesh Legal Aid and Services Trust (BLAST), Bangladesh Mahila Parishad, Ain o Salish Kendra (ASK), BRAC and Nijera Kori.

²⁸ Writ Petition no. 5897/2000, Judgment delivered on 1 January 2001 Editor, Bangla Bazar Partika v. Deputy Commissioner, Naogaon and others. ASK was an intervenor in the case.

²⁹ The Hindu Code Bill of 1951 was later enacted as a series of Acts by the Indian Parliament. These acts reformed discriminatory laws based on the Hindu religion. In Bangladesh some male leaders of the Hindu community have been opposed to reforms, although many women of the Hindu community continue to campaign for reform.

usually decided by the courts on the basis of need and responsibility for dissolution.

Women of other faiths (Buddhists and animists) or of diverse ethnicities follow their customary laws and practices which are not codified and some of which tend to be discriminatory. Women of socially excluded communities such as Dalits are further discriminated on account of their caste and as women within their castes.

Annexure 1 shows the differences in rights exercised by women of different faiths. Women's groups representing different communities have urged that consultations be held towards formulating a Uniform Family Code as well as to consider reform of personal laws.³⁰

III.1.3.5 *Institutional mechanisms established between 2004 and 2009 to protect women's rights:*

Institutional mechanisms have been established for promotion and protection of human rights, but their power of independent action is limited by legislation, while delays in adoption of rules and selection of personnel have made these institutions non-functional or ineffective.

(i) *The Village Courts Act 2006*

This Act replaces the Village Courts Ordinance 1976 and provides for an institutional form of informal justice, to ease pressure on the formal court system and to provide alternative remedial procedures. The Village Court is constituted of five members, including three elected Union Parishad members.

A recent study³¹ on the functioning of the Village Courts in 40 unions in 2007 showed that in most cases the chairperson and members were not well informed about legal precepts and procedures. Hence, their decisions were often guided not by laws but by social norms, which tended to be discriminatory to women; they followed informal mediation (*shalish*) procedures rather than court rules and the court documentation was not maintained properly.

(ii) *The Human Rights Commission Act, 2009*

Enacted by Parliament in February 2009, the Act authorizes the setting up of an Human Rights Commission, constituted by seven members, of whom at least one will be a woman and one will be from a minority community.

While the HRC is mandated to investigate violations of human rights, it has no powers of sanction, and can only make recommendations to the Government for submission of reports in complaints of human rights violations. The Rules submitted to the Ministry of Law two years ago have yet to be approved. A seven member Commission, with four women members, was announced in June 2010.

(iii) *The Right to Information Act 2009*

This Act entitles all citizens to obtain information from government agencies. A three member Commission appointed in 2009 includes one woman.

The Act has excluded a significant number of sectors and agencies, including intelligence agencies from obligation to disclosure. While the commercial private

³⁰ See Annexure 1.

³¹ "Findings on Village Courts in Ten Districts of Bangladesh", Gender and Social Justice Unit, Ain o Salish Kendra (ASK), 2007, mimeo.

sector has been excluded from disclosure, the not for profit private sector has not been so excluded.

(iv) Nari Nirjaton Special Tribunal

While special tribunals were set up in the country in 2000 to try charges under the Nari o Shishu Nirjaton Daman Act, 2000 amended in 2003, no such institutional support was available to women in the Chittagong Hill Tracts. Recently three tribunals have been set up in the three Councils of Rangamati, Khagrachari and Bandarban in the Chittagong Hill Tracts. This has provided access of women in the CHT to judicial processes in cases of violence.

III.1.3.6 *Factors which constrain women's access to justice*

- (i) A dualistic system of rights leads to discrimination in the personal sphere because religious laws prevail in matters of inheritance, marriage, divorce, and maintenance over civil laws, notwithstanding constitutional guarantees of equality;³²
- (ii) Patriarchal language and substance of some civil laws, which have remained unchanged since colonial days. For example, under section 132 of the Civil Procedure Code *pardanashin*³³ women are exempt from appearance in court; under section 64 and 65 of the Criminal Procedure Code a summons for an accused has to be given to a male relative if the former is not found; some labor laws also restrict a woman's choice in employment.
The stereotype of a woman needing protection rather than recognizing her autonomy in decision making has been carried over into the Suppression of Violence against Women and Children Act, 2000, as amended in 2003. Under this law, a magistrate can use his discretion to ask a woman if she wants to be kept in safe custody, but her consent is not mandatory. The courts often do not use this discretion and tend to decide arbitrarily on their safe custody.
- (iii) Absence of laws on domestic violence is a deterrent to seeking justice in cases of domestic violence.
- (iv) Poor implementation of orders and decrees; corruption within the justice system
- (v) Patronage and protection of political party members who commit gender-based violence.
- (vi) Lengthy and time consuming legal procedures are a deterrent to women seeking justice. The Government has been tardy in executing High Court orders and directives, which entails the filing of subsequent appeals for execution.
- (vii) Scarcity of available and affordable legal representation;
The Government Legal Aid Services Act (2000) has provided for free legal aid to insolvent persons. It is supervised by a district committee headed by a District Judge and representatives of the Bar Association. Delays and mismanagement in apportioning cases to lawyers has made its implementation inefficient. Several national and local legal and human rights organizations provide free legal support to women. There is a need to expand and coordinate these initiatives and facilitate the use the Government legal aid funds.
- (viii) Women's lack of knowledge or resources;

³² See Annexure I.

³³ A woman who observes rules of seclusion and segregation.

Legal and human rights organizations and women's groups have organized awareness building programs for women as well as for service providers. This has been followed by providing *pro bono* legal assistance and services to poor women with a view to enable them to claim their rights and entitlements through courts as well as through mediation. Women beneficiaries have been encouraged to register their marriages.³⁴ Programme interventions have been led by UNICEF with NGOs on registration of births and marriages, to reduce child marriage, on laws on dowry, domestic violence and violence against women.

(ix) Corruption in the law enforcing agencies is reported to be a critical obstacle to eliminate crime and violence against women.³⁵

(x) Lack of adequate gender sensitivity amongst judicial officials, including police officials.

Government training programs for administration personnel, judiciary and police on family laws, women's rights, gender equality, etc. are not well planned to sensitize different sections of service providers. There is a need to strengthen these programs, to widen their reach and to involve gender training experts in planning the curricula and conducting courses.

(xi) Long delays and backlogs are a deterrent to women wanting to pursue settlements. The Supreme Court's Annual Report published in 2007 stated that there were 5,496 cases brought forward from the previous year, 2,743 were filed during the year to make a total of 8,239 cases. Only 2,950 were dealt with during the year leaving a back log of 5,289 cases. Complaints filed on behalf of women would be a small proportion of these cases. The number of cases filed in the *Nari Nirjaton Daman* Tribunals, set up specially to try violence against women cases, has increased from 1405 in 2006 to 2117 in 2009.

III.1.3.7 *Judgments that comply with CEDAW provisions*

Recent judgments and directions given by the High Court conform to rights given in CEDAW and CRC and can become forerunners of progressive legislation. The High Court in the following cases gave positive directions:

(i) in considering the best interest of the child when determining custody of a minor child over Islamic provisions that limit a mother's custodial rights over a son until the age of seven years and over a daughter until puberty.³⁶

(ii) in recognizing a woman's right to independent choice in marriage, in which the High Court heard a woman's testimony regarding attempts by her parents to marry her by force, and directed that she be released and allowed to go back to the UK to rejoin her medical job;³⁷

³⁴ Steps Towards Development, *CEDAW and BANGLADESH: Constitution, Law, and National Initiatives A Comprehensive Study*, 75, 2002.

³⁵ Transparency International, Bangladesh, *Justice in Disarray, Global Corruption Report*, Dhaka, 2007. A household survey of 3,000 households in 2005 found that 392 respondents paid bribes for legal services during the previous year. Just over 39 per cent said they paid bribes through lawyers, who allegedly transmitted a portion to magistrates or judges. Public prosecutors reportedly extracted bribes from four per cent of respondents. This survey was conducted with both men and women.

³⁶ Sharon Laili Begum Jalil v Abdul Jalil and others (Writ Petition Nos. 1582, 1583, 1584 and 1585 of 1995. The doctrine of welfare of the child under the Guardianship and Wards Act of 1890 has assumed importance and there is a visible shift in court decisions trusting the mother with the child's custody.

³⁷ Dr. Shipra Chowdhury & Ain o Salish Kendra (ASK) v Md. Joynal Abedin and others, Writ petition no: 7977/2008. See annexure for High Court judgment in the case of Dr. Humaira.

- (iii) in recognizing a woman’s fundamental right to work irrespective of marital status, in which, following a High Court stay order, the Government cancelled the discriminatory notice by the Health Directorate which had invited applications from married women only.³⁸
- (iv) in protecting a woman’s right to choice in matters of dress at work so they are not forced by their senior officials to cover their heads or to wear “modest” apparel.

III.2 CEDAW ARTICLE 5: SEX ROLE STEREOTYPING AND PREJUDICE

III.2.1 CEDAW Committee’s Concerns

- (i) In 2004: (245) “Traditional and cultural discriminatory practices, including polygamy, and strong stereotypical attitudes persist with respect to the roles and responsibilities of women in the family and society, negatively affecting women’s enjoyment of their rights and impeding the full implementation of the Convention.”
- (ii) In 1997: (440) “The continuing prevalence of stereotyped and patriarchal attitudes towards women in society.”

III.2.2 Government Submissions

- (i) In 2004: Short term and long term programs have been undertaken to reflect gender perspective in mass media, curricula and text books; circulars have been issued to stop stereotyped, negative projection of women, identifying victim in news reports, and gazette notification issued to use mother and father’s name for birth registration.³⁹
- (ii) In 1997: The Labor Force Survey has revised the definition of agricultural labor to recognize the role of women, various measures have been taken to revise the educational curricula, gender has been included in training of officials.⁴⁰

III.2.3 CEDAW Committee’s Recommendations

- (i) In 2004 (246) “...design and implement comprehensive awareness raising programs to change stereotypical attitudes and norms...and take measures to eliminate polygamy. ...periodically review the measures taken and assess their impact in order to identify shortcomings and make necessary changes to improve them.
- (ii) In 1997: (455) “Strengthen education and public information programs geared towards reinforcing more positive images and roles of women in society.”

³⁸ Ms. Nasrin Akhtar and others v Bangladesh and others, Writ Petition No: 6309/2003. ASK, BLAST v See annexure for judgment.

³⁹ Fifth Periodic Report Presented to the CEDAW Committee, Ministry of Women and Children’s Affairs, 2004, mimeo, p 24-25.

⁴⁰ Third and Fourth Combined Periodic Report submitted by the Government of Bangladesh to the CEDAW Committee, CEDAW/C.BGD/3-4, p 32-35.

III.2.4 *Situation Analyses*

- (i) *Sex stereotyping and exclusion of women:* Women constitute about 48.78 per cent of the total population of Bangladesh.⁴¹ Nevertheless, their roles are underscored or marginalized in public documents, in the media, (electronic, print and popular), academic curriculum and texts.
- (ii) Traditional and imaginary roles of women dominate media representation of women. But their real contributions to the economy and society are marginalized and invisibilized. While women are commodified and a stereotype role depicted in ads and entertainment, issues concerning women are not often taken up in public discussions on the electronic media. These stereotypes reiterate the traditional family/social value attached to the birth of a son over that of a daughter.

III.2.5 *CiC-BD Critique*

- (i) Female stereotypes are *re-presentations* and *images* with specific historical, political and cultural contexts, which themselves are in flux. For effective intervention, it is critical to understand the political and socio-economic structures through which stereotypes are produced and reproduced. Today, the state and the market are the two significant forces that shape popular cultural representations of women. The state and the market also reinforce each other. Thus, a female head of state and women in high cabinet positions, while significant, are not enough to change the historically masculinist structure and identity of the Bangladeshi state. Moreover, despite the rhetoric, the market itself is not a purveyor of values of female emancipation. Global cultural flows, through the commodification and sexualization of women, their labor and their bodies, invariably reproduce rather than challenge stereotypes.

III.3 SEX DISAGGREGATED STATISTICS

III.3.1 *CEDAW Committee's Concerns*

- (i) *In 2004:* (261) "... lack of gender-disaggregated data in the report."
- (ii) *In 1997:* (442) "...lack of disaggregated statistical information and ... systematic data gathering on birth and marriage registration and incidents of violence against women."

III.3.2 *CEDAW Committee's Recommendations*

- (i) *In 2004:* (262) "... the development of comprehensive data compilation methodology and urged the State party to include relevant sex-disaggregated statistics so as to be able to assess the trends and the impact of programs on the country's female population, and to include such data and related analysis in its next periodic report."

III.3.3 *Situation Analysis*

- (i) Identification of sex-disaggregated data
The term sex-disaggregated statistics indicates two separate but related dimensions of statistical data: (a) disaggregation by sex for all individual-level statistics to show the different roles and activities of women and men; and (b) the specific collection of statistics that relate to important gender issues. Sex-disaggregated statistics are essential in order to assist policy makers and planners to identify and meet women's needs and address their concerns.

⁴¹ BBS, *Statistical Pocket Book*, 2009.

- (ii) Sex-disaggregated statistics in public and private sectors
Public sector data is published by the Bangladesh Bureau of Statistics (BBS), and public sector employment data by sex are maintained by the Ministry of Establishment.⁴²

Gender analyses in public sector reports is weak. A major constraint in policy planning and research involving women is the absence of sex-disaggregated data. The BBS conducted a methodological study titled *Social and Gender Statistics* that compiled some important indicators showing participating ratio of women and men in various sectors of development.

The status of sex-disaggregated statistics in the private sectors is more developed than in the public sector. ICT based sex disaggregated statistics on the employment of women in Bangladesh at different levels are not readily available.

III.3.5 *CiC-BD Critique*

- (i) There is little awareness at the policy level of the importance of sex disaggregated statistics, which hinder a woman's active participation in policy planning and development activities.

III.4 CEDAW ARTICLE 6: SUPPRESS ALL FORMS OF TRAFFICKING IN WOMEN AND EXPLOITATION OF PROSTITUTION OF WOMEN.

III.4.1 *CEDAW Committee's Concerns*

- (i) In 2004: (243) "...The continuing prevalence of trafficking in women and girls in the country... despite the fact that many persons have been accused or are on trial for trafficking-related crimes, only a few have been convicted."
- (ii) In 1997: (446) "The absence of adequate information and analysis, as well as programs, directed at addressing prostitution in general."

III.4.2 *Government Submissions*

- (i) In 2004: (226) "...trafficking in women and girls was a serious and continuing problem. The Government had signed the SAARC Convention on Prevention and Combating Trafficking in Women and Children in Prostitution in July 2002 and ratified it recently. The "Counter Trafficking Framework Report: Bangladesh Perspective" provided guidelines for the adoption and implementation of a multi-dimensional and inter-ministerial approach to effectively address trafficking. The MOWCA was responsible for the implementation of a project funded by the ILO to combat child trafficking for labor and sexual exploitation."
- (ii) In 1997: (418) "...The representative described the multi-sectoral program being undertaken by the MOWCA to address violence against women, including trafficking in women and girls."

III.4.3 *CEDAW Committee's Recommendations*

- (i) In 2004: (244) "...formulation of a comprehensive strategy to combat trafficking in women and girls that should include the prosecution and punishment of offenders...encourages the State party to pursue increased international, regional and bilateral cooperation with other countries of origin,

⁴² Appendix II, Table 4.

transit and destination for trafficked women and girls...stepping up of measures aimed at improving the economic situation of women so as to eliminate their vulnerability to traffickers, the introduction of education and employment initiatives for vulnerable groups, including teenage girls, and provide support, rehabilitation and reintegration measures for women and girls who have been victims of trafficking...ensure that trafficked women have the support they need to enable them to provide testimony against traffickers...training of border police and law enforcement officials in order to provide them with the requisite skills to recognize and provide support for victims of trafficking...”

- (ii) In 1997: (459) “...stronger enforcement of the Women and Children Repression Act 1995; provision of adequate assistance to women and girl victims of trafficking;...The regional resolution on trafficking agreed to by the South Asian Association for Regional Cooperation in Maldives should be sustained and concretized into actual programs..”
(462) “... research on root causes and consequences of prostitution be conducted to enable Government to respond accordingly.”

III.4.4 *Situation Analysis*

III.4.4.1 Sex Workers

- (i) There is no explicit law or policy that recognizes the professional status of a sex worker. A sex worker is required to swear an affidavit in the presence of a Magistrate declaring that she is over 18 years and is engaged voluntarily in her profession. Engaging in sex work below 18 years is a criminal offence subject to severe punishment. Underage girls enter into the profession by making false affidavits.
- (ii) A landmark judgment by the High Court in 2000 stated that sex workers should have the same rights and freedoms as others. The High Court further mentioned prostitution to be a livelihood and not an illegal act. It also ruled that “the right to livelihood of sex workers is enforceable as a fundamental right.”⁴³
- (iii) In recent years sex workers have been moving out from traditional brothels to the modern networked and freelance pattern. There are also a significant number of street or floating sex workers. Although homosexuality is illegal in Bangladesh, there is a large population of male and transgender sex workers.
- (iv) Sex workers in Bangladesh face multiple violations of their right. It is not only the society and its norms that dehumanize them, the state machinery, specially the law enforcing agencies, tend to violate their rights. Often sex workers are made to walk barefoot on public roads, or are denied their religious burial rites. They find little protection when they are evicted from their houses by law enforcement agencies owners/lease holders, their rights as citizens are denied or they are deprived from development opportunities.

III.4.5 Trafficking

- (i) Inadequate data: Data on trafficking compiled from newspaper reports do not provide comprehensive, accurate information, since the reporting is not uniform. Data compiled by NGOs can give a confusing picture since it does

⁴³ 53 DLR (2001) 138, p 142, para 10.

not cover the entire country. The VAW Cell at the Police Headquarters listing cases reported to police shows an increase from 2001 to 2008.⁴⁴

- (ii) Identification of Push and Pull Factors: Legal and social discrimination and economic deprivation are strong push factors while the pull factors are determined by the demand for cheap and exploitative labor.⁴⁵ Taking advantage of irregular patrolling of the long common border with India, considerable corruption among the border guards, and wide spread ignorance about job markets among rural women and girls, traffickers take them across borders with relative ease. If and when challenged, the traffickers claim a relationship with the women or children, who they claim to escort to a festival or to visit family.
- (iii) Legal Initiatives: Trafficking in women is a punishable offence in the Penal Code of 1860 and is addressed by the Suppression of Immoral Traffic Act of 1933, The Children's Act of 1974 and the more recent Women and Children Repression Prevention Act, 2000 (amended in 2003). These laws provide harsh penalties, including capital punishment, for those who are convicted of violent crimes, including trafficking.
- (iv) Support services for survivors, monitoring, and awareness raising
The Ministry of Home Affairs has adopted the following deterrent measures:
 - (a) A cell at Police Headquarters to monitor cases of trafficking;
 - (b) Screening of persons at airports and land posts;
 - (c) Rescue-recovery of survivors of trafficking and apprehension of traffickers by the BDR, police and Rapid Action Battalion (RAB);
 - (d) Recovery and rehabilitation of survivors;
 - (e) Regular flow of timely and accurate reports from the districts to the Ministry of Home Affairs and the Monitoring Cell at the Police Headquarters based on specifically designed formats;
 - (f) Training of officials including public prosecutors, immigration officials, border security officials, law enforcing agencies;
 - (g) Prosecution of officials accused of complicity in trafficking women and children;
- (v) Rescue and Rehabilitation
 - (a) The GOB Country Report 2008⁴⁶ claimed that efficient policing and implementation of measures showed a remarkable improvement in outcome. However, the number of survivors rescued between March 2005 to December 2008 shows that only a fraction of the victims are rescued and rehabilitated. Apprehension and conviction of traffickers is minimal.⁴⁷

III.4.6 *CiC-BD Critique: Sex Work*

Public discussion of sex workers' rights remains a taboo. Of late sex work and sex workers have entered the discourse largely not in their own right but because of health implications for HIV/AIDS.

While some women's groups have recently taken up public positions in support of sex workers and legal aid organizations have filed petitions to protect their rights, sex

⁴⁴ Compare data compiled by NGOs (Appendix VI, Table 2) with official data (Appendix VI, Table 1).

⁴⁵ See Annexure III, for a detailed chart of push and pull factors.

⁴⁶ Ministry of Home Affairs, "Bangladesh Country Report on Trafficking in Women and Children", 2008.

⁴⁷ See Appendix I, Tables 1 & 2.

workers have formed their own organization (*Durjoy*) and have come together with a platform constituted of 81 other organizations to press for recognition of their rights and protection from violence. The state and society continue to police the victim, i.e., the sex worker. The attitude of state agencies and citizens towards sex work needs to change. The debate surrounding sex work as work or exploitation also merits serious research and consideration.

III.4.7 *CiC-BD Critique: Trafficking*

- (i) Anomalies in Definition of Trafficking: The definition of trafficking used in the international and regional conventions/covenants and national laws, is specifically linked with “prostitution/sexual exploitation”; it does not reflect the complex ground reality, because the exploitation in the act of trafficking cannot be confused with the exploitation inherent in a subsequent occupation. The UN Rapporteur’s definition of trafficking⁴⁸ has been adopted by many human rights and women rights activists as more appropriate. The act of trafficking itself should be liable to prosecution rather than the subsequent occupation.
- (ii) Trafficking tends to be confused with the undocumented movement of women across borders, which may be of their own voluntary choice, and for whatever purpose.
- (iii) GOB initiatives have had limited impact on the situation so far as.
 - (a) No comprehensive policy has been formulated to address the multi-faceted problems faced by the economically disadvantaged and vulnerable population;
 - (b) Bangladesh has yet to incorporate the SAARC Convention into domestic law or to sign extradition treaties with neighbouring countries;
 - (c) A considerable number of girls especially with disabilities and in poverty are still out of reach of educational initiatives;
 - (d) The scope and coverage of services for support, rehabilitation and re-integration are very limited;
 - (e) Prosecution is difficult, costly and time-consuming and few traffickers are arrested and even fewer are convicted, the reasons being that: traffickers have well established connections with local powerful persons, who intimidate witnesses and victims from testifying. Moreover, the police often file charges not under trafficking laws, which provides stringent punishment for illegal crossing of border, but under the Bangladesh Passport Order 1973 (section 3 & section 11), which provides six-months imprisonment with or without the insignificant fine of 2000.0 taka only.
 - (f) The coverage of gender-sensitization trainings for border police and other law enforcement agencies is limited and the impact does not seem to be reflected in subsequent actions.

⁴⁸ Coomeraswamy Radhika, UN Rapporteur’s report on VAW, 1998: “The recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include at minimum, the exploitation of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or the removal of organs.”

- (g) Information compiled at the national level is not comprehensive because no accurate statistics are maintained on missing persons in unions or villages, or of persons crossing the border.
- (h) The absence of economic opportunities, and imposition of legal and social controls on women, (dowry, polygamy, *fatwa* instigated violence) lures them into accepting offers of jobs or marriage without much deliberation.

III.5. ARTICLE 7: EQUAL RIGHTS IN POLITICAL AND PUBLIC LIFE

III.5.1 CEDAW Committee's Concerns (1997-2004)

- (i) In 2004: (255) "The number of women in decision making positions remained low and there was a lack of a women friendly environment in the service sectors."
- (ii) In 1997: (448) "The number of women in decision-making positions was still small."

III.5.2 Government Submissions

- (i) In 2004: (234) "...The number of reserved seats in the Parliament had been increased from 30 to 45 through a constitutional amendment. In the Union Parishad elections held in 2003, 12,699 women had been elected to the reserved seats and 100 women in the general seats. MOWCA had implemented projects to sensitize professional groups and training institutes to eliminate gender disparity."

III.5.3 CEDAW Committee's Recommendations

- (i) In 2004: (256) "...adopt proactive policies for women's increased participation at all levels... and establish effective policies and a timetable to increase the number of women in decision-making positions in all spheres...that the State Party introduce legislation providing for the direct election of women to the National Parliament... promote a women-friendly environment that would encourage the participation of women in the public life of the country."
- (ii) In 1997: (463) "The continuance of affirmative action measures such as quotas for women in Parliament, in local bodies and in the civil service. This should be accompanied by capacity building and skills training."

III.5.4 Situation Analyses

- (i) *Constitutional developments regarding representation*
 - (a) Parliament: The Representation of People's Order, 2008 (RPO 2008) promulgated during the tenure of the Caretaker Government required that political parties to nominate 33 per cent of women to contest in parliamentary elections, but political the parties did not implement this on grounds of the unavailability of women candidates. The Fourteenth Amendment was not amended, therefore the provision for political parties in Parliament to select women to 45 reserved seats, in proportion to the number of a party's members in Parliament remained in effect.
The Election Commission's recommendation that political parties include 33 per cent women in all party committees and decision making bodies has not yet been complied with by the political parties.
 - (b) Union Parishad: The Local Government Act, 1997 allows for direct election of one chairperson and nine members to the Union Parishad, each member

- representing a single ward (constituted by several villages). Women can contest in general seats, but in addition three seats are reserved for direct elections of women (each representing three wards).
- (c) Upazila Parishad: The RPO 2008 provides for two elected vice chairpersons in the second tier of local elected bodies, one of which has to be a woman.

(ii) *Present Position of Women in Elective Bodies*

- (a) Cabinet: Six women were appointed to a 43 member Cabinet in 2009. Three are full ministers, the rest are state ministers.
- (b) *Parliament 2008*: In the 2008 elections, out of 60 women who contested in general seats in Parliament, 19 were elected, (6.3 per cent in a house of 300) and 45 women were selected by parties in Parliament to fill 45 reserved seats in Parliament, raising the percentage of women in the Ninth Parliament to 18.5 per cent as compared to 4.3 per cent in the Eighth Parliament.⁴⁹ One woman has been appointed as Deputy Leader of the House by the majority party, one as a Whip and one as the Chair of the Parliamentary Standing Committee on MOWCA. There are 57 women members in various Parliamentary Standing Committees.
- (c) *Upazila Parishad*: In elections held on 22 January 2009 under the RPO 2008, 480 women have been elected to the reserved post of vice chairpersons in 480 upazilas, out of a total number of 1,936 contestants.⁵⁰
- (d) *Union Parishads (UP)*: In elections held in 2003, 22 women were elected as chairpersons out of a total of 232 women candidates who contested, and 79 won in the general seats out of 617 women candidates. 39,419 women candidates competed for 12,684 reserved seats. Out of thirteen UP Committees that oversee local development programs, women representatives are expected to head one third, particularly in the committees on women's and children's welfare, culture and sports, and violence against women. However, in many cases, these committees have yet to function effectively.
- (e) *City Corporations*: Six city corporations and 223 municipal bodies known as *pouroshabhas* (small townships) provide elected governance in cities and townships. Ten to thirty seats were reserved for women depending upon the size of the *pouroshabha*/city corporation. Elections to four City Corporations and nine *pouroshavas* were held on 4 August 2008, in which 194 (2.4 per cent) women candidates contested for 39 reserved councilor's seats. In nine *pouroshavas*, 120 (0.47 per cent) women contested for 27 reserved seats.⁵¹
- (f) *Political Parties*: Women's representation in decision making forums in political parties remains low with numbers in central working committees varying between 2.7 per cent to 11.2 per cent.⁵²

(iii) *Women in non-elected decision making posts*

- (a) Secretaries⁵³ to the Ministries: Only three women have been appointed out of a total of 61 secretaries. The highest percentage of women (62 per cent) is located in MOWCA, followed by 22 per cent in Law, Justice and

⁴⁹ See Figure 1, Appendix II.

⁵⁰ *The New Nation*, 23 January 2009.

⁵¹ See Appendix II, Table 2.

⁵² See Appendix II, Table 3.

⁵³ Secretaries occupy the senior most administrative position in the bureaucracy.

Parliamentary Affairs and 14 per cent in Education. There are only four women ambassadors.

- (b) Judiciary: In the High Court there are only six women out of 89 judges, and in the lower courts in Dhaka there are only 24 women out of 83 judges.
- (c) Law Enforcement agencies: Recent recruitment in the police has raised the number of women to around 2000.

III.5.5 *Exercise of Voting Rights*

Increasing numbers of women have competed in successive elections. The percentage of women who voted in parliamentary elections has increased from 48.42 per cent out of a total voter list of 75 million in 2001 to 50.87 per cent out of a voter list of 81.05 million in 2008.⁵⁴

III.5.6 *CiC-BD Critique*

- (i) While the number of women in political institutions has increased, this is not sufficient to overcome the structural barriers to their participation in a hierarchical and patriarchal, political system. Few women representatives are able or willing to take up women-related issues.
- (ii) In the local government elected bodies women are not given equal responsibilities and financial powers.
- (iii) Lack of familiarity with institutional rules and procedures is an obstacle to women's participation in parliamentary debates, union parishad and upazilla meetings. Insecurity is sometimes a constraint in constituency work.

III.6 ARTICLE 9: NATIONALITY

III.6.1 *Committee's Concerns:*

- (i) In 2004: (249) "...the Committee is concerned that women are still unable to transmit their nationality to their foreign husbands and children."

III.6.2 *Government's Submission*

- (i) "...Serious steps had also been taken towards amending the Citizenship Act."⁵⁵

III.6.3 *CEDAW Committee's Recommendation:*

- (i) In 2004: (250) "...to ensure that a new citizenship law, which is in line with Article 9 of the Convention, is adopted without delay, in order to eliminate all provisions that discriminate against women in the area of nationality."

III.6.4 *Situation Analyses*

On 11 February 2009, the Bangladesh Parliament enacted *The Citizenship (Amendment) Act, 2009*, which amends section 5 of the Citizenship Law of 1951, to give a Bangladeshi woman the right to transmit her citizenship to her children.

⁵⁴ Appendix II, Figure 2.

⁵⁵ The representative explained that an amendment to the Citizenship law drafted by the Law Commission had been placed at the National Council for Women, but due to lack of time no decision was taken.

III.6.5 *CiC-BD Critique*

This law makes no reference to a woman's right to transmit her citizenship to her spouse. Citizenship of a foreign spouse is governed by The Bangladesh Citizenship (Special Provisions) Rules, 1978, (Section 4) under which a foreign woman married to a Bangladeshi man can apply for citizenship after a residence of not less than two years, and by renouncing her domicile and citizenship of another country. The residential requirement for a foreign spouse of a Bangladeshi woman is five years. The law is silent on the right of a woman to pass on her citizenship to an adopted child.

III. 7. ARTICLE 10: EQUAL RIGHTS TO EDUCATION

III.7.1 *CEDAW Committee's Concerns*

In 2004: Though there was no specific concern raised in the report, individual members referred to the continuing gender-disparity in higher education, sports and physical education; the marginal presence of women in science and technology at all levels of education and in policy and decision making levels; the high dropout rate at the higher secondary levels and high illiteracy among adult women.

In 1997: (437) "...while education programmes had increased the level of literacy and education among girls and women since the last report, a very large percentage of women and girls still had no access to education."

III.7.2 *Government Submissions*

In 2004: (221) "The Government had made substantial investments in both primary and secondary education of girls, including scholarships, stipends and the provision of free and compulsory primary education for girls up to the twelfth grade. Those measures had led to gender parity and a dramatic increase in the enrolment of girls in primary schools. The delegation quoted a World Bank report of May 2004: 'Bangladesh has achieved gender parity in enrolment at the primary and lower secondary level'."

In 1997: (414) "The Government, assisted by non-governmental organizations, had taken special measures to promote girls' enrolment and retention at the primary and secondary levels of education, to target girls in non-formal education and to direct them towards non-traditional fields of study. A quota system had been introduced to accelerate recruitment of female primary school teachers."

III.7.3 *CEDAW Committee's Recommendations*

In 2004: (262) "...development of comprehensive data compilation method... and to include relevant sex-disaggregated statistics so as to be able to assess the trends and the impact of programs on the country's female population and to include such data and trends in the next periodic report."

In 1997: (461) "More proactive measures to hasten the implementation of education programs to eliminate female illiteracy."

III.7.4 *Situation Analysis*

(i) Formal Education

Participation of women/girls as students and teachers: In primary schools slightly over 50 per cent of over 16 million students are girls, whereas amongst primary school teachers the proportion of women is 40.4 per cent

only. This means that the 60 per cent quota for selection of primary school teachers has not been met.⁵⁶

In Government secondary schools 52 per cent of the total students enrolled are girls. Out of the total teachers, only 20 per cent are women. The drop-out rate continues to remain high at the end of the secondary level.⁵⁷ This may be related to the lower proportion of girls passing the final Secondary School Certificate Examination as shown in 2010. The proportion of girls passing the SSC Examination in 2010 (72.63 per cent of girls appearing) is considerably lower than that of (78.27 per cent) boys who passed.⁵⁸

In 2005, out of a total of 20,757,774 students in 74 universities (both public and private) only 24 per cent were women, and out of 10,339 teachers only 17.7 per cent were women.

In the technical and vocational government institutions out of 39,749 students enrolled only 14 per cent were women. However, if the girls in the vocational and management sections in the non-government secondary and higher secondary levels are included, the proportion rises to 26 per cent out of a total of 241,336 students. Thirteen per cent of a total of 1,040 teachers in government institutions were women. Their proportion rises to 17 per cent if teachers of non-government institutions are included.⁵⁹

(ii) *Non-formal Education (Early learning, basic literacy & continuing education)*

This stream is run mainly by NGOs under the Bureau of Non-Formal Education. The situation of adult literacy (15 years and above) shows that the gender gap has been reduced over time. Literacy Assessment Survey 2008 (BBS) shows that the male ratio female ratio is 48.6:49.1 per cent.⁶⁰ The number of women teachers in non-formal schools is significantly higher compared to the number in formal schools, as NGOs exercise positive discrimination, 66 per cent of all teachers are women.⁶¹

(iii) *Management and decision-making levels*

In the public universities there is no woman Vice-Chancellor or Registrar. Very few women head top levels of administration or decision-making in the Education Ministry (the exception was a woman Secretary for MOPME during 2001-2004). Women have served as provosts of women's residential halls but not in other halls. The number of women Education Officers at the Upazila level and the number of secretaries, section chiefs, Heads of NAPE, NCTB, Boards remains insignificant.

⁵⁶ School Survey Report 2007 of Second Primary Education Development Programme (PEDP-II, Directorate of Primary Education, Ministry of Primary and Mass Education, Government of the Peoples' Republic of Bangladesh, Dhaka, 2008.

⁵⁷ *Bangladesh Educational Statistics 2006*, Bangladesh Bureau of Educational Information and Statistics (BANBEIS), Ministry of Education (MoE), Government of the People's Republic of Bangladesh, Dhaka, 2006.

⁵⁸ *The Daily Star*, 16 May 2010.

⁵⁹ *BANBEIS 2006*

⁶⁰ BBS, *Literacy Assessment Survey 2008*, Ministry of Education (MoE), Government of the People's Republic of Bangladesh, Dhaka, 2008.

⁶¹ Bureau of Non-Formal Education, *The Mapping of Non-Formal Education: Activities in Bangladesh*, Ministry of Primary and Mass Education, 2009.

There is a mandatory provision for inclusion of at least one woman member in each of the eleven-member School Management Committees. Generally an educated woman is selected by the Committee. In addition, in many schools, a mother is chosen as the parents' representative, which raises the number of women members.

7.5 CiC-BD Critique

GOB has not addressed the socio-cultural, economic, systemic and structural inadequacies which contribute to the high drop-out rate of girl students.⁶²

- (i) Provisioning of tuition free schooling, stipends to girl students has led to gender-parity in enrolment in primary and secondary education. But these subsidies are not adequate to cover the other costs of exercise books, uniforms, examination fees, coaching etc.), which forces poor parents to withdraw their daughters from school and results in a growing gender-gap in completion rate and drop-out rate.
- (ii) Physical insecurity, sexual harassment, intimidation, stalking are strong reasons for drop-out of girls in secondary school and higher education stage;
- (iii) There is considerable rich-poor and rural-urban gap in girls' access to schools and quality education.
- (iv) The existence of several streams of education creates considerable variation in the quality of education.
- (v) Though the National Council for Text Books periodically revises text books prescribed for primary and secondary schools to remove traditional sex stereotyping (depicting boys in more active and girls in more passive roles) the gender discriminatory attitude still lingers. Despite mandatory gender-training given in Teacher Training Institutes, many teachers still slip into the traditional mode and method of teaching, often privileging boys over girls.
- (vi) There are no financial incentives to encourage girls' entry into higher education. In competing with boys, selection of girls is sometimes influenced by traditional male preference attitudes (the women marry, start a family and may not finish).
- (vii) A limited number of programs have been introduced to reach out of school children but these are yet to make a significant impact, particularly because proper attention is not given to address the problems of groups with special disadvantages: eg children of ethnic minorities (language barrier), marginalized communities living in remote areas e.g. *Chars*, tea plantations (inadequate number of schools and teachers, lack of safe roads and transport), street children, child domestic workers and factory workers (lack of flexible school hours), children raised in brothels and socially excluded castes, and children with disabilities (social stigma and unwelcome behavior from teachers and students). In all these groups girls are more disadvantaged.
- (viii) The opportunity to participate actively in sports is very limited. Though physical education is given in government primary schools, facilities are limited. Private schools and madrassahs generally ignore these needs.

⁶² See Annexure IV for a detailed chart of factors obstructing women's access to education.

- (ix) Information on health and hygiene is part of the curriculum in the primary level but sex education and information on reproductive health is not provided in a systematic way in the secondary level.
- (x) The syllabus and curriculum of education, especially vocational education and skill training, do not reflect the demand in existing job markets and consequently offer limited opportunities for recruitment.
- (xi) The system of education management suffers from serious inadequacy and flaws owing to corruption, political pressure and patronage in matters of selection of stipends, admission and listing of schools for inclusion in MPO (Monthly Payment Order granted by the government to selected non-government school teachers and staff). This has negative implications for the quality of education.

III.8. ARTICLE 11: EQUAL RIGHTS TO EMPLOYMENT

III.8.1 CEDAW Committee's Concerns

In 2004: (253) "Poor working conditions of women endured in both formal and informal sector...persistence of wage disparities...lack of child care facilities for working mothers...women working in the private sphere do not enjoy maternity leave benefits."

In 1997: (441) "...poor working conditions of women workers in both private and public sector...non implementation of minimum wage levels and lack of social and health benefits, including paid maternity leave, and the lack of adequate child care facilities in the manufacturing sector... lack of government monitoring of the conditions of women in the informal sector."

III.8.2 Government Submissions

In 1997: (415) "...the quota system applicable to all types of public employment, reserving ten per cent of recruitment to gazetted posts and 15 per cent to non-gazetted posts, with a view to facilitating entry and thereby increasing the number of women."

III.8.3 CEDAW Committee's Recommendations

In 2004: (254) "...establish a monitoring mechanism to ensure the enforcement of legislation requiring employers to provide equal pay for equal work, ensure that maternity leave is available in all public and private employment, especially through the enactment of law on maternity leave, and expand the number of crèches available for working mothers."

In 1997: (456) "...pay particular attention to improving the wage levels and the terms and conditions of women workers in the export processing zones as well as in the informal sector."

III.8.4 Situation Analysis

- (i) *Women's Participation in the Labor Force:* Women's participation in the labor force has increased significantly from 9.4 per cent in 1985-86 to 24.4 per cent in 2005-06.⁶³ However indicators reveal a high gender disparity in the economically active population.⁶⁴ At the same time the contribution and role of women in the informal sector has been ignored in the national economy.

⁶³ *The Labor Force Survey (LFS), 2005-2006*, Bangladesh Bureau of Statistics (BBS).

⁶⁴ See Appendix III, Tables 1 & 2.

- (ii) *Working conditions for women:* Wage inequities and sub-standard working conditions for women are detrimental to their physical and mental security, and lead to health hazards, occupational violence, social marginalization.
- (iii) *Weak regulatory mechanisms* on safety and health have led to fatal accidents of workers and occupational hazards.
- (iv) *The Bangladesh Labor Law 2006* has consolidated relevant laws into one legislation and prescribed four months maternity leave.⁶⁵
- (v) *The garment export industry* has been vulnerable to market instability and changes in trade regimes. The industry has been marked by volatile labor-managerial relations and frequent labor unrest has been met on various occasions with violence on the part of factory authorities, sometimes endorsed by the state. Even though garment exports reached an all-time high of over \$10 billion in 2008,⁶⁶ apparel export revenues posted a 27 per cent decline in September 2009, compared to September 2008.⁶⁷

Most of the export growth performance has been sustained by an increase in the volume rather than in the price of garment exports.⁶⁸ exporters were able to sustain their market shares by “offering discounts, tolerating in some instances, order deferment and cancellations, and by taking significant cuts in profit margins.”⁶⁹

Thus, global competitiveness comes at a high cost, especially for Bangladeshi garment workers, who are the lowest paid (per dollar per hour) in the world. The burden of maintaining the “comparative advantage” of low labor costs falls directly on garment workers themselves. In the absence of an increase in labor productivity, when buyers force prices down, employers pass on the costs to workers. They use a smaller number of workers to produce the same amount of goods. Submitted to an increasingly regimented environment, workers are forced to speed up their production, or to work longer hours until deadlines or quotas are met.⁷⁰

The government introduced a food rationing program for garment workers in late August 2009, following a phenomenal rise in global food prices. It was not reported whether this facility was available to all garment workers.

III.8.5 *CiC-BD Critique:*

- (i) While employment has increased over the years particularly in the manufacturing sector, working women are faced with increasing insecurity in the public space.
- (ii) The Bangladesh Labor Law 2006 does not cover workers in the informal sector such as construction, agriculture, *bidi* rolling or domestic work, where a large proportion of women are employed. It has increased working hours by two hours from eight to ten hours a day, although “exception may be

⁶⁵ See Chapter II.

⁶⁶ BGMEA 2008.

⁶⁷ “Apparel Exports Mark Steep Fall in September in *The New Age*, Thursday November 10, 2009.

⁶⁸ Mustafizur Rahman et al. *Impact of the Global Economic Crisis on the Employment and Labor Market of Bangladesh*. A Report prepared by the CPD in Collaboration with the ILO. Paper 80. March 2009.

⁶⁹ *Ibid*, p. 2.

⁷⁰ Dina M. Siddiqi, “Do Bangladeshi Factory Workers Really Need Saving?” in *Feminist Review*. Winter 2009.

allowed in general or in particular for any establishment with the conditional permission.”

- (iii) A Minimum Wage Board set up to review workers’ wages in the garment sector, every three years, met after twelve years in 2006, following workers’ strikes in the garment factories and after an agreement with employers and trade union representatives recommended an increase in wages for Grade-7 garment workers (entry level, unskilled) from taka 900 to taka 1662.5 per month, although workers had demanded a minimum wage of Tk 3000.0 based on the calculation of living wages. The Minimum Wage Board is to revise wages in 2010 and workers have demanded that the lowest grade worker start at Tk 5000.0. Absence of a regulatory mechanism to monitor compliance with the law allows industrial units to default in payment of wages and overtime, in granting sick leave and maternity leave and issuing employment contracts which would bind them legally. .

III. 9. ARTICLE 12 : HEALTH CARE AND FAMILY PLANNING

III.9.1 Committee’s Concerns and Responses

- (i) In 2004: (259) “... the impact of the arsenic poisoning of water, which is disproportionately affecting rural women of reproductive age.”
- (ii) In 1997: (438) “...maternal mortality and infant mortality remained high and ... available primary health and reproductive health services were still inadequate and often inaccessible to poor, rural and marginalized women. Moreover, family planning services still mainly targeted to women, and not enough education on male responsibility in reproductive health been introduced.”

III.9.2 Government Submissions:

- (i) In 2004: (222) “The implementation of the Health and Population Sector Programme, 2003-2006 was expected to effectively address the health needs of the rural poor and, in particular, those of women and children. The Essential Service Care programme extended maternal health services to women in rural areas through the establishment of community and mobile clinics. Between 1986 and 2001, the maternal mortality rate had decreased from 6.48 deaths per 1,000 live births to 3.8 deaths per 1,000 live births. As a result of reproductive health education and an increased use of contraception, population growth and total fertility rates had significantly decreased over the past two decades. While the prevalence of HIV/AIDS epidemic in Bangladesh is low, the Government was taking urgent measures to prevent a possible HIV/AIDS epidemic, including the formation of a national committee for the prevention of HIV/AIDS, and awareness-raising efforts.”

III.9.3 Committee’s Recommendations

- (i) In 2004: (260) “...put in place measures for ensuring that safe drinking water is available to all...launch an awareness campaign and proactive health, nutrition and social programmes for affected rural women, their families and local communities...”
- (ii) In 1997: (450)”...to strengthen its primary and reproductive health services aimed at substantially improving the health and well-being of women.”

III.9.4 Situation Analysis

- (i) *Physiological factors* causing particularly maternal mortality include hemorrhage, eclampsia, abortion, sepsis, obstructed labor, other obstetric causes, anemia, cardiovascular and respiratory causes. Of them, hemorrhage is the leading cause of death (29 per cent), with eclampsia close behind (24 per cent).⁷¹
- (ii) The *most important social and institutional factors* that impede reproductive health maintenance particularly in rural areas has been de-prioritization of women's health, followed by dominance of male choice and decision. In many cases, women are dependent upon their husband's or in-law's decisions to seek health services from service providers even in case of advanced pregnancy stage, which is a threat to the life of both the woman and her embryo. Violence has also long lasting adverse consequences on women's reproductive health. Anecdotal evidence shows that fourteen per cent of deaths of pregnant women is associated with physical injury and violence.⁷² Other factors include no/or low maternal education and distance of rural residence⁷³ from health services. The shortage of health workers is another deterrent to accessing health services. As per Bangladesh Health Watch Report (2007)⁷⁴ there are only 0.58 workers per 1,000 population which is well below the optimum number of 2.5 per 1,000 population. The efficiency of health workers is limited by their being non-resident in their working areas, an overwhelming emphasis on 'hardware services' contraceptives, etc., and the lack of accountability of health service delivery. The health-care support particularly in relation to maternal health is predominantly managed by unqualified providers. Another crucial and related factor causing inequality in accessing health services by rural women has been the low budgetary allocation of 5.9 per cent of the total national budget, with an allocation of just a fraction, 9.5 per cent of health budget for safe delivery services.⁷⁵ This shortage has implications for reproductive health. Since 1998, a comprehensive maternal health care project has been in operation in only 80 of the country's 482 sub-districts.⁷⁶
The underlying causes of malnutrition include both household food insecurity, lack of dietary diversity, and inadequate maternal and child care, low rates of exclusive breast-feeding, inadequate access to quality health services, poor environmental hygiene and sanitation and poor income coverage of households, etc.
- (iii) Some measures have been taken to tackle the problems of rural women under the long-term policy framework of Health Nutrition Population Sector

⁷¹ NIPORT, ORC Macro, John Hopkins University and ICDDR, B, 2003.

⁷² Bangladesh Country Profile: *A Thematic Report on Women, Health, Reproductive Health and Nutrition*.

⁷³ Nasreen, Hashima-e, Syed Masud Ahmed, Housne Ara Begum and Kaosar Afsana (2007) *Maternal, Neonatal and Child Health Programmes in Bangladesh: Review of Good Practices and Lessons Learned*, Research and Evaluation Division, BRAC, Research Monograph Series No. 32. Dhaka, Bangladesh.

⁷⁴ Bangladesh Health Watch (2008) *The State of Health in Bangladesh, Health Workforce in Bangladesh: Who Constitutes the Healthcare System*, James P Grant Public School of Public Health, Centre for Health Systems Studies, BRAC University, Dhaka, Bangladesh.

⁷⁵ Barkat, Abul et al.,(2006) *Budget Allocation in Gender Perspective: Methodological Issues*, Action Aid Dhaka, Bangladesh.

⁷⁶ Bangladesh Country Profile: *A Thematic Report on Women, Health, Reproductive Health and Nutrition*.

Program (HNPS). To what extent these measures will change the situation of rural women, particularly those of reproductive age, is of concern.

- (iv) The situation of reproductive health of rural women can be assessed from the changes occurring overtime in Infant Mortality, Maternal Mortality, and nutritional status of children and women. Changes have also resulted overtime as a result of women's access to clean drinking water and sanitation.
- a. *Infant Mortality*: Since the late nineties, there has been a significant decline in infant mortality and under-five mortality. An analysis of trends suggests that under-five mortality in Bangladesh declined about 5.6 per cent per year between 1991 and 1997⁷⁷ which is well above the 4.3 per cent annual decline targeted for achieving MDG. But the decline was only 1.6 per cent per annum in subsequent periods between 1997 and 2001. Although there has been a rapid decline by 5.4 per cent per annum in the overall under-five mortality during 1991-2004,⁷⁸ this decline remained steady particularly in 2007.
 - b. *Maternal Mortality*: Over the last three decades, there has been a considerable decline in the mortality rate. Data show that there was a steep decline in MMR from 574 in 1990 to 391 in 2002.⁷⁹ After this time, the rate of reduction slowed down considerably. Indeed, at 351 (in 2007) the MMR is one of the highest in South Asia. The MDG target of 144 looks unlikely to be achieved by 2015. At present, about 12,000 women die each year from pregnancy and delivery related causes. This picture is even more dismal in case of rural women. The high incidence of home deliveries, adolescent births, and the presence of low-skilled health professionals during delivery also contribute to high levels of maternal morbidity.
 - c. *Nutritional Status of Women and Children*
Positive Indicators: A comparative assessment of data generated by BDHS between 1996-97 and 1999-2000 reveals a decline in stunting from 55 per cent to 43 per cent, in wasting from 18 per cent to thirteen per cent, and in case of underweight of children from 56 per cent to 48 per cent. The nutritional status of women with children under five years of age indicates that Body Mass Index (BMI) cut off point of 18.5 has declined from 52 per cent to 38 per cent during this period.⁸⁰
Negative Indicators: Despite this progress, women and children still continue to suffer high levels of malnutrition and micro-nutrient deficiencies, including Low Birth Weight (LBW), under nutrition (underweight, stunting, and wasting), vitamin A deficiency, iodine deficiency disorders and iron deficiency anemia. At the same time, over nutrition, obesity and related health problems are emerging as new

⁷⁷ *Bangladesh Demographic and Health Surveys*. Includes mid-years of the reference periods for 1993-94 and 1999-2000.

⁷⁸ NIPORT, Mitra and Associates and Macro International (2009) *Bangladesh Demographic and Health Survey* (BDHS), 2007.

⁷⁹ Government of Bangladesh, *Millenium Development Goals: Bangladesh Progress Report 2008*. p. 44-45.

⁸⁰ NIPORT, Mitra and Associates and Macro International (2006) *Bangladesh Demographic and Health Survey*, 2004.

public health problems.⁸¹ This implies that although there has been numeric progress, the growth of nutritional status of women and children is well below the MDG target of ensuring decline in underweight rate at an average rate of 3.8 per cent per year. Analysis of data obtained from 1996-97 BDHS survey indicates that the proportion of underweight children declined only at a rate of 1.9 per cent per year. Since after this period, the growth rate exhibited further downward trend at 0.6 per cent per year.⁸²

The situation of rural women is worse. According to a study (2006)⁸³ conducted between 1996-97 and 2004, the proportion of women at risk of being under-weight or obese increased from 5.1 per cent to 10.2 per cent in rural areas.

III.9.5 *CiC-BD Critique*

- (i) Studies indicate that governance problems and institutional weakness are primarily responsible for the poor performance of HNPS and its inability to reduce maternal mortality below a certain level.⁸⁴ Expansion without attention to the limits of the overall health system's existing capacity has tended to undermine the effectiveness of an otherwise well-thought-out program. Further, historical trends of HNPS indicate that despite significant achievements, the problem of inequity in access to health remains severe.
- (ii) *Gaps and bottlenecks, including delays or non-execution of projects, in the implementation of HSNP* are a major cause of the worsening of reproductive health of rural women. Although this leading health sector strategy was started in 2003, the program received momentum only from 2007. This time gap has hindered the progress of health sector performance. A bifurcated structure of the Ministry of Health and Family Welfare (MoHFW), inefficient management of human resources, a lengthy procurement system and lack of monitoring and evaluation are other factors that affect implementation of HNPS. There is an absence of proper health management and treatment facilities for elderly people particularly women.
- (iii) In a bid to improve implementation rates, the donor community has shifted its focus from the public to the private sector in health service provision through promoting demand side financing initiatives, among other schemes. This push toward privatization may have far-reaching and negative effects for the reproductive health of rural woman, and of poor women in general. Data show that in the past few years, although overall indicators of maternal health improved, in terms of access to and use of maternal health services, there exist significant rural urban as well as rich-poor gaps.⁸⁵ Among other

⁸¹ *Bangladesh Country Profile: A Thematic Report on Women, Health, Reproductive Health and Nutrition.*

⁸² *NIPORT, Mitra and Associates and Macro International (2009) Bangladesh Demographic and Health Survey (BDHS), 2007.*

⁸³ Trends of Under and Overweight among Rural and Urban Poor Women Indicate the Double Burden of Malnutrition in Bangladesh.

⁸⁴ Rounaq Jahan "Securing Maternal Health Through Comprehensive Reproductive Health Services: Lessons from Bangladesh" in *The American Journal of Public Health* vol 97:7 2007.

⁸⁵ *Ibid.*

factors, reasonable quality private services are inaccessible geographically and financially for poor and rural women.

- (iv) Inequity in availability of health services contributes to (a) physiological factors; (b) institutional and social factors that affect women's reproductive rights and health. Privatization of basic medical services, including the introduction of user fees in public institutions will limit women's access to health care even further.

III.10. Article 14: PARTICULAR PROBLEMS FACED BY RURAL WOMEN

III.10.1 Committee's Concerns

In 2004: (259) "The Committee is concerned about the impact of the arsenic poisoning of water, which is disproportionately affecting rural women of reproductive age."

In 1997: (444) "...although economic and micro-credit programs existed for rural women, the trends towards globalization and liberalization of trade policies might have an adverse economic impact on the poorest of the poor, especially women in the rural areas."

III.10.2 Government Submissions:

"Various micro-credit and micro-enterprise programs of government and non government level have targeted poor women. MOWCA has been given the administrative charge of the development of vulnerable group development (VGD) program..."

III.10.3 CEDAW Committee's Recommendations

In 2004: (260) "...to prepare without delay a plan of action containing penetrative and remedial measures, and prioritizing technologies favored by rural women, their families and local communities."

III.10.4 Situation Analyses

The extraordinary success of Grameen Bank has made micro-credit a global symbol of women's empowerment; at the same time, micro-finance has also become the subject of much disputation. The evidence from Bangladesh indicates that while free-standing micro-credit programs are not magic bullets for poverty reduction or pathways to large-scale structural transformation, they can be beneficial if implemented carefully and run in conjunction with supporting programs and interventions.

Some researchers suggest that micro-credit becomes a bargaining chip for women to access development resources, which may have long term transformative potential for gender relations.⁸⁶ Others find that micro-credit may be appropriated by male family members and can even lead to an increase in domestic violence.⁸⁷ Taken together, the evidence indicates that *in the absence of changes in basic household and social power relations*, access to credit does not give women significant control over productive resources or the benefits such control would

⁸⁶ Kabeer, Naila, (1998), "Money Can't Buy Me Love? Re-Evaluating Gender, Credit and Empowerment in Rural Bangladesh".

⁸⁷ Anne Marie Goetz and Rina Sen Gupta (1996), "Who Takes Credit? Gender, Power and Control over Loan Use in Rural Credit Programmes in Bangladesh".

confer. However, women's visibility and mobility do increase, an impact that is significant in itself.

Contradictory assessments on the impact of micro-credit arise in part from a focus on final outcomes rather than on the processes through which loans are recovered.⁸⁸ Anthropological accounts have long suggested links between high repayment rates and the recycling of debt by borrowers.⁸⁹ Under current micro-credit regimes, clients are under intense pressure for timely repayment. Consequently, many borrowers maintain their regular repayment schedule through recycling loans, including from the very money lenders micro-credit programs were designed to marginalize. In the circumstances, the pressure exerted on women to repay loans entrenches rather than challenges existing gender and social hierarchies.⁹⁰

If the imperative for timely loan recovery undermines possibilities for micro-credit to be utilized more meaningfully, the problem is not with the concept per se. The Bangladesh experience indicates that when the threat of debt collection is not significant, individual rural women do benefit from access to alternative financial institutions.

III.10.5 *Women in Agriculture and Right to Land*

- (i) Rural women's role as agricultural workers has expanded gradually from 25 per cent to 34 per cent between 2002-03 and 2005-06. This indicates an increase in the female labor force in the agriculture sector from 7.6 per cent in 2002-03 to 10.11 per cent in 2005-06.⁹¹ A micro level study conducted in 2008⁹² reveals that 88 per cent women are engaged in agriculture related works.
- (ii) Indeed, the traditional gender division of labor in farm activities where 'women do post-harvest work' and 'men do field labor' has been offset by growing poverty and landlessness in rural areas. An FAO study reported that about 60-70 per cent of women from landless and near landless households work as agricultural wage labor.⁹³
- (iii) Though women constitute a significant proportion of the informal labor force, their access to land has decreased compared to that of men. Micro level data suggests that their ownership has decreased from 48 per cent to 25 per cent in the same village over the decades.⁹⁴ In some areas, the ownership status is worse. Another study reveals that men hold 96 per cent of

⁸⁸ Jude Fernando (2006) *Microcredit: Perils and Prospects: Neoliberalism and Cultural Politics of Empowerment*. Routledge Studies in Development Economics. London, Routledge.

⁸⁹ Aminur Rahman (1999) *Women and Microcredit in Rural Bangladesh: An Anthropological Study of Grameen Bank*. Westview Press, Boulder. Lamia Karim (2008) "Demystifying Micro-credit: Grameen Bank, NGOs and Neoliberalism in Bangladesh" in *Cultural Dynamics* Volume 20:1. p 5-29.

⁹⁰ Fernando, *op cit*.

⁹¹ Appendix V, Table 1.

⁹² Bangladesh Resource Center and Indigenous Knowledge (BARCIK), 2008, *Rights of Rural Women Related with Agriculture*, p. 3.

⁹³ Kelkar, Govind (2009), *The Feminization of Agriculture in Asia: Implications for Women's Agency and Productivity*, UNIFEM South-Asia Regional Office, New Delhi, <http://www.agnet.org/library/eb/594/>

⁹⁴ Pervez (2003), *Right to Rural Women Related with Agriculture: A Thematic Report*, BARCIK and Karmajibi Nari 2008, mimeograph, Dhaka, Bangladesh.

landholding whereas women hold only about four per cent.⁹⁵ In fact, a persistent trend of feminization of agriculture has not led to the development of their collective agency, which is a matter of concern. Instead of resulting in substantial change in the status of women's employment, their growth in the rural labor force has aggravated the already existing discrimination against women. This has been further compounded by the global trade in agricultural products driven by market forces and technological advancement.

- (iv) The traditional stereotype of the role of women is that of a supplementary earner rather than a main worker in agricultural activities. Their contribution in rearing livestock and poultry, kitchen gardening, preparing organic manure, collecting and preserving cow manure and the crucial job of collecting, selecting and storing of seeds is under valued, and not paid sufficient attention in plans for providing agricultural extension, or information on new technologies, even when women are traditionally responsible for particular agricultural activities. Although vegetable or kitchen gardening are considered universally as women's work, project interventions in training, capacity building, market linkage, etc. are targeted more to men.

III.10.6 *Women's Access to Financial Institutions*

Women are exposed to many difficulties in accessing second generation micro-finance. There are doubts whether micro-credit has ensured financial and overall sustainability of borrowers. There are several reasons for this including:

- (i) Institutional barriers discourage women from accessing bank loans.
- (ii) Lack of appropriate skills to evaluate the business especially in the informal sectors.
- (iii) Lack of knowledge on available financial options.
- (iv) Heavy time commitments and higher costs for processing and monitoring of loans.
- (v) Inadequate information about the enterprise and additional risk of inadequate monitoring.
- (vi) Absence of suitable flexible packages tailored to the needs of women entrepreneurs.

III.11: GENERAL RECOMMENDATION 19: VIOLENCE AGAINST WOMEN

III.11.1 *CEDAW Committee's Concerns*

- (i) In 2004: (241) "...despite adoption of the Prevention of Women and Children Repression Act 2000, the Acid Control Act 2002, and the Acid Crime Control Act 2002, violence against women including domestic violence, rape, acid throwing, dowry-related violence, *fatwa* instigated violence and sexual harassment in the workplace, continues to exist...women who are threatened by or subjected to such violence are placed in Safe Custody in shelter houses without their consent."

⁹⁵ Ali, A.K.M Masud, A.K.M Mustaque Ali, Ratan Sarkar (2005) *Agrarian Living Beyond Corporate Cage: Peasant's Paper on Trade and Globalization*, INCIDIN Bangladesh, Dhaka.

- (ii) In 1997: (436) "...The alarming levels of violence against women in all its forms and especially its most cruel forms, such as acid throwing, stoning and dowry deaths and the inability of GOB to "enforce existing laws effectively or to provide immediate relief and justice to victims of such violence."
 (447) "...serious concern with the reported imposition of *fatwas*, using religious justification to punish women."

III.11. 2 *Government Submissions*

- (i) In 2004: (225) The (Government) representative drew attention to the Suppression of Violence against Women and Children Act, 2000 (amended in 2003), and the Acid Control Act, 2002, penal laws and the Speedy Trial Tribunal act, 2002 aimed at expediting the trials of those accused of committing violence against women. One Stop Crisis Centers provided immediate legal, medical and other required assistance to women victims of violence..."
- (ii) In 1997: ((418) "With regard to violence against women, the Committee was informed about the incidence of violence, such as murders of women as a result of non-payment of dowry, custodial rape, including rape by members of law enforcement agencies, and violence at the community level by pronouncing fatwas and misinterpreting religion. The representative described the multi-sectoral action program being undertaken by the Ministry of Women and Children Affairs to address violence against women, including trafficking in women and girls."

III.11.3 *CEDAW Committee's Recommendations (1997-2004):*

- (i) In 2004: (242) "...the adoption of a comprehensive approach to address violence against women and girls, taking into account general recommendation 19 on violence against women; ...ensure the effective implementation of the existing laws to combat all form of violence against women and to adopt specific legislation on domestic violence within a clear time frame, in order to ensure that women and girls who are victims of violence and sexual harassment have access to protection and effective redress, and perpetrators of such acts are effectively prosecuted and punished; ...gender-sensitive training on violence against women for public officials, particularly law enforcement personnel, the judiciary and health service providers; ...to take effective measures to protect women against fatwa-instigated violence; ...
 establish shelters where women who are threatened by or subjected to violence can be accommodated on a voluntary basis; ...to take measures towards changing social, cultural and traditional attitudes that remain permissive of violence against women."
- (ii) In 1997: (451) "...strongly urged the Government to strengthen its enforcement and monitoring of existing laws, policies and mechanisms on violence against women so as to provide victims and survivors of violence with responsive and effective measures of protection and to prevent further violence."

III.11.4 *Legal measures and other Initiatives taken by GOB*

- (i) The most significant and recent laws to combat violence against women are: the Women and Children Repression Prevention Act, 2000, amended in 2003 and the Acid Crime Control Law 2002 (amended in 2006).

III.11.4.1 *Preventive and Protective measures*

- (i) The Department of Social Services has established six shelters in six divisions run for adolescent girls/women survivors of violence and witnesses. Each has a capacity for 50 persons, who are provided with food, health care and legal aid support. DSS also has six training and rehabilitation centres. MOWCA runs one shelter home. Several NGOs also run shelter homes.
- (ii) MOWCA is the lead agency for a Multi-sectoral Program on Violence Against Women (MSP VAW) which is run in co-operation with the Ministries of Law, Information, Social Welfare, Home Affairs and Ministry of Health and Family Welfare. The major activities are: (a) Six One-stop Crisis Centers (OCC) in six divisional Medical College Hospitals which offer short term stay for medical treatment/surgery if required, police assistance in filing and investigation of cases, psychological counseling for trauma, legal counseling, referrals and assistance for reintegration in cooperation with NGOs. A total of 5,417 patients received treatment from these centers between 19 August 2001 -30 June 2008, a majority being victims of physical and sexual violence; (b) establishment of the first DNA profiling laboratory in the Forensic Medicine Department of Dhaka Medical College in January 2006. The test facilitates investigation of violent crimes such as murder, rape and helps to determine paternity and tracing of missing children; (c) awareness raising campaign through use of media; (d) awareness training for media personnel, Imams, GO and NGO personnel and developing materials on violence.
- (iii) MOWCA has started a Gender Responsive Community Policing Programme to ensure security for women and girls, address vulnerability to domestic violence and human trafficking, facilitate access to justice. Police cooperates with the community to maintain law and order and prevent crimes. Neighbourhood meetings are arranged to raise community awareness of their role in preventing gender-violence.
- (iv) Police Reform Project: Started in 2005 and scheduled to end in 2010, this project aims to improve the efficiency and effectiveness of the police force and make them more responsive to victims of violence, develop a conceptual clarity on gender relations, HIV/AIDs, human rights to handle cases of VAW more effectively. One of the five strategic areas in the strategic plan is to increase gender sensitization and recruitment of 3,000 women as sub-inspectors and constables. A short term shelter has been recently set up in a police station in Dhaka which, in cooperation with some legal aid and women's rights organizations, provides profession support services to survivors of rape.
- (v) Women Friendly Hospitals have arranged sensitization training to doctors and nurses on the needs of women in poverty and on methods for supporting survivors of violence and reducing maternal mortality. The duty doctors are held responsible for proper treatment. This public-private partnership is expected to extend coverage to district hospitals and upazila health complexes.
- (vi) High Court Directives on sexual harassment in institutions issued on May 14 2009 detailing a set of guidelines for actions to be taken to protect women and to punish the criminals.

III.11.5 *Situation Analysis*

III.11.5.1 Patterns and Trends

- (i) Data on gender based violence is not comprehensive. Since 1995, the Police Headquarters has collected data from its thana and district offices on incidents of dowry related violence, acid burns, abduction, rape, murder after rape, trafficking, murder, injury and other violence. These reports showed an increase in number of cases from 12,958 in 2001 to 115,493 in 2008. The number of incidents of dowry related violence, rape and abduction formed a large proportion of the total.⁹⁶
- (ii) Compilation of newspaper reports by legal and human rights organizations reports indicate an increase over the years. Whether this reflects an actual increase in incidence or an increase in reporting is not clear. The non-government agencies also handle a broader range of violence, including domestic violence, psychological or emotional abuse and suicide.⁹⁷ It should be noted that only a fraction of actual incidents of violence, such as wife beating and marital rape is ever reported because there is a wide acceptance of the former as punishment meted out by guardian (husband) to ward (wife) and marital rape is neither recognized by law nor by socio-cultural tradition about sexual behavior within marriage.
- (iii) A study on domestic violence showed that 53 per cent of ever married women in Dhaka and 62 per cent of ever married women in Matlab Thana experienced physical and sexual violence.⁹⁸ Child abuse, both physical and psychological, by family elders remains largely hidden. Only recently, NGOs working on human rights and child rights, have started awareness raising and research on this subject.
- (iv) The magnitude of sexual harassment at the workplace, educational institutions, public spaces including on the way to and from workplace is reflected in the finding of a study conducted in Dhaka city showing that 84.7 per cent of garment workers, 100 per cent of day laborers, 28.9 per cent of school teachers and 10.9 per cent of office female staff experienced both physical, psychological and sexual harassment in their workplace.⁹⁹
- (v) Child domestic workers are extremely vulnerable to violence at the workplace. A study by Bangladesh Institute of Labor Studies on domestic workers showed that at least 17 per cent were sexually abused, 47 per cent were physically assaulted, 63 per cent were forced to work beyond their capacity and 83 per cent were verbally abused.¹⁰⁰ The group most vulnerable to sexual abuse and violence are girl sexual workers with disability.
- (vi) Harassment/stalking or fear of harassment/stalking in public spaces has restricted women's mobility both in rural and urban areas. This has caused parents to withdraw girls from educational institutions, especially in rural areas and contributed to a high drop-out rate for girls and their early marriage.¹⁰¹ Recent media reports on suicides committed by young girls threatened by stalkers has raised considerable alarm within the government, in schools and in the communities.

⁹⁶ See Appendix VI, Table 1.

⁹⁷ See Appendix VI, Table 2.

⁹⁸ Moreno, Claudia Garcia (et al), *WHO Country Study on Women's Health and Domestic Violence Against Women: Initial Results on prevalence, health outcomes and women's responses*, WHO Press, Geneva, 2005.

⁹⁹ Rahman, Abdur, 'Gender based Violence at Workplace: Cause and Consequences', Bangladesh Social Science Research Council, Ministry of Planning, 2006-2007.

¹⁰⁰ ASK, *Human Rights in Bangladesh*, 2006, p.146.

¹⁰¹ See under Chapter III, section 7.

- (vii) Complaints filed by women students and teachers in Jahangirnagar and Dhaka University in 2007/8 against sexual harassment by teachers and students have led to university enquiries, but since their reports were biased and not acceptable to the complainants, the latter filed cases in court. In response, the University Grants Commission drew up guidelines on sexual harassment in universities and the High Court gave directives for government action to prevent sexual harassment.¹⁰²
- (viii) Newspapers have reported on incidences of community violence or illegal penalties enforced through *shalish* (informal dispute resolution forum) to punish “anti-social and immoral behavior”.. These rulings primarily target poor women, and sometimes the men with whom they “transgress” community norms. These *fatwas*, and traditional *shalish* rulings in general, appear to be means of regulating female sexuality and maintaining class domination. , Women have been subjected to beating, whipping and stoning despite a 2001 ruling by the High Court declaring that only Courts are mandated to issue *fatwas* and that *fatwas* issued by non-state actors fall outside the rule of law and a 2009 High Court judgment directing the government to comply with its legal and constitutional duties to take effective measures to prevent the imposition and execution of extra-judicial penalties .¹⁰³
- (ix) Gang violence is used by the majority/dominant elite to intimidate women and children of religious and ethnic minority groups. Women members of opposition political parties have also been victimized to deter them from active participation in public life. Cases of custodial violence by law enforcement and security forces have been frequently reported, particularly in the Chittagong Hill Tracts (CHT).

III.11.6 *CiC-BD Critique*

- (i) Legal and other initiatives adopted by GOB and implementation by women’s rights and human rights organizations have had limited success in combating gender based violence, because the approach is not as comprehensive as outlined in General Recommendation 19.
- (ii) Inadequacies and flaws in existing laws (e.g. Dowry Prohibition Act 1980 and others) makes prosecution difficult.
- (iii) Legislation on domestic violence is yet to be enacted.
- (iv) The impact of gender-sensitization training on law enforcement personnel, public prosecutors is limited because of its low coverage and ineffective modules.
- (v) Law enforcement on the perpetrators of fatwa and conviction for fatwa instigated violence has been ineffective.
- (vi) Shelters and other support facilities are too few to meet the needs of victims and they suffer from resource constraints.

¹⁰² See Annexure II; Writ Petition 9414 of 2008.

¹⁰³ See Annexure for August 25, 2009 judgment.

III.12: GENERAL RECOMMENDATION 26: MIGRATION

III.12.1 CEDAW Committee's Concerns

- (i) In 2004: (251) "The vulnerability of Bangladeshi women migrant workers whose rights are not adequately protected by the state party."
- (ii) 1997: (439) "The lack of discussion and measures to protect women migrant workers from Bangladesh at all stages of the migration process."

III.12.2 CEDAW Committee's Recommendations

- (i) 2004: (252) "The adoption of a comprehensive gender-sensitive migration policy and the conclusion of bilateral and multilateral agreements with destination countries... and to strengthen... information activities so as to ensure that potential women migrants are fully aware of their rights, as well as risks."
- (ii) In 1997: (457) "...to strengthen its mechanisms to protect migrant women workers from exploitation throughout the migration process, *inter alia*, by actively exploring bilateral and multilateral initiatives addressing this issue."

III.12.3 Legal Measures and other initiatives by GOB

- (i) The regulatory framework for welfare of migrant workers is created by the Emigration Ordinance 1982.
- (ii) The institutional mechanisms for implementation include:
 - (a) The Ministry of Expatriate Welfare and Overseas Employment (MEWOE) 2001, has facilitated women's migration by declaring that costs of ticket and visa be borne by employers in country of employment, and a woman migrant pay no more than Taka 20,000.0 to any recruiting agency.¹⁰⁴
 - (b) Bureau of Manpower Employment and Training (BMET) is responsible for regulation of licensed recruiting agents;¹⁰⁵ analyses of labor market information; registration of job seekers for local and foreign employment; development and execution of training programs geared to the needs of both national and international labor markets; organizing pre-departure orientation and briefing sessions and resolving legal disputes. These trainings are provided through 14 technical training institute and one institute of Marine technology.
 - (c) Twenty one District Employment and Manpower Offices (DEMO) are mandated to register potential job seekers with detailed information.
 - (d) Two welfare desks at Zia International Airport Dhaka to facilitate the safe arrival and departure of expatriate Bangladeshis and assist with emigration clearance.
 - (e) Bangladesh Overseas Employment and Services Ltd. (BOESL, the only government agency) for direct recruitment of labor migrants through BMET to ensure fair, efficient and quick service to foreign employers.
- (iii) Programs for Migrant Workers include:
 - (a) Welfare fund for migrant workers (on the basis of 1982 ordinance) created by the GoB to be used for pre-departure briefing of migrants; training in language skills and professional skills for nurses, garment workers and hotel workers; repatriation of bodies of migrant workers in case of death/murder overseas and one-time compensation to families of deceased

¹⁰⁴ The Ministry has not instituted a formal procedure to monitor and implement this measure.

¹⁰⁵ The licensed recruiting agents are members of BAIRA (Bangladesh Association of International Recruiting Agencies). The current number of BAIRA members is over 700.

workers. The sources of this fund are: subscriptions from migrant workers; interest earned from deposit of recruiting agencies; 10 per cent surcharge fee collected by Bangladesh Missions in foreign countries; and personal and institutional contributions.

- (b) Appointment of labor attaches in Bangladesh Missions abroad to provide counseling, advisory and legal services. It should be noted that only thirteen labor attaches are currently stationed abroad.
- (c) Special service by Bangladesh Biman in bringing back bodies of deceased migrant workers free of cost, with support from MEWOE.

III.12.4 *Situation Analysis*

III.12.4.1 *Pattern and Trend*

BMET data sheets show that the number of migrant workers has increased from 6,087 in 1976 to 6,265,909 in 2008. There are four types of workers employed overseas: (1) professionals (2) skilled (3) semi-skilled and (4) less-skilled.¹⁰⁶ Generally the professionals tend to be doctors, engineers, teachers, nurses. The skilled workers are mainly from the manufacturing/garments sector. The semi-skilled ones are tailors, masons while the less-skilled ones are domestic workers, cleaners etc. Of these, the last two categories suffer from social and economic disadvantages which require special protection and support services from the national and international laws and mechanisms.¹⁰⁷ A large number of women migrants fall in the last two categories.

A majority of the workers migrate to Middle East and South East Asia on short term contracts as temporary labor (ILO Standards, Bangkok 2007).¹⁰⁸ A considerable number of women migrants take the help of private agencies and remain outside the scope of official statistics.

III.12.4.2 *Problems faced during different stages of Migration*

- (i) Migrants generally choose air routes to destination countries in the Middle East or South East Asia. Women face different problems at the stage of pre-departure, arrival and stay at destination country, return and re-integration.¹⁰⁹
- (ii) Migrant workers have to face the consequences of any difference in policy definition between the sending countries and the receiving countries regarding the legality, regularity and appropriate documentation required for entry/exit.
- (iii) Since most women workers from Bangladesh are employed in the informal sectors (domestic helpers) their jobs are usually not protected under the labor law of the destination country. Thus protection of these informal sector workers (mostly women) does not figure adequately in the bilateral and multilateral agreements with many of the destination countries. They have little access to the missions when they need such support or protection.

¹⁰⁶ Appendix VII, Tables 1 & 2 show the number of migrant workers by profession, recruiting agencies and remittances paid during 2001-2008.

¹⁰⁷ Annexure VII shows the major socio-cultural, economic and structural factors contributing to migrant women's vulnerability.

¹⁰⁸ Appendix VII, Table 3 shows the number of migrants by country of destination in 2009, Table 4 shows Number of Migrant Female workers during 1991-2009.

¹⁰⁹ Annexure VIII detailing the problems faced by women at various stages of migration.

III.12.5 *CiC-BD Critique:*

Legal and other initiatives undertaken by the Government of Bangladesh have provided little protection for a majority of the women migrant workers.

- (i) GOB has not formulated a comprehensive gender sensitive migration policy in line with GR 26 of CEDAW.
- (ii) GOB is yet to ratify the Convention on Protection of Migrant Workers and their Families.
- (iii) GOB has not entered into bilateral agreements with many destination countries with containing provisions for protection of the rights of migrant women workers.
- (iv) The limited number of DEMOs (only 21 out of 64 districts have DEMOs) are not adequate for wide dissemination of information and training of potential migrant workers.

Chapter IV

Emerging Issues

This chapter explores a set of emerging issues that are not addressed specifically in the articles of CEDAW. It has been compiled with the idea that CEDAW is broad enough in its parameters to accommodate the evolving and contextual nature of women's struggles for equality. The objective is to draw the attention of the CEDAW Committee to these increasingly critical arenas of concern, for observation and action in the future.

IV.1 Sexual and Reproductive Health and Rights

Shifting Contexts and Situational Analysis

To date sexual rights have not been addressed as a specific subject either in Bangladesh's shadow/alternative reports or in the concerns or recommendations of the CEDAW committee. Yet sexual rights (or lack therefore) figure prominently in most of the issues that are of concern in this alternative report. From transnational forced marriages and "intervening" marriages (*hilla*) imposed through village tribunals, to sexual harassment and domestic violence including marital rape, it is clear that establishing sexual rights is central to the exercise of gender equality.

In the global context, the ICPD as well as the Beijing Platform of Action have both been eclipsed by the focus on reaching the goals of the MDGs. This has had an impact locally as well. The reduction of maternal mortality has long been the cornerstone of health and population sector programming. Providing reproductive health services to young people and especially in the context of urbanization are other positive features of health policy. This is appropriate, given the high levels of maternal mortality morbidity, the demographic structure of the population and the spread of urbanization. However, there has been little or no attention to women's reproductive and sexual rights.

In this context, the right to marry a partner of one's own choice, the right not to marry and the right to divorce remain specific concerns. Access to safe and legal abortion remains in a grey zone. An area of emerging concern is the feminization of the HIV/AIDS epidemic globally, which has a direct bearing on women's sexual rights, especially the rights of women to refuse coerced or unprotected sex. Women's lack of power to negotiate or assert their rights, arising from limited knowledge of sexuality and HIV/AIDS, lower educational levels and overall structural inequalities related to poverty, all increase women's risks of infection.

Other emerging issues include a lack of access to information, especially among young people, on reproductive and sexual health and rights issues.

The need to combat a possible HIV/AIDS epidemic has forced the government to initiate policy and advocacy spaces for elaborating on sexual health services, albeit in a medicalized mode. At the same time, social movements have expanded definitions and understandings of sexual preferences, sexual and gender identities in Bangladesh and in the region, advocating for the recognition of sexual rights for all human beings.

Prioritizing the right to health (as a fundamental basis for establishing sexual rights) and the state's accountability in these matters has become urgent in the context of neo-liberal health sector reforms, privatization and commodification of health services as they shape access to Sexual and Reproductive Health and Rights (SRHR).

Reaching the goals of the MDG has become a primary task for the GOB, to the neglect of other international and national obligations. Unfortunately, the MDGs do not refer to sexual rights at all and in its original form did not include any reference to reproductive health.

National and International Obligations

Although sexual rights as a term has not been established in international agreements,¹¹⁰ its definition and contents were adopted within the human rights framework in the Beijing PoA, paragraph 96 which states that “the human rights of women include their right to have control over and decide freely and responsibly on matters related to their sexuality, including sexual and reproductive health, free of coercion, discrimination and violence.

Notably, CEDAW remains the one legally binding instrument that refers to sexual rights (especially Article 12).

Sexual rights are also embedded in the ICPD PoA, particularly paragraph 7.2 which recognizes that in order to have a safe and satisfying sex life, men and women have “the capability to reproduce and the freedom to decide, if, when, and how often to do so.” As argued by ARROW and other NGOs, what constitutes a safe and satisfying sex life and the conditions that provide for this include key aspects of sexual rights such as consensual sexual relations, the choice of sexual partners, and the achievement of sexual pleasure.¹¹¹

The ICPD Program of Action paragraph 7.44 addresses adolescent sexual and reproductive health issues, including unwanted pregnancies, unsafe abortions and STIs including HIV/AIDS. Para 7.46 of the ICPD urges countries to “protect and promote the rights of adolescents to reproductive health education, information and care.”

IV.2 The Rights of Sexual and Gender Minorities

To date questions of sexuality have not been explicitly addressed in either country reports or CEDAW committee concerns or recommendations although they are implicit in discussions of violence against women, trafficking, reproductive rights and gender stereotyping. However, the subject of sexual and gender diversity has not arisen even indirectly.

¹¹⁰ UN texts such CEDAW, CRC, the ICPD, the Beijing PFA and the MDGs endorse the concept of reproductive health, reproductive rights and sexual health. The draft of the ICPD Platform of Action (PoA) included the term sexual rights but this was not retained in the final version.

¹¹¹ The Asian-Pacific Resource and Research Centre for Women (ARROW), *The State of the Region Report on Sexual and Reproductive Health and Rights Monitoring ICPD + 15 in Asia*. 2009.

International and National Obligations

As a signatory to CEDAW, the Bangladeshi state has an international obligation to protect the rights of sexual and gender minorities; more specifically to eliminate all forms of discrimination based on sex (which can be, and is widely, interpreted to include sexual orientation and gender diversity). Para 96 of the Beijing Platform of Action can be interpreted similarly.

The Constitution of Bangladesh also guarantees the right to be free from discrimination based on sex, as well as caste, religion and race.

National Legal Framework

Same sex sexualities and non-normative gender identities are not recognized under the current legal framework of the country. International and constitutional guarantees of freedom from discrimination on the grounds of sex are directly contravened by Section 377 of the Bangladesh Penal Code which provides for the punishment through imprisonment and fines of any sexual activity deemed “against the order of nature” by the courts. Introduced by colonial authorities in British India, this provision of the Penal Code of 1860 effectively criminalizes all acts other than procreative sex within heterosexual marriage.¹¹²

In practice, Section 377 can be used by post colonial states such as Bangladesh to criminalize consensual same sex activity. The law does not distinguish between consensual and forced sex. In some instances, it is also used to prosecute cases of child sexual abuse since existing rape laws do not recognize male to male rape. That is, rape is understood to be a heterosexual phenomenon, both culturally and legally.

Same-sex sexualities are only mentioned in relation to HIV/AIDS awareness programs; related policy documents make passing reference to the umbrella term MSM (men who have sex with men), ignoring other existing and emerging categories such as hijras or self-identified gay men. The National AIDS/STD program is fairly limited, both in language and in reach since it does not recognize same sex sexualities beyond *hijra* or MSM.

Universal Periodic Review 2009

At the Fourth Round of the Universal Periodic Review in February 2009, the Sexual Rights Initiatives (SRI) presented a report on the socio-political rights of sexual and gender minorities, including gays, lesbians, *hijras*, *kothis* and inter-sex persons in Bangladesh.¹¹³ The report was historic in nature since this was the first time that the subject of sexual and gender minorities in Bangladesh had been presented at such a high level international forum. During the discussion, the Bangladesh Foreign Minister denied the existence of homosexuality in the country. The GOB also rejected recommendations in the SRI report to decriminalize consensual same sex activity by repealing Section 377. The Government’s position on the question of same-sex sexualities in Bangladesh indicates a lack of co-ordination, if not outright contradiction, among different Ministries. For, on the one hand, the Foreign Ministry does not acknowledge the existence of same-sex practices, let alone homosexuality,

¹¹² See Dina Siddiqi *To Act or Not To Act: Section 377 of the Bangladesh Penal Code*. Centre for Gender, Sexuality and HIV/AIDS, James P. Grant School of Public Health, BRAC University. Monograph Series, 2009.

¹¹³http://lib.ohchr.org/HRBodies/UPR/Documents/Session4/BD/SRI_BGD_UPR_S4_2009_SexualRightsInitiative_JOINT_upr.pdf

while on the other, the Health Ministry continues to undertake programs to provide support for HIV awareness among the MS community.

Situational Analysis

The social and cultural invisibility of same sex practices in Bangladesh is accompanied by the dearth of scholarship on the topic. New research shows that sexually marginalized populations, especially those belonging to the *hijra* or transgender/trans-sexual community, are systematically persecuted by state agents through another provision, that of Section 54 which allows for arrest without warrant in case of “suspicious” behavior.¹¹⁴ The police are notorious for gross infringements of the rights of sexual minorities, especially *hijras*, *kothis* or “effeminate” males and MSM (males who have sex with males) through invoking Section 54. Harassment, physical and sexual abuse and extortion, as well as arbitrary arrest and detention, are standard forms of violence these groups face for not conforming to heterosexual norms. Moreover, many HIV/AIDS awareness programs have been threatened or closed down because of intimidation and violence by law enforcing authorities. Sexual and gender minorities have minimal access to medical services and treatment of any kind, because of social stigma and the discrimination by medical service providers.

Loss of traditional forms of livelihood and overt discrimination in employment opportunities has pushed *hijras* primarily into sex work for survival. *Hijra* and MSM sex-workers are routinely subjected to rape as well as intimidation in exchange for police “protection.” Notably, only one case has actually been filed under Section 377 in independent Bangladesh although there is some anecdotal evidence that the law is used to intimidate sexual and gender minorities.

According to the UPR report, most *Hijra* and *Kothi* identified persons cited bullying as one of the preeminent reasons for dropout from state sponsored primary schools. Many are reported to have turned suicidal and experienced acute psychological trauma.

There is now an emerging self-identified gay and lesbian culture in Bangladesh, although little is documented on the kinds of rights violations to which such groups are subjected. Research indicates that “effeminate” boys face serious bullying and intimidation in educational and other social settings. Self-identified gay teenagers are often forced into psychiatric and medical regimes in order to be “cured.”

IV.3 Climate Change and Natural Disasters

Situational Analysis

South Asia, it is predicted, is among the regions that will be the most affected by climate change. Within South Asia, Bangladesh is the most vulnerable country “because of its regional connectivity through geo-physical and hydrological features” as well as its livelihood reliance on trade.¹¹⁵ It is predicted that the coastal belt of Bangladesh, where the shrimp industry is prominent, will be hit especially hard. Climate change magnifies existing inequalities, and reinforces the disparities between men and women. Indeed, it is now widely accepted that the effects of climate will not

¹¹⁴ Dina Siddiqi et al. *Sexual Rights and Wrongs: Understanding Sexuality and Rights in Urban Bangladesh*. Centre for Gender, Sexuality and HIV/AIDS, James P. Grant School of Public Health, BRAC University. (forthcoming).

¹¹⁵ Women’s Environment and Development Organization (WEDO) *Gender, Climate Change and Human Security: Lessons from Bangladesh, Ghana and Senegal*. WEDO, May 2008. p.48.

be gender neutral; gender inequality as well the distribution of power in general will shape the impact of climate change on women. In Bangladesh, as elsewhere, climate change affects women's health and well-being, their livelihoods and work burdens, as well as their physical security and capacities to make choices.

Environmental degradation caused by industries such as shrimp cultivation for export also make women more vulnerable. As land becomes increasingly saline, and less amenable to cultivation, the possibility of food insecurity increases, making women with limited access to resources the most vulnerable.¹¹⁶ It is worth noting that migration to cities is already a coping strategy for many single women; the majority of whom come from areas most affected by weather disasters.¹¹⁷

International and National Obligations

Bangladesh ratified the Kyoto Protocol in 2001. Earlier, it had signed on to and ratified the United Nations Framework Convention on Climate Change in 1994.

It was also one of the first countries to formulate a National Adaptation Program of Action (NAPA). This is an official initiative for mainstreaming adaptation into national policies to cope with climate change. The 2005 Poverty Reduction Strategy formally mainstreamed climate change adoption into its program although no substantive progress in implementing these goals seems to have been made.

Given the widespread knowledge of the special vulnerability of women and girls in times of disasters such as floods and cyclones, it is especially striking that the main government policy document on climate change does not refer specifically to the gendered nature of the impact of climate change. The NAPA makes passing reference to women and girls but does not treat women as stakeholders or actors in proposed adaptation plans. Accordingly, no women's rights organizations or gender experts appear to have been consulted in the making of the policy. "The NAPA presents women as victims of climate impacts; women are not considered active participants in adaptation to those impacts."¹¹⁸

IV.4 Dalit Women's Rights

Situational Analysis

Dalit comprised of socially excluded "untouchable" ethnic and occupational groups have recently acquired a collective identity to struggle for their rights. Many of their ancestors were indentured laborers brought into Bengal by the British in the 19th century from other parts of India.¹¹⁹ Most are Hindu, although there are some Christians and Muslims. The estimated 5.5 million Dalits in Bangladesh face not only occupational segregation but also systemic political, economic and social exclusion.

Dalits may be the most invisible of minorities in Bangladesh, since there exists some dispute over the use of the term within socially excluded communities and because the existence of a caste hierarchy in a predominantly Muslim country is frequently a

¹¹⁶ Naved Ahmed Choudhury *Men, Women and the Environment: Gender Issues in Climate Change*. Climate Study Series 2. Unnayan Onneshan, Dhaka. N.d.

¹¹⁷ WEDO op cit, p. 50 footnote 39.

¹¹⁸ Ibid p. 59.

¹¹⁹ A large number were employed as sweepers and cleaners, or as cobblers, washermen/women, barbers or on tea plantation workers, "hereditary" occupations that come with low pay and high social stigma.

point of contention. Some proponents of Dalit identity insist the term refers not only to caste but to broader relations of social exclusion.¹²⁰ Regardless, the forms of exclusion and discrimination experienced by Dalits are clearly related to discrimination based on work and descent as recognized in a comprehensive UN study mandated in April 2005 through Resolution 2005/109.¹²¹

A joint NGO submission on the Human Rights Situation of Dalits in Bangladesh at the 4th UPR session in February 2009 laid out clearly the problems of the various Dalit communities scattered across Bangladesh.

Dalit rights to housing, education and a livelihood as well as to freedom of movement and other fundamental rights are violated by state negligence, bureaucratic practices and community sanctions. Stigmatized as impure, Dalit communities are forced to live in segregated spaces and neighborhoods; ironically, those who are eligible for government housing find themselves trapped, unable to move because of government regulations. Muslims belonging to socially excluded groups at least have the prospect of “passing” into the mainstream at some time; this avenue is not open to Hindu Dalits.

Literacy rates are very low. Discrimination begins with the process of admission to school, some Dalit parents are actively discouraged from enrolling their children in school. Those who graduate from school face formidable barriers in access to employment, even at the lowest levels. Under the circumstances, occupational mobility is rare.

Dalits are routinely denied entry to places of worship, to tea-shops and playgrounds, burial grounds, concerts and cultural events. Like other impoverished and minority communities, but to an even greater extent, they are subjected to threats and intimidation, to eviction and expropriation of property and generalized and gendered violence, with little hope for redress.

The UPR report states that, “Dalit women suffer from double discrimination and they are yet to be empowered to take an active part in the socio-cultural economic and political arena in the community and the country.”¹²² The report notes in passing the abduction and rape of Dalit women as part of the general violence faced by the community. Dalit women are more or less invisible in public fora, let alone in local government institutions. There is no specific research or literature on Dalit women. It can be surmised, however, that they face a triple burden, as women, as part of a minority community and minorities within minorities.

International Obligations

As signatory to the core international human rights treaties, the government has the obligation to promote and protect the human rights of all, including those who are discriminated against on the grounds of caste, work and descent.

As signatory to CEDAW, the government has the obligation to protect Dalit women’s rights to education, employment and access to public and political life.

¹²⁰ *Ibid.*

¹²¹ See the Joint NGO Submission on The Human Rights Situation of Dalits in Bangladesh to the 4th UPR Session, February 2009.

¹²² *Ibid.*, p.2.

The government should also observe its obligations under the Child Rights Convention to protect the rights of Dalit children, including Dalit girls.

National Obligations

The Constitution guarantees fundamental rights for all. Article 28.1 of the Constitution prohibits discrimination by the state on the grounds of religion, race, caste or sex. Article 27 guarantees equality before the law; and Article 29 calls for equality of opportunity of all citizens to state employment or office. Article 28.4 mandates special measures (affirmative action) by the state for the advancement of any backward section of citizens.

The government of Bangladesh is bound by the above constitutional measures to promote and protect the fundamental human rights of Dalit, as well as to promote their rights to education, employment and housing.

IV.5 Older Women

Falling fertility and increasing life expectancy have shifted the demographic structure of Bangladesh. In 2008, women’s life expectancy as a percentage of males was 103.¹²³ Increasing life has led to an increase in the proportion of older women in the population. The table below shows that the number of women over 60 as a percentage of the total population is gradually increasing.

	1	2	3	4
	POP>60	FEM>60	FEM>60 %POP>60	FEM>60 %TOTALPOP
2000	7439052	3693467	0.496	0.028
2005	8974435	4492400	0.501	0.031
2010	10859980	5420649	0.499	0.035

(Table compiled from statistics at the US CENSUS BUREAU

<http://www.census.gov/ipc/www/idb/country.php>)

However this increase has not been recognized adequately by the state. Older women have not been considered a policy priority, although the government has recently introduced an old-age allowance scheme. There are no policies to protect or promote their basic human rights, including protection from violence.

Elderly women are more likely to be widowed, divorced or single and therefore more marginalized socially and economically. Negligence toward women’s health in general worsens the older women’s health status. They face difficulties in accessing old age allowances or other vital safety nets such as vulnerable group development programs.

At its 42nd session, the CEDAW Committee took the ground-breaking decision of adopting a General Resolution on older women and protection of their human rights.¹²⁴ The Committee recognized that age is one of the grounds on which women face multiple forms of discrimination. Adopting this GR would give older women’s issues greater visibility among state parties, including Bangladesh.

¹²³ www.unicef.org/infobycountry/bangladesh

¹²⁴ The GR was proposed by then CEDAW member from Bangladesh, Firdous Ara Begum. See *Ageing, Discrimination and Older Women’s Human Rights From the Perspective of CEDAW* Firdous Ara Begum, Member UN CEDAW Committee. <http://www.globalaging.org/agingwatch/cedaw/html>

Chapter Five

Recommendations

This chapter lists in brief recommendations for steps to be taken by the Government of Bangladesh towards gender equality and non-discrimination. While withdrawal of reservations would make meaningful Bangladesh's commitment to CEDAW, there is a need for legal reforms as well as for institutional mechanisms for enforcement of rights. The general recommendations outlined below are proposed for policies, methodologies, material development, capacity building of state and non state actors under different sectors, whereas specific recommendations are made under each article of CEDAW.

I. Withdrawal of Reservations

Article 2 and 16.1(c)

- (i) Withdraw reservations to Article 2 and Article 16.1(c) to establish State responsibility for promoting equality and eliminating discrimination in all spheres both public and private.

Optional Protocol to CEDAW

- (i) Withdraw reservations to article 10.1.

II. General Recommendations

- (i). Declare time lines for sector wide implementation of the National Policy for Women's Advancement, 1997/2008.
- (ii) Maintain and use sex-disaggregated statistics to formulate development plans and strategies, and reference sex-disaggregated data in all national and international reports.
- (iii). Strengthen MOWCA and WID focal points in other ministries for improved implementation and monitoring of development policies for advancement of women.

III. Compliance with CEDAW Articles

Article I: Legislation

A. Personal Laws

- (i) Amend Muslim Family Laws Ordinance 1961: Sections 6 and 7 to ban polygamy, declare polygamous marriage void and a punishable offence, and grant women equal rights to divorce.
- (ii) Amend Hindu laws relating to marriage, divorce, adoption and guardianship and custodial rights.
- (iii) Amend the Special Marriage Act 1872 to withdraw the requirement for renouncing faith by those registering under the Special Marriages Act.
- (iv) Make compulsory registration of all marriages, whether civil or religious, and introduce a uniform registration form for all religious groups.
- (v) Amend the Child Marriage Restraint Act, 1929 to invalidate such marriages.
- (vi) Draft a bill for an uniform family code so as to eliminate discrimination among women of different communities.

B. Violence against women

- (i) Adopt the draft law on domestic violence prepared by the Ministry of Women and Children's Affairs in consultation with a Coalition of Voices on Domestic Violence (comprised of 35 women's organizations).¹²⁵
- (ii) Pass legislation that recognizes marital rape as a crime. Take steps to sensitize both duty bearers and rights bearers on marital rape.
- (iii) Enact a law on sexual harassment in compliance with the directives issued by the High Court on May 14, 2009,¹²⁶ detailing a set of guidelines for action in cases of sexual harassment of women at every academic institution, workplace and organisation.¹²⁷

C. Enact laws in compliance with judgments that have upheld rights in CEDAW and CRC,¹²⁸ in determining custody and guardianship; illegal penalties imposed upon women,¹²⁹ to prevent forced marriages.

Institutional mechanisms for access to justice

- (i) Establish an autonomous Gender Equality Commission to monitor evidence of discrimination, and steps taken to implement judicial decisions/interpretations to enforce equality and non-discrimination and to submit regular reports to the Parliament with full public disclosure.
- (ii) Law Ministry and Law Commission to set up a task force in consultation with relevant ministries, parliament members, human rights and women's rights organizations to identify gender discrimination in national laws within a specific time line.
- (iii) Home Ministry to set up mechanisms to monitor and implement the High Court judgment of 2009 declaring illegal extra judicial penalties which are imposed upon women.¹³⁰
- (iv) Education Ministry and MOWCA to set up institutional mechanisms for implementing the High Court guidelines on sexual harassment, within the present government's term of office (2009-2013).
- (v) Education Ministry in consultation with MOWCA, women's rights groups and gender experts to prepare a comprehensive curriculum/module on international human rights standards and national laws for secondary schools.

¹²⁵ The Coalition of Voices against Domestic Violence submitted a draft to the Women's Ministry and Law Ministry on 30 June 2009. The Women's Ministry has held consultations with different stake holders on the draft bill. A private member's bill was submitted to the Ninth Parliament, but this has not been debated in the House.

¹²⁶ Writ petition no 5916 of 2008 filed by Advocate Salma Ali, Executive Director of Bangladesh National Woman Lawyer's Association (BNWLA).

¹²⁷ The High Court guidelines define physical, sexual and psychological harassment that might be conducted through SMS, wall writing, pornography, eve teasing, etc.

¹²⁸ See Annexure II for landmark judgments that referred to women's rights in the constitution or under international treaties.

¹²⁹ Writ Petition No 5897/2000, and Writ Petition No 4322/2008

¹³⁰ A High Court judgment in 2008 had declared *fatwas* imposing such conditions illegal. *Hilla* is a requirement under *Shariah* law, whereby a divorced couple can remarry only after the wife undergoes an intervening marriage, the marriage is consummated, and the wife obtains a divorce. It is not legal in Bangladesh, but this practice, which violates a woman's bodily integrity, is sometimes imposed by an Imam/village elders in a *shalish* (mediation) in rural areas. Between 2004 and 2008, according to newspaper reports, there were 35 incidents of *fatwas* calling for a divorced wife to undergo an intervening marriage (*hilla*) in order to remarry her husband.

- (vi) Sectoral ministries to include human rights/women's rights in curricula for training of judiciary, elected representatives, administration and police officials and hold them responsible for implementation.
- (vii) Mandate Human Rights Commission with independent powers of investigation and sanctions. Women's representation should not be limited to a maximum of one person only, it should be a minimum requirement. Members should be selected on their record of involvement in the promotion and protection of human rights/women's rights.
- (viii) Mandate Right to Information Commission for maximum disclosure on subjects relating to women's rights.
- (ix) Disseminate information on legal and human rights to members of the Village Courts ensure that decisions taken by such courts are properly documented and that they provide a scope for appeal against decisions that violate women's rights.

Article 5: Sex Stereotyping

- (i) Formulate a gender sensitive code of conduct for media reporting in consultation with women's rights and human rights groups, to change negative attitudes towards women.
- (ii) Include awareness of rights, gender sensitization and guidelines for bodily integrity of sex workers, especially the differently abled, in training programmes for local authorities, law enforcers, service providers, community members, and clients of sex workers.
- (iii) Support the activities of non-governmental agencies working with sex workers and other sexually marginalized populations such as *hijras*.

Article 6: Trafficking

- (i) Recommend to SAARC that the definition of trafficking in the SAARC Convention be restricted to the violations of rights implicit in the act of trafficking and not to violations in subsequent occupations.
- (ii) Incorporate the provisions of the SAARC Convention into national laws.
- (iii) Sign bilateral agreements with India and Pakistan to facilitate voluntary recovery and rehabilitation.

Article 7: Political Participation

a. Parliament

- (i) Amend the Fourteenth Amendment to the Constitution to allow for direct elections of women to 100 reserved seats.
- (ii) Make it obligatory for political parties to nominate 33 per cent women from different disadvantaged groups (ethnic/religious minorities, differently abled) for general seats for next two terms.
- (iii) Election Commission to ensure strict observance of RPO 2008, Article 90B(i) b(ii) by political parties to nominate 33 per cent women as candidates in elections, in standing committees and party committees.
- (iv) One third of members of the Election Commission to be appointed from amongst women.
- (v) Political parties to specify time lines for implementation of electoral commitments.

b. Local Government

- (i) Decentralize power to local government institutions, and allow independence of decision making;

- (ii) Ensure accountability of elected members and government officials.
 - (iii) GOB to specify clear cut allocation of equal responsibilities for all members.
 - (iv) Decisions in UP and Upazila Parishads to be made by consensus rather than unilaterally by the chairman.
 - (iv) GOB in partnership with parliamentary watch groups and women's rights groups to familiarize elected members with institutional procedures and functions.
- c. Exercise of Voting Rights
- (i) Take steps to ensure safety of women voters.
 - (ii) Make arrangements for facilitating voting by women with disabilities.

Article 9: Nationality

- (i) Amend the Bangladesh Citizenship (Special Provisions) Rules, 1978, (Section 4), to permit foreign spouses, both women and men, to acquire citizenship without renunciation of their own nationality and citizenship. Remove the disparity in length of residency requirements between spouses of female nationals and male nationals.

Article 10 : Education

- (i) Steps to be taken within the next reporting period:
 - a) Increase number of women at all levels of education, including decision-making level.
 - b) Provide adequate facilities (hostels, toilets and common rooms) for a women friendly environment in schools. Pay special attention to meet the needs of women/girls with disabilities.
 - c) Enforce Child Marriage Restraint Act stringently to prevent drop-outs resulting from early marriage.
 - d) Launch vigorous campaigns in print and electronic media against practices which impede women's education and lead to severe health risks.
 - e) Special attention should be given to collection and compilation of comprehensive, updated gender-disaggregated data on education.
 - f) Introduce a gender sensitive, core common curriculum in all schools to include sexuality and reproductive health component at the school level.
 - g) Ministry of Education to assess reports from school supervisors at the local level promptly and regularly.
 - h) VAW Committees set up by MOWCA and local government representatives to promote women's security in public spaces and educational institutions.
 - i) Guidelines and code of conduct in conformity with the High Court judgment on sexual harassment to be disseminated to all institutions and adhered to by teachers and other personnel,¹³¹
 - j) Persons attempting to harass or intimidate women/girls on the way to and from schools must be brought to justice.
 - k) Provide facilities and equipments for participation of girls in sports and physical education as a compulsory requirement for MPOs.
 - l) Strengthen and increase the number of programs to mainstream out of school girls belonging to disadvantaged groups.

¹³¹ see Annexure II.

Article 11: Employment

- i) Bangladesh to ratify ILO Conventions on Occupational Safety and Health, 1981 (No. 155), and Occupational Health Services Convention, 1985 (No.161) to protect occupational safety and health of women workers¹³² (Check)
- ii) Parliament to formulate laws to:
 - (a) ensure wage equity and fair working conditions in the informal sector.
 - (b) enforce implementation of maternity leave, child care and employment security in the private sector.
 - (c) enact laws in compliance with High Court directives (WP No 5916) to monitor and take action in cases of sexual harassment.
- iii) GoB to institute the following measures:
 - (a) set up tripartite committees (labor department, workers and employers representatives) in each industrial unit to monitor compliance with the laws.
 - (b) take affirmative action for employment of women with disabilities;
 - (c) the Minimum Wage Board to revise wages every three years.
 - (d) provide budgetary provisions for safety net programs for low income working mothers, and ensure effective monitoring.
- iv. Other stakeholders:
 - (a) Government/Employers' Association to set up social funds for informal and home-based/self-employed women workers.
 - (b) The print and electronic media to create awareness of workers' rights and publish investigative reports into violations of workers' rights.
 - (c) Private sector to set up grievance complaints mechanisms in factories and industrial units.

Article 12: Health

- i) Planning and budgeting to be based on regional variations.
- ii) Budgetary allocations to be increased for all medical services focusing particularly on reproductive health, reducing maternal mortality, morbidity, infant mortality rates, low nutrition status and improved quality of services.
- iii) Implementation to be coordinated between the Ministry of Finance, Ministry of Women and Child Affairs and Ministry of Health and Family Welfare to avoid wastage of funds.
- iii) Health management system to be decentralized and improved to ensure access to primary health care, essential health service through community clinics and local health centers. Special attention to meet the needs of women/girls with disabilities.
- iv) The government to reconsider suggestions for privatization of health care services, and introduction of user fees for basic medical services.
- v) Ensure access of adolescents to information and services related to SRHR.
- vi) Ensure adequate provision of safe, affordable, non-coercive methods of contraception for women specially in the rural areas.
- vii) Campaign for male use of safe, non-coercive methods for family planning, and ensure adequate supplies.

¹³² The ILO Conventions 155 and 161 are not yet ratified by Bangladesh though many of the recommendations of these two Conventions have been practiced to some extent through the implementation of existing labour laws. See, *The Daily Star*, 18 August 2007, (Online)-check ratification.

Article 14: Rural Women

- i) The Ministry of Agriculture to plan for coherence of policies and laws such as Agriculture Policy, Seed Policy, Water Policy and Plant Variety and Farmers' Rights Protection Act 2007.
- ii) Amend discriminatory laws limiting women's ownership, control and usage of land.
- iii) Ministry of Land to facilitate setting up of women's agriculture co-operatives and with MOWCA to jointly undertake a pilot scheme for cooperative farming.
- iv) Ministry of Agriculture to restructure its extension services to meet the needs of women agricultural workers and develop special agriculture credit package. It must define a policy priority for recruitment of women as agriculture extension workers.
- v) Ministry of Finance to identify obstacles to women's access to formal financial institutions and to design a package in consultation with marketing personnel of financial institutions to facilitate women's entrepreneurship.

General Recommendation 19: Violence against Women

- i) Home Ministry to improve methodologies for monitoring of incidents, documentation and compilation of data both at the local and national level.
- ii) Improve the monitoring of effectiveness of measures to reduce/eliminate violence.
- iii) Enforce existing laws strictly and neutrally, and take action against political protection of criminals.
- iv) To change gender-discriminatory attitudes and customary practices that sanction gender based violence,
- v) Ministry of LGRD, Law, MOWCA in consultation with women's rights groups and human rights groups to prepare materials on legal rights and train members of local elected bodies and Village Courts as well as officials to ensure that *shalish* (mediations) decisions do not violate laws and do not lead to extra judicial penalties.
- vi) Allocate adequate human and financial resources to increase One-Stop Crisis Centres (OCCs), women-friendly hospitals, safe homes, shelters, DNA laboratories, and strengthen the quality and scope of services, with special attention to women/girls with disabilities.
- vii) Form public-private partnerships with women's organizations, legal aid and human rights organizations, and provide support and resources to CBO, CSO program to combat gender-violence.

General Recommendation 26: Women Migrant Workers

- i) GoB to implement the recently approved GR 26 on Women Migrant Workers to ensure protection of rights of women migrants.
- ii) GOB to ratify the Convention on Right to Protection of Migrant Workers and their Families, 1990.
- iii) Ministry of Foreign Affairs and Ministry of Employment to negotiate bilateral agreements with destination countries to specify protection of workers so as to reduce vulnerability of migrant women workers.
- iv) Increase the number and capacity of DEMOs so that requisite training and information can reach a larger number of prospective migrant workers.
- v) Maintain gender-disaggregated data both at the national and local level.
- vi) Regulate private agencies to prevent irregular and illegal practices, and make them liable to punitive measures.

- vii) Provide gender-sensitive training to all personnel providing services to migrants, both in-country and abroad.
- viii) Appoint labor attaches to missions in all destination countries and orient them to legal counseling and support to migrant women workers.

ANNEXURES

Annexure I

Extract from *The Fractured Scales*, by Faustina Pereira (UPL, Stree, 2002)

1.22 PRESENT POSITION OF WOMEN IN THEIR PERSONAL LAW SYSTEMS AT A GLANCE

TABLE 1.22.1

MARRIAGE				
	Muslim Law	Hindu Law	Christian Law	Suggested Reforms
Age	Minimum age of marriage is lower for women than for men ¹³³	Minimum age of marriage is lower for women than for men	Minimum age of marriage is lower for women than for men. For women it is 18 and for men, 21	Should be the same age for both men and women
Consent	Express or implied consent by both parties necessary	Declaration of consent, by either party, not a necessity	Express consent by both parties necessary	Mandatory for both parties to declare consent expressly
Witness	Women's capacity to stand as witness is lesser (one half) than that of men	Witness at marriage not a necessity. But male priest officiating at marriage considered witness for legal purposes	Men and women stand on an equal footing.	Men and women should be considered equal as witnesses
Registration	Required of both parties	Registration not required	Registered under respective Church/Parish, for both parties	Registration of all marriages, whether civil or religious, must be made mandatory. One registration for both parties can be considered adequate
Dower	Women are entitled	Not required	Not required	The concept of dower is unacceptable. If both parties earn, the need for dower can be diminished
Dowry	Punishable by law	Punishable by law	Not applicable, But if practiced, punishable by law	Dowry Prohibition Act, 1980, should be implemented rigorously

¹³³ It is difficult to specify an age for marriage either for Muslim or Hindu couples. While both traditions allow for marriages of minors, in both cases the consummation of marriage is prescribed for only after the bride attains puberty.

Child Marriage	Punishable by law	Punishable by law	Punishable by law	Whole process punishable by law. Reform existing laws that do not declare the marriage of minors invalid. The act as well as effect of such marriage should be made <i>void ab initio</i>
Marital Rape	Limited recognition only under the Penal Code	Limited recognition only under the Penal Code	Limited recognition only under the Penal Code	Full recognition of marital rape as rape, and remedy under the Penal Code
Polygamy	Polyandry illegal. Polygyny legal, though subsequent marriage subject to permission of first wife	Polyandry illegal. Polygyny legal	Polygyny as well as polyandry illegal	Bigamy (polygyny/polyandry) to be prohibited, declared illegal and strictly punishable
Maintenance/ Alimony	Women's legal right from men. No such right for men	Women have life-estates	Women have a legal right to maintenance, men do not	Maintenance to be determined according to need. Both parties to be entitled to it
Adoption	No recognition of the concept	Only men have the right to take a male child in adoption. Women have no right to adopt. Female children cannot be adopted	Right to adopt recognized	Right to adopt to be open to all irrespective of gender or marital status
Caste/ Group	No legal recognition of caste or social groupings	Legal recognition of caste system. Inter-caste marriage in some cases illegal, although constitution provides non-discrimination on the basis of caste	No legal recognition of caste or social groupings	No restrictions whatsoever on the basis of caste to be recognized
Parties	Women cannot marry non-Muslim parties. Men can	Marriage with non-Hindus is illegal for both men and women	Marriage with non-Christians recognized for both men and women	Marriage to be recognized on a neutral basis, irrespective of nationality, religion, caste or group

TABLE 1.22.2

DISSOLUTION OF MARRIAGE/DIVORCE				
	Muslim Law	Hindu Law	Christian Law	Suggested Reform
Legislation/ Enactments	Women do not have equal rights to initiate divorce. Women's right limited by conditions	No legal recognition	Women do not have equal rights in case of divorce	Men and women to have equal rights
Division of matrimonial Property	No recognition of the concept	No recognition of the concept	No specific provision. However, court can divide the property according to the need and blame for dissolution	Women and men to have equal share and right in the division of matrimonial property
Remarriage after divorce	Muslim women have to observe <i>Iddah</i> for a period of 90 days in order to determine pregnancy; and paternity of the child. They cannot remarry during this period	No recognition of the concept since divorce is not recognized	Either party may remarry at any time after divorce or dissolution	Neither party to be prohibited from remarrying at any time after divorce

TABLE 1.22.3

GUARDIANSHIP and CUSTODY of CHILDREN				
	Muslim Law	Hindu Law	Christian Law	Suggested Reform
Legislation/ Proposed Law	Women do not enjoy equal rights with men	Women do not enjoy equal rights with men	Women do not enjoy equal rights with men	Equal rights for both men and women

TABLE 1.22.4

PROPERTY				
	Muslim Law	Hindu Law	Christian Law	Suggested Reform
Inheritance	Women do not enjoy equal rights with men	Women do not enjoy equal rights with men	Both men and women enjoy equal rights	Equal rights for both men and women
Transfer of Property	Both men and women enjoy equal rights	Women's rights limited to <i>Stridhana</i>	Both men and women enjoy equal rights	Equal rights for both men and women

TABLE 1.22.5

PRENUPTIAL AGREEMENT			
Muslim Law	Hindu Law	Christian Law	Suggested Reform
Exists in the form of <i>kabin-nama</i> . But provisions narrow and implementation weak	Exists only informally. No implementation	Exists only informally. No implementation. Sometimes in cases of "mixed marriages"	Should be considered a necessary part of the marriage contract

A. Recent Judgments/Directives that promote and protect women's rights

The Supreme Court has in some groundbreaking decisions provided progressive interpretations of women's rights, which can be precedents for amendment of national laws to accord women equal rights and be in compliance with CEDAW. Some of the judgments since 2002 are given below.

Restitution of Conjugal Rights

In *Khodeja Begum v Md. Sadeq Sarker*,¹³⁴ the court held that the law of restitution is a violation of social justice as enunciated in the Preamble of the Constitution.

Where there is no divorce by either side then title suit for the restitution of conjugal rights can be instituted either by the husband or the wife and if there is a decree then the decree can be executed by the attachment of property of the defendant if the judgment debtor is unwilling to abide by the decree. Given that an overwhelming majority of Bangladeshi women do not own enough property, the decree cannot be executed if the defendant is the wife. It is a common practice among husbands to institute a suit for restitution of conjugal rights to compel the unwilling wife to cohabit with them.

Rule on legality of fatwas

(a) In writ petition No: 5897/2000, (Editor, the Daily *Banglabazar* v District Magistrate, Naogaon,) the High Court issued a *suo motu* rule on the District Magistrate and Deputy Commissioner of Naogaon, following a newspaper report on a *fatwa* issued in the case of a man who having divorced his wife orally wanted a restitution of the marriage, instructing the wife, to perform a *hilla* marriage (an intervening marriage). The Court suggested introduction of the Muslim Family Ordinance in the curriculums of madrassahs and schools.

The HC judgment said, "Marriage between Shahida and her husband Saiful Islam was not dissolved and that for the sake of argument if it is taken that the marriage was dissolved, even then there was no legal bar for Shahida to remarry Saiful without an intervening marriage with a third person. The *fatwa* in question is wrong. "Giving a *fatwa* by an unauthorized person or persons must be made a punishable offence by the Parliament immediately, even if it is not executed".

Two appeals against this decision (Civil Appeal No: 621/2001 and 269/ 2000) are still pending for hearing in the Supreme Court. Subsequently, Ain o Salish Kendra and other women's groups filed a writ petition as intervenor.

(b) In writ petition no. 4322/08 the High Court issued a Rule Nisi as to what action should be taken against those who declared a *fatwa* ordering punishment by 50 lashes of a young rape victim. The legality of fatwas was earlier questioned by a decision of the High Court but is subject to an appeal in the Supreme Court. This case is pending for hearing.

¹³⁴ 50 DLR (1998) 181.

Post divorce maintenance

In *Ikhtiar Hossain Choudhury v Shahenoor Akhter*,¹³⁵ the High Court granted past maintenance to the wife after separation for four years ten months including three months for *Iddat* period.

This is a precedent for the protection and promotion of a woman's right to post divorce maintenance.

Guardianship

(a) In *Abdul Jalil v Sharon Laily Jalil*,¹³⁶ a family court granted full custody of four minor children aged between five and fourteen years, on grounds of rights accorded in CEDAW and CRC, to the mother, a British Christian citizen. The judge cited from Ameer Ali that 'the milk of a Muslim mother is not more nutritious than that of a Christian mother'. A High Court bench held that custody and guardianship of minors cannot be settled by a private compromise or even by arbitration.

(b) In *Farzana Azad v Samudra Ejajul Haque*¹³⁷ where the petitioner instituted a writ of *habeas corpus*, a Division Bench of the High Court ordered to place the minor children in the custody of their mother.

(c) With regard to the right of guardianship, the High Court has shown an affirmative approach in *Syeda Shamsunnahar's case*¹³⁸ where the mother's right to guardianship has been recognized.

No technical division as to guardianship and custody of children exists under Hindu or Christian personal laws. Even though the Guardian and Wards Act, 1890 is applicable to all citizens, the Hindu and Christian personal laws are yet to evolve accordingly.

Discrimination on basis of marital status in selection of public employees

In *Ms. Nasrin Aktar and others v Bangladesh and others*, Writ Petition No: 6309/2003

the High Court Division of the Supreme Court of Bangladesh directed the Government (Health Ministry and other related authorities) to show cause why a notice calling for applications for the post of Health Assistant should not be held to be without lawful authority and unconstitutional, being in violation of fundamental rights including to freedom from discrimination on the grounds of sex. The High Court also passed an interim order staying all proceedings relating to examinations for the post.

Nasima Akhtar Banu, who was precluded from applying because of the condition of marital status, and three legal aid and human rights groups, the Bangladesh Legal Aid and Services Trust (BLAST), the Bangladesh National Women Lawyers Association (BNWLA) and Ain o Salish Kendra (ASK) filed the writ petition challenging the discriminatory notice.

A notice calling for applications for the post of Health Assistant issued by the Health Directorate stated that female applicants must be married, and that they should submit a certificate of proof of marriage/marriage registration certificate along with other required papers that relate to education, age and residence. Following this notice, a leading newspaper carried a front-page story about how

¹³⁵ 11, BLC, HC, p. 516.

¹³⁶ *Abdul Jalil v Sharon Laily Begum*, Family Suit no. 145 of 1995 and Family Suit no. 183 heard analogously and judgment delivered by the Family Court on 1st April 1999. 50 DLR (AD) 55 & 1998 BLD (AD) 21.

¹³⁷ W.P. No. 770 of 2007, 60 DLR (January, 2008).

¹³⁸ *Syeda Shamsunnahar V. Md.Khorshed Anwar Khan* 10 MLR (HC) 2005 page-148-150.

thousands of women were procuring false marriage certificates in order to apply for 3000 posts.

Subsequently, the Government filed an application for stay of the examination proceedings. While the pleadings by the Government do not indicate any particular grounds for the stay, the Attorney General made oral submissions that single women could not be employed in such posts in the prevailing socio-cultural context in Bangladesh. The Government cancelled the discriminatory notice following which the petition was withdrawn.

A Writ Petition No 6309/03, to challenge the requirement that only single women could apply for nursing, was settled outside the Court and the State withdrew the notification.

Discrimination in allocation of responsibilities to elected members

In *Shamima Akter and others v Bangladesh and others*, Writ Petition No. 3304/2003 the High Court declared illegal and void a Government order restricting powers of women elected as ward commissioners to reserved seats in a City Corporation and ruled that they be given responsibilities and functions equal to their male or female colleagues elected to general seats and that they should not be discriminated against in any manner. The Court observed that once a person is elected as a ward commissioner, be it from a general seat or from a reserved seat, there should be no discrimination in the allocation of powers and functions among the commissioners.

A Circular issued by the Ministry of LGRD on 23 September 2002 declared that women elected to reserved seats for ward commissioners could not exercise the same powers and functions as commissioners elected from general seats; in particular they could not issue certificates of nationality, character, succession, birth and death or assist during a census. Ten aggrieved ward commissioners of Khulna City Corporation elected to reserved seats, filed a writ petition challenging this discriminatory government circular issued by the Ministry of LGRD on 23 September, 2002.

Regulating husband's power of unilateral divorce

In *Kazi Rashed Akhter Shahid (Prince) v Rokshana Choudhury (Sanda)*,¹³⁹ the High Court made an observation with regard to Section 7(1) of Muslim Family Law Ordinance 1961 which requires the husband to give a notice in writing of his having pronounced *talaq* (divorce) to the Chairman.

The Court observed that if the husband abstains from issuing such notice to the Chairman, it would be deemed that the husband has revoked the divorce and the marital status of the parties remains unchanged. This would deter the husband from an arbitrary exercise of his power of divorce on simple grounds and for trivial matters.

Forced Marriage

In a *habeas corpus* writ petition filed in 2008 to obtain the release of Humayara from confinement with a view to a forced marriage, the High Court directed the Police Commissioner and the British High Commission to ensure Dr. Humayara Abedin's safe journey from Dhaka to London. Earlier the Court issued suo motu contempt orders on Humayara's parents and uncle and asked them to produce her in person before the court. Her father appeared with Humayara before the Court and returned her passport and air ticket. In her testimony Humayara stated that her

¹³⁹ 58 DLR (HC) 271 (2006).

movement was severely restricted for the last five months and she was subjected to severe violence. She wished to go back to London to pursue her education.

Dr. Abedin, who was employed in a London National Health hospital, came to Dhaka in August 2008 to see her mother, who claimed to be seriously ill. She was confined against her will and held incommunicado. Her parents claimed through their lawyers that Dr. Humayra, an adult, should be in her parents' custody first on the ground that she was 'unmarried' and later, that she was 'mentally ill'.

During this time, in a petition filed by a human rights activist in the UK, the British High Court issued an order on her parents prohibiting her parents from forcing or attempting to force Humayara (a British Resident) from entering into a marriage.

Recognition of Mother's Name in Student's Information Form

The High Court issued a Rule Nisi on the Government and on seven Boards of Education to show cause as to why

- a) the refusal to issue registration cards for SSC and HSC examinations to any candidate who does not complete fields for both 'father's name' and 'mother's name' in the Student Information Form, should not be declared arbitrary, discriminatory and/or in violation of the fundamental rights to equality, to be treated in accordance with law and access to education and
- b) why they should not be directed to amend the SIF to include identification information regarding the name of the father, *or* mother, *or* guardian.

The High Court also directed the Ministry of Education to provide a report within three weeks to the Court as to which of the various Boards of Education currently require candidates to provide mandatory information regarding both the father's and mother's name prior to receiving registration cards for admission to the SSC examinations and what course of action they pursue should an otherwise eligible candidate fail to provide his or her father's identity.

The Rule was issued in a public interest writ petition filed by three human rights organizations, (Bangladesh Legal Aid and Services Trust (BLAST), Bangladesh Mahila Parishad and Nari Pokkhyo) in the context of reports that otherwise qualified candidates had been refused admit cards for the SSC examinations due to their not including information of the 'father's name' in the computer generated form (the 'Student's Information Form') provided by the Board of Education.

Several classes of persons were affected, including those whose fathers had abandoned them or never acknowledged them, as well as children who had been adopted/or had become wards under the Guardians and Wards Act.

Trafficking

Factors contributing to women's vulnerability to trafficking

As the profile shows, a combination of factors - social, economic and systemic - contribute to the growth and maintenance of trafficking, by rendering women and children powerless and vulnerable to exploitation. All these factors interact with and re-enforce each other to the detriment of the victims of trafficking.

Systemic		Economic		Social	
-	Inadequacy in laws and policies (definition)	-	Poverty	-	Patriarchal ideology which holds women as subordinates and dependents
-	Lack of statistics	-	Lack of employment opportunities	-	Gender hierarchical relations in the family, community, even the state
-	Inefficiency in implementation (national and local)	-	Lack of arable land	-	Limited access to resource due to discriminatory customs and laws
-	Inordinately long (porous) common border	-	Loss / erosion of livelihood following natural disasters	-	Early marriage perceived socially as providing 'shelter'
-	Lack of gender sensitivity among law enforcing agencies	-	Spiraling Price hike	-	Regarding women as sex objects
				-	Investing in dowry rather than in education of girls
-	Lack of commitment among border forces		Macro-economic	-	Polygamy
-	Corrupt practices	-	Globalization	-	Abandonment
-	Demand for cheap labour and sexual services of young women and children	-	Free market economy	-	No social safety net
-	Network of organized traffickers regionally and globally			-	Illiteracy
				-	Lack of information
				-	isolation
				-	Devaluation of women's labor / role
				-	Sanctions on mobility
				-	No choice

Education

Factors obstructing women's equal participation

- There are several factors which obstruct women's equal participation in education. The constraints from demand side stem from patriarchy and poverty while those from supply side arise from various inadequacies in perception, biases and lack of management skill in the GOB education sector. The constraints may be clustered thus: i) Socio-economic, ii) Content and process based and iii) Systemic/structural. All these interact with and re-imforce each other to the disadvantage of the majority of Bangladeshi girls and women (the rural poor) and obstruct their full and equal participation in education.

Factors

	Systemic / structural		Content and process based		Socio-Economic
-	Inadequate number of schools, Inadequate number of women teachers and living hostel women education and teachers.	-	Gender stereotyping in text books	-	Patriarchal attitude of undervaluing daughters, regarding education not relevant for them - Science and technology not suitable for girls
-	Difficulty in accessing schools, especially in remote areas because of lack of road, and safe transports	-	Privileging boys by teachers thus perpetuating gender bias	-	Son-preference (decreasing) - Male-selective education, especially at the higher level
-	Different streams of education and different standards/quality of teaching / learning	-	Lack of congenial atmosphere in class		
-	Low number of girl's schools and colleges	-	Lack of library facilities and laboratory equipments	-	Pressure for early marriage and saving dowry
		-	Lack of reading materials for neo-literates	-	Insecurity and threat of sexual harassment, rape, other violence VAW.
-	delay and non-availability of text books because of centralized production	-	curriculum and language does not reflect rural reality	-	Poverty drives girls into paid labour
-	Lack of comprehensive and up dated gender disaggregated data	-	Seasonal variation in attendance	-	Stereotype role for girls to help mothers
-	Lack of effective mechanism for coordination between GOs and NGOs	-	over-burdened teachers and overcrowded classroom	-	Hidden costs in education (uniform, textbooks, examination fees, coaching etc.)
-	Male dominated management and decision making	-	low contact hours and skewed teachers-students ratio.	-	low level of literacy and education among parents
-	Limited impact of gender training in removing negative attitude towards women	-	weak academic monitoring by local-level education officers	-	Increasing intimidation and hostility from religious extremist groups against women in public space

Health

Health MDG Goals	Health Targets	Health Indicators
Goal 4 : Reduce Child Mortality	Target 5 : Reduce by two third, between 1990 and 2015, the under-five mortality rate	13. Under-five mortality rate 14. Infant mortality rate 15. Promotion of one-year old children immunized against measles
Goal 5 : Improve Maternal Mortality	Target 6 : Reduce three quarters, between 1990 and 2015, the maternal mortality ratio	16. Maternal mortality ratio 17. Proportion of birth attended by skilled health personnel

Source: World Health Organization, 2005, MDG Health and Millennium Development Goals, p. 11

Violence

Factors contributing to Women's Vulnerability to Violence

The various factors which contribute to women's vulnerability to violence can be clustered as social-cultural, economic and systemic / structural. They interact with and strengthen each other to make women vulnerable to violence and as such must be addressed in a holistic manner for elimination of gender violence. The factors are:

–	<u>Systemic / structural</u>	–	<u>Economic</u>	–	<u>Socio-Cultural</u>
	Incomplete action plans and inefficient implementation		Poverty		patriarchal gender ideology legitimizing male domination and female subordination in all social structures
	Inadequacy in legal measures (loop holes)		Loss of traditional ways of income earning by women in the rural area		wide acceptance of wife-beating as justifiable behavior (chastisement of ward by a guardian)
	Weak implementation of laws		unequal pay for equal work, less income		Regarding women as a sex object without any choice
	Judicial procedure not women friendly		denial of access to resources		Regarding rape as a failure of the male family members to protect the family 'honor', not to be publicized
	lack of gender-sensitivity among law enforcement personnel and medical personnel (especially male one)		lack of women friendly environment at the workplace		Discriminatory laws curtailing women's rights in the family including inheritance
	male dominated system and traditional attitudes toward women perpetuated (educational material, awareness raising campaign)				Restriction over mobility
	Inadequacy in support service (limited human and financial resource, limited coverage)				Rise of religious extremist groups and insistence (intimidation / harassment) against women's use of public space and participation in public life as equal.
	corruption				Regarding domestic workers as property"
					Non-recognition of women's work and role in the family
					Denial / deprivation of women's rights to basic needs

Women Migrant Workers

Though the major reason for migration is economic gain, a host of factors- social, economic and systemic / structural - contribute to a woman migrant's vulnerability and under-preparedness to face the challenges which migration entails. These are:

Factors contributing to vulnerability of women migrant workers

Systemic / structural	Economic	Social
- Inadequacy in law (not recognizing domestic service as 'work')	- poverty	- traditional attitude of regarding women working outside home as morally lax and sexually available
- lack of statistics	- lack of employment opportunities (use of technology in agriculture shrinking traditional earning for women)	- traditional attitude of regarding unskilled jobs as 'lowly' and not respectable
- Inadequacy in local coverage of service (only 21 DEMOs)	- loss / erosion of livelihood following natural disasters and /or loss of male support	- lack of social safety net in case of loss of male support through abandonment, divorce, widowhood etc
- Over-centralization of services (passports, visas, airports)	- hidden cost of education forcing many to drop out	- illiteracy of parents and migrants themselves
- Inadequacy in provision of information regarding migration requirements	- spiraling price hike resulting from unregulated free market economy	- lack of information about and migration procedure and the country of destination.
- Inadequate regulation of private agencies		- sanctions on mobility
- very limited support by foreign missions (absence of labor attaches, counseling, pro-active support in difficulty)		
- Inadequate grasp of GOB of the potentials offered by foreign market and the urgency for preparing proper supply of labor force through skill training and support services		
- Lack of gender sensitivity among trainers, recruitment agents and foreign mission personnel		
- Limited coverage of education and literacy initiatives		

Table : Problems faced by Women Migrants at different stages

Stages	Problems
At the decision-making stage	- Negative attitude of community and sometimes even family members
Recruitment and pre-departure	- Agents changing exorbitant sums for procuring papers - Agents not letting them see any papers (visa etc.) until they reach airport - Agents providing fake documents and visa - Agents not giving them proper addresses
In the destination country	- Agents / employers keeping all documents - false information about job leading to less paid and different types of jobs including subcontracting to several house (specific) in case of domestic workers) - mental, verbal, physical sexual abuse from employers - prolonged hours of work without break - salaries paid irregularly and often less than the stipulated ones - food insufficient in quantity - lack of access to health care - language barrier making communication difficult - contact with family or friends not encouraged - restricted mobility, even being locked up - sudden termination of contracts - sent to prison on suspicion alone - deportation if caught with fake papers
Return and Reintegration	- Upon return, facing unfriendly and derogatory comments about working conditions and morality from family and community - savings sent being misused by family - children neglected - husbands spending money on drug / gambling and / or extra marital affairs

APPENDICES

Trafficking

Table- 1

**The Status of Law Enforcement Agencies against Trafficking in Women and Children
(Survivors Rescued)**

Law Enforcement Agencies	16 March '05 to 15 March '06	15 March '06 to 15 March '07	January '07 to December '07	January '08 to December '08
Police	87	94	57	140
BDR	02	63	26	48
RAB	17	-	04	39
Ministry of Home Affairs	49	30	30	28
Total	155	187	117	255

Source: Bangladesh Country Report on Combating Trafficking in Women and Children, Ministry of Home Affairs, 2008.

Table -2

Disposal of Cases Related to Trafficking in Women and Children

Year	Number of cases instituted	Number of cases disposed	Remarks
2001	125	17	
2002	144	20	
2003	152	31	
2004	134	68	
2005	164	109	increases due to effective monitoring
2006	116	79	
2007	126	45	

Source: Bangladesh Country Report on Combating Trafficking in Women and Children, Ministry of Home Affairs, 2008.

Political and Public Life

Table 1: The Number of Seats and Contestants in City Corporations (CC)

Name of CC	Number of Candidates as Mayor	Number of General Seats	Number of Candidates in General Seats	Number of Reserved Seats (1/3 of general seats)	Number Candidates in Reserved Seats for women
Rajshahi	15	30	203	10	63
Khulna	06	31	207	10	46
Barisal	10	30	145	10	39
Sylhet	15	27	197	9	46
Total	46	118	752	39	194

Source: Press releases by Bangladesh Election Commission, 2008

Table 2: The Number of Women Contestants in Paurashava Elections, 2008

Name of Paurashavas	Number of candidates as Mayor	Number of general seats	Number of candidates in general seats	Number of reserved seats (1/3 of general seats)	Number candidates in reserved seats for women
Naohata,	08	9	45	3	18
Dupchanchia	06	9	48	3	16
Chuadanga	05	9	55	3	13
Sreepur	06	9	42	3	10
Manikgonj	08	9	72	3	14
Fulbaria	10	9	45	3	11
Shariatpur	04	9	40	3	13
Golapgaonj	07	9	45	3	14
Sitakundu	05	9	37	3	11
	59	81	429	27	120

Source: Press releases by Bangladesh Election Commission, 2008

Figure 1: Trend of total percentage of women representation in the Parliament, 1973-2008

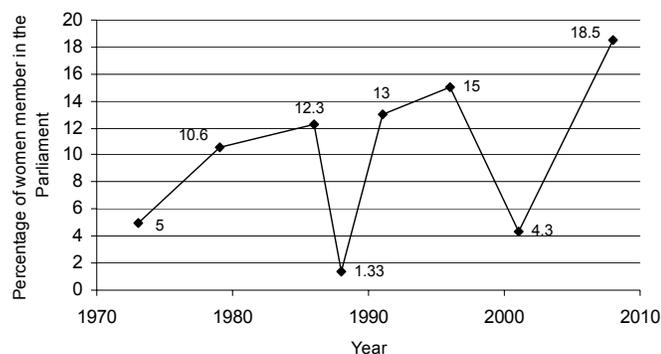


Table: 3

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 Wk 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: Bangladesh Mohila Perished, 2007

Figure-2: Trends of women voters in Bangladesh, 1979-2008

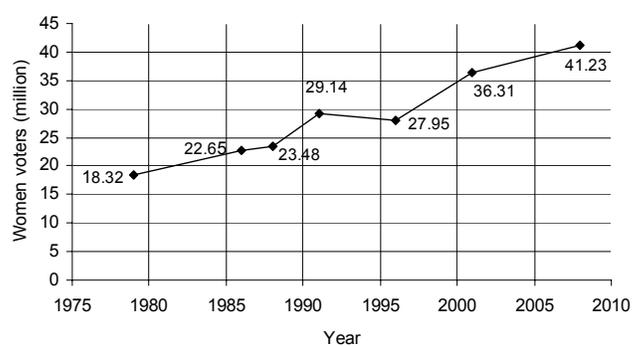


Table-4: Sex Disaggregated Human Resources in the Civil Service, 2006

	Men	Women	Total
Ministry/Division	7027	1176	8203
Department/ Directories	562151	129408	691559
Autonomous Bodies/Corp.	237407	12918	250325
Total	806585	143502	950087

Employment

Table: 1
Gender differences in Labor Force in Bangladesh, 2006 [in million]

	Women	Men	Total
1. Economically active population	12.1	37.4	49.5
2. Unemployed population	0.9	1.2	2.1
3. Not in labor force	29.4	5.7	35.1
4. Employed population	11.3	36.1	47.4
Sectoral distribution of employed population			
a. Agriculture, forestry, and fisheries	7.7	15.1	22.8
b. Industry	1.4	5.5	6.9
c. Services	2.2	15.5	17.7

Source: *Labor Force Survey, 2005-2006*, Bangladesh Bureau of Statistics (BBS). Quoted in Bangladesh Bank, "Recent Employment Situation and Labor Market Developments in Bangladesh", Policy Paper # 0807, June 2008

Table: 2
Employment status of women and men workers in Bangladesh, 2006 [in million]

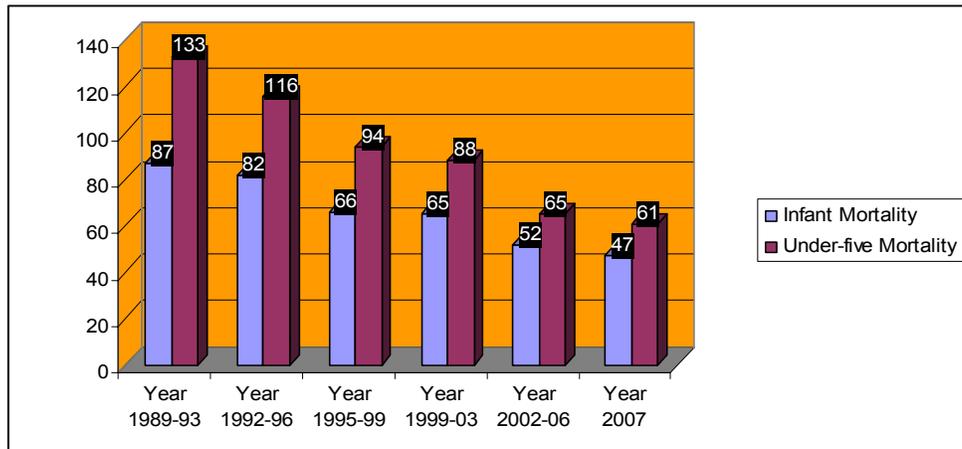
	Women	Men	Total
A. Sector			
Formal	1.6	8.6	10.2
Informal	9.7	27.5	37.2
Total	11.3	36.1	47.4
B. Status			
Regular paid employee	1.3	5.3	6.6
Employer	0	0.1	0.1
Self-employed	1.8	18.1	19.9
Unpaid family worker	6.8	3.5	10.3
Irregular paid worker	0.2	0.8	1.0
Day laborer	0.7	7.9	8.6
Domestic worker	0.3	0	0.3
Others	0.2	0.4	0.6
Total	11.3	36.1	47.4

Source: *Labor Force Survey, 2005-2006*, Bangladesh Bureau of Statistics (BBS). Quoted in Bangladesh Bank, "Recent Employment Situation and Labor Market Developments in Bangladesh", Policy Paper # 0807, June 2008

Data source: *BBS Labor Force Survey (LFS), 2000*

Health

Table: 1
Trends in Infant and Childhood Mortality

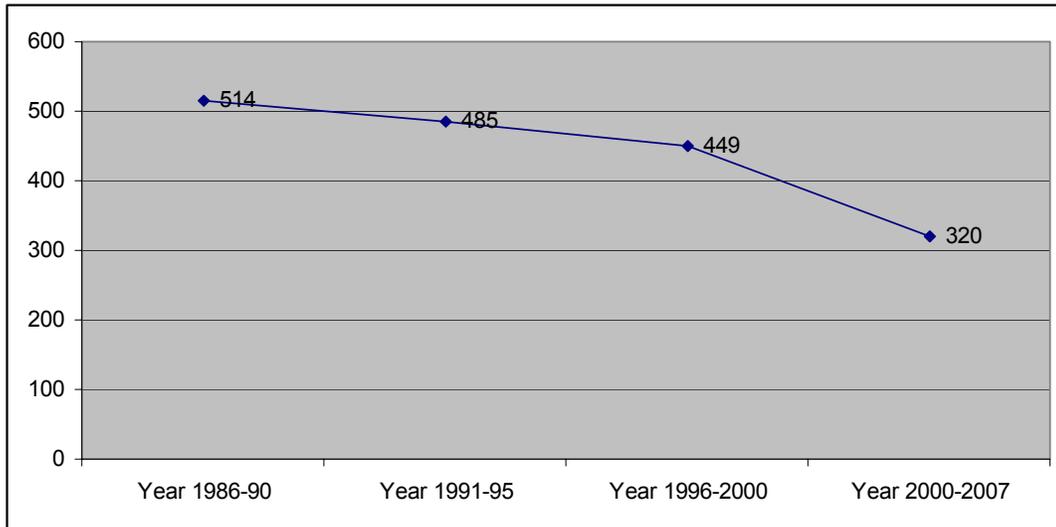


Source: BDHS (2004, 2007), NIPORT (2001), Unicef (2009).

The above graph indicates that the infant mortality has declined from 52 per 1,000 live births to only 47 and under-five mortality has declined from 65 per 1,000 to only 61 between 2002-2006 and 2007. These present a disquieting picture of health services in relation to child malnutrition and maternal mortality rate which still remain among the highest in the world. According to estimates, about 15,000 mothers die annually at the time of delivery, with three maternal mortality per 1,000 live births, and 7,000 infants die everyday.¹⁴⁰

¹⁴⁰ Ferdous Afrina Osman (2008) Health Policy, Programs and System in Bangladesh: Achievements and Challenges

Figure 1
Trends in Maternal Mortality



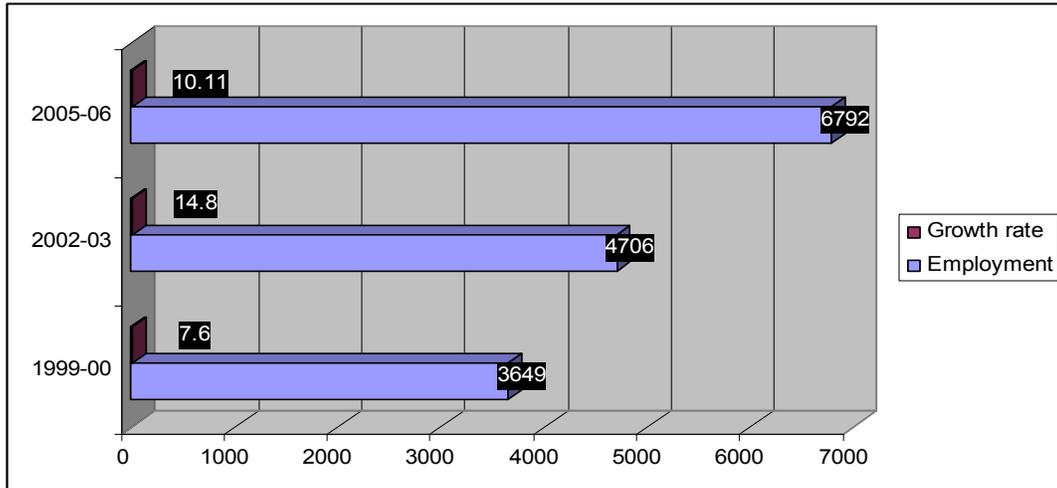
Source: BDHS, NIPORT, Unicef

Data presented in the chart above indicates that the MMR has considerably reduced from 570 per 100,000 live births to 320 during the period between 1986-90 and 2000-2007.

Rural Women

Chart 1

Status and Employment of Women in Agriculture



Source: LFS 2002-03, 2005-06,

Violence against Women

Table 1: Number of cases of violence by category and year (Official Data)

Year	Type of Violence									Total
	Violence for dowry	Acid throwing	Abduction	Rape	Murder after rape	Trafficking	Murder	Injured	Other violence	
2001	2986	153	1691	3178	20	63	82	63	4722	12958
2002	4922	232	2236	4095	22	74	90	83	6700	18454
2003	5869	222	2262	4442	28	74	73	120	7152	20242
2004	3081	198	1594	3097	17	68	62	134	4564	12815
2005	3130	177	2069	2796	22	138	97	49	2949	11427
2006	3417	135	2087	2566	14	107	109	75	2558	11068
2007	4146	137	2736	3495	33	113	142	74	3374	14250
2008	4487	120	2874	3387	65	105	131	87	3023	14279
Total	3,20,38	1,374	17,549	27,056	221	742	786	685	35,042	1,15,493

Source: Police Headquarters, GOB, Date June 2009

Table - 2

Number of Cases of Violence by Category and Year (Information from selected NGOs)

Year	Type of violence					
	Dowry related	Acid throwing	Abduction	Rape	Trafficking	Murder
2004	1433	7	233	629	113	11
2005	1441	21	210	932	76	15
2006	1186	14	251	790	64	10
2007	1554	13	279	669	160	158

Women Migrant Workers

Table 1

Year	Worker's Category				Total	Recruiting Media			
	Professional	Skilled	Semi-skilled	Less-skilled		BMET	BOESL	Recruiting Agent	Individual
1976	568	1775	543	3201	6087	5279	0	284	524
1977	1766	6447	490	7022	15725	5729	0	1171	8825
1978	3455	8190	1050	10114	22809	6160	0	1994	14655
1979	3494	7005	1685	12311	24495	6957	0	2966	14572
1980	1983	12209	2343	13538	30073	5715	0	7773	16585
1981	3892	22432	2449	27014	55787	6074	0	22218	27495
1982	3898	20611	3272	34981	62762	4483	0	24939	33340
1983	1822	18939	5098	33361	59220	730	0	26320	32170
1984	2642	17183	5484	31405	56714	0	157	32460	24097
1985	2568	28225	7823	39078	77694	0	1221	39397	37076
1986	2210	26294	9265	30889	68658	0	1895	27859	38904
1987	2223	23839	9619	38336	74017	0	340	33818	39859
1988	2670	25286	10809	29356	68121	0	476	34117	33528
1989	5325	38820	17659	39920	101724	0	707	36508	64509
1990	6004	35613	20792	41405	103814	0	435	40258	63121
1991	9024	46887	32605	58615	147131	0	140	64889	82102
1992	11375	50689	30977	95083	188124	47	541	59746	127790
1993	11112	71662	66168	95566	244508	503	559	129479	113967
1994	8390	61040	46519	70377	186326	236	178	95361	90551
1995	6352	59907	32055	89229	187543	73	627	74921	111922
1996	3188	64301	34689	109536	211714	0	398	118670	92646
1997	3797	65211	43558	118511	231077	15	335	85793	144934
1998	9574	74718	51590	131785	267667	0	419	85300	181948
1999	8045	98449	44947	116741	268182	0	309	110669	157204
2000	10669	99606	26461	85950	222686	1	524	91475	130686
2001	5940	42742	30702	109581	188965		149	76669	112147
2002	14450	56265	36025	118516	225256	0	226	84401	140629
2003	15862	74530	29236	134562	254190	0	456	82507	171227
2004	12202	110177	28327	122252	272958	0	306	85458	187194
2005	1945	113655	24546	112556	252702		645	81608	170449
2006	925	115468	33965	231158	381516		977	104949	275590
2007	676	165338	183673	482922	832609		619	362531	469459
2008	1864	281450	132825	458916	875055	773	2172	207018	665092
Total	179910	1944963	1007249	3133787	6265909	42775	14811	2333526	3874797

Source: Bureau of Manpower, Employment and Training (BMET), Data sheet 2009

Table 2

Overseas Employment by Country from 1976 to 2009

Overseas Employment & Remittances from 1976 to 2009

Year	Name of the Country																		Misc. Clearance	Total Employment	Remittances*						
	KSA	UAE	Kuwait	Oman	Qatar	Bahrain	Lebanon	Jordan	Libya	Sudan	Malaysia	Singapore	S. Korea	UK	Italy	Japan	Egypt	Brunei			Mauritius	Rumania	Others	Million US\$	Creo Tk.		
1976	217	1,989	643	113	1,221	335	-	-	173	-	-	-	-	-	-	-	-	-	-	-	-	1,396	-	6,087	23.71	36.85	
1977	1,379	5,819	1,315	1,492	2,262	870	-	-	718	-	-	-	-	-	-	-	-	-	-	-	-	1,870	-	15,725	82.79	125.16	
1978	3,212	7,512	2,343	2,877	1,303	762	-	-	2,384	-	23	-	-	-	-	-	-	-	-	-	-	2,483	-	22,809	106.90	165.59	
1979	6,476	5,069	2,298	3,777	1,383	827	-	-	1,969	-	-	110	-	-	-	-	-	-	-	-	-	2,586	-	24,485	172.06	266.95	
1980	8,695	4,847	3,687	4,745	1,455	1,351	-	-	2,976	-	3	385	-	-	-	-	-	-	-	-	-	1,929	-	30,073	301.33	482.95	
1981	13,384	6,418	5,464	7,362	2,268	1,392	-	-	4,162	-	-	1,083	-	-	-	-	-	-	-	-	-	14,264	-	55,787	304.88	620.74	
1982	16,294	6,863	7,244	8,248	6,252	2,037	-	-	2,071	-	-	331	-	-	7	-	-	-	-	-	-	13,422	-	62,762	490.77	1,176.84	
1983	12,928	6,615	10,283	11,110	7,566	2,473	-	-	2,209	-	23	178	-	-	10	-	-	-	-	-	-	5,845	-	59,220	627.51	1,568.76	
1984	20,399	5,185	5,627	10,448	2,726	2,300	-	-	3,386	-	-	718	-	-	-	-	-	-	-	-	-	5,925	-	56,714	500.00	1,255.49	
1985	37,133	8,336	7,384	9,218	4,751	2,965	-	-	1,514	-	-	792	-	-	-	-	-	-	-	-	-	5,601	-	77,694	500.00	1,419.61	
1986	27,235	8,790	10,286	6,255	4,847	2,597	-	-	3,111	-	530	25	-	-	-	-	-	-	-	-	-	4,982	-	68,658	576.20	1,752.85	
1987	39,292	9,953	9,559	440	5,889	2,055	-	-	2,271	-	-	-	-	-	-	-	-	-	-	-	-	4,558	-	74,017	747.60	2,313.94	
1988	27,622	13,437	6,524	2,219	7,390	3,258	-	-	2,789	-	2	-	-	-	-	-	-	-	-	-	-	4,900	-	68,121	763.90	2,423.59	
1989	39,949	15,184	12,404	15,429	8,462	4,830	-	-	1,609	-	401	229	-	-	-	-	-	-	-	-	-	3,227	-	101,724	757.84	2,446.00	
1990	57,486	8,307	5,967	13,980	7,672	4,563	-	-	471	-	1,365	776	-	-	-	-	-	-	-	-	-	3,217	-	103,814	781.54	2,691.63	
1991	75,656	8,583	28,574	23,087	3,772	3,480	-	-	1,124	-	1,628	642	-	-	-	-	-	-	-	-	-	585	-	147,131	789.30	2,818.65	
1992	93,132	12,975	34,377	25,825	3,251	5,804	37	-	1,617	-	10,537	313	-	-	-	-	-	228	12	-	16	-	16	-	188,124	901.97	3,513.26
1993	106,387	15,810	26,407	15,866	2,441	5,396	37	-	1,800	-	67,938	1,739	-	-	-	-	-	328	12	-	347	-	347	-	244,508	1,009.09	3,986.97
1994	91,385	15,051	14,912	6,470	624	4,233	382	-	1,864	-	47,826	391	1,558	-	-	-	-	1,335	26	-	289	-	289	-	186,326	1,153.54	4,629.63
1995	94,009	14,686	17,492	20,949	71	3,004	406	-	1,106	-	35,174	3,762	3,315	-	-	-	-	2,659	229	-	681	-	681	-	187,543	1,201.52	4,838.31
1996	72,734	23,812	21,042	8,691	112	3,759	490	-	1,966	-	66,631	5,304	2,759	-	-	-	-	3,062	196	-	1,156	-	1,156	-	211,714	1,355.34	5,685.30
1997	106,534	54,719	21,126	5,985	1,873	5,010	907	-	1,934	-	2,844	27,401	889	-	-	-	-	303	238	-	1,314	-	1,314	-	231,077	1,525.03	6,709.15
1998	158,715	38,796	25,444	4,779	6,806	7,014	1,389	-	1,254	8	551	21,728	578	-	-	-	-	169	16	-	420	-	420	-	267,667	1,599.24	7,513.23
1999	185,739	32,344	22,400	4,045	5,611	4,639	219	-	1,744	16	-	9,896	1,501	-	-	7	-	1	139	-	181	-	181	-	268,182	1,806.63	8,882.74
2000	144,618	34,034	594	5,258	1,433	4,637	-	-	1,010	54	17,237	11,095	990	-	-	22	9	1,420	271	-	4	-	4	-	222,686	1,954.95	10,199.12
2001	137,248	16,282	5,341	4,561	223	4,371	-	-	450	153	4,921	9,615	1,561	-	-	19	3	2,958	272	-	1,017	-	1,017	-	188,965	2,071.03	11,590.79
2002	163,269	25,482	15,769	3,854	562	5,421	2	1,829	1,574	136	85	6,856	28	-	19	37	17	154	59	-	133	-	133	-	225,256	2,847.79	16,484.53
2003	162,131	37,346	26,722	4,029	94	7,482	3	2,128	2,655	784	28	5,304	3,771	166	28	12	26	980	-	-	301	-	301	-	254,190	3,177.63	18,485.12
2004	139,031	47,012	41,108	4,435	1,268	9,194	-	6,022	606	923	224	6,948	215	2,055	550	47	33	1,802	44	-	2,859	8,582	8,582	272,958	3,565.31	21,286.52	
2005	80,425	61,978	47,029	4,827	2,114	10,716	14	9,101	972	885	2,911	9,651	223	2,793	950	79	207	191	1,381	-	4,015	12,240	12,240	252,702	4,249.87	27,304.33	
2006	109,513	130,204	35,775	8,082	7,691	16,355	821	2,822	104	2,380	20,469	20,139	992	1,625	1,428	174	639	496	2,090	-	8,995	10,722	10,722	381,516	5,484.08	38,366.56	
2007	204,112	226,392	4,212	17,478	15,130	16,433	3,541	494	1,480	1,726	273,201	38,324	39	972	10,950	164	1,068	1,186	3,658	-	1,827	10,222	10,222	832,609	6,588.03	45,724.44	
2008	132,124	419,355	319	52,866	25,548	13,182	8,444	682	5,067	170	131,762	56,581	1,521	982	6,928	133	1,891	1,054	3,071	830	1,631	10,914	10,914	875,055	8,979.00	61,587.83	
2009	14,666	258,348	10	41,704	11,672	28,426	13,941	1,691	22,742	514	12,402	39,581	1,474	1,253	5,339	39	3,018	2,699	1,826	229	5,219	8,485	8,485	475,278	10,717.73	73,981.46	
Total	2,573,129	1,587,483	479,571	360,524	155,723	191,181	30,633	24,789	83,062	7,749	698,736	279,597	21,414	9,816	26,192	733	6,911	21,025	13,540	1,069	107,175	61,165	61,165	6,741,187	57,674.11	392,353.89	
%	38.17	23.55	7.11	5.35	2.31	2.84	0.45	0.37	1.23	0.11	10.37	4.15	0.32	0.15	0.39	0.01	0.10	0.31	0.20	0.02	1.59	0.91	0.91				

* Source: Bangladesh Bank

Source: BMET Data sheet 2009

Overseas Employment of Female Workers from 1991 to 2009

Year	Name of the Country																	Total	Yearly Increase (%)
	KSA	UAE	Kuwait	Oman	Qatar	Bahrain	Lebanon	Jordan	Libya	Malaysia	Singapore	UK	Italy	Hong Kong	Pakistan	Sipan	Others		
1991	29	417	416	37	-	143	25	-	-	926	1	2	-	-	3	3	1	2,189	
1992	21	435	311	25	-	132	22	-	-	841	1	3	2	-	1	2	2	1,907	-12.88
1993	39	462	307	22	-	103	10	-	-	753	-	1	1	1	-	1	3	1,793	-5.98
1994	47	298	409	21	-	99	9	-	-	1,032	-	2	3	-	2	-	2	1,995	11.27
1995	89	189	547	17	-	126	6	-	-	584	1	3	-	-	-	-	1	1,612	-19.20
1996	112	177	757	21	-	148	11	-	-	753	-	1	-	-	-	-	-	1,994	23.70
1997	132	463	942	4	5	159	17	-	-	-	4	-	6	4	1	1	-	1,762	-11.83
1998	143	410	257	3	-	98	7	-	-	-	2	-	-	-	-	-	1	939	-46.71
1999	-	351	-	14	-	-	-	-	-	-	1	-	-	-	-	-	-	366	-61.02
2000	-	381	4	-	-	22	-	-	-	-	-	-	-	-	-	-	-	454	24.04
2001	335	162	15	27	-	22	-	95	-	1	2	-	-	-	-	-	-	659	45.15
2002	827	217	18	14	-	30	-	104	-	2	1	-	-	1	-	-	1	1,216	84.52
2003	808	108	333	-	-	37	1	1,053	-	-	2	1	-	1	4	2	1	2,353	93.50
2004	3,133	3,241	1,773	60	-	1,058	-	1,883	-	-	6	10	32	-	-	2	33	11,259	378.50
2005	6,319	3,786	930	132	6	553	12	1,745	-	-	7	14	12	-	-	-	26	13,570	20.53
2006	7,358	7,355	589	629	3	232	743	518	-	1	6	22	20	3	-	1	95	18,045	32.98
2007	7,341	5,181	49	1,380	4	244	3,498	12	250	354	8	20	105	2	4	-	28	19,094	5.81
2008	4,144	5,902	-	276	3	173	7,948	201	25	1,091	34	26	67	9	9	1	128	20,842	9.15
2009	386	6,095	-	11	4	29	13,062	439	7	87	89	18	47	17	8	-	97	22,224	6.83
Total	31,263	35,630	7,657	2,693	25	3,408	25,371	6,050	282	6,425	165	123	295	38	32	13	419	124,273	
%	25.16	28.87	6.16	2.17	0.02	2.74	20.42	4.87	0.23	5.17	0.13	0.10	0.24	0.03	0.03	0.01	0.34		

Source: BMET Data sheet 2009