

Discrimination Against Deserted Women: Some Elementary Thoughts

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Introduction

Women are the most integral part of our society, more like a lifeline of the society and that goes beyond any doubt. We cannot imagine a world without the beautiful contribution of women at large. No nation can rise to the height of glory unless our women are side by side with men. Yet it is sad to see the underlying oppression and deprivation of several rights of women endured by many of our women. Patriarchal social system, masculine dominance and so-called socio economic biased legal system has given rise to intense discriminatory attitude against women which seems rooted in the family extending up to state level. This social stereotype practice has always disadvantaged women from all aspects. Desertion has been seen throughout the history and there has been an increase in marriage desertion in our country as divorce and separation are nonetheless common in our recent time. Bangladesh is one of the densely populated countries, the most vulnerable section of this population, is the female headed house – holds, followed by divorce, desertion, widowed and abandoned ones of our country come from the poorest of poor backgrounds as well. In a situation of a woman after marriage disruption, in most cases may become insecure and vulnerable leading to endure social and economic sufferings. Due to lack of institutional and community based support, the burden falls on the woman and it is true the absence of the breadwinner particularly for those deserted women with less access to education and skills due to social restrictions makes the matter worse.

Methodology

This paper has been prepared based on the non-empirical approach and analytical method by using secondary sources.

A Problematic Forging of Marital Tie:

The desertion takes place due to the faulty process and baseless thoughts born by the girl's family without maintaining the requisite precautions and other reasons contribute to this such as:

1. Most of the families hastily arrange their daughter to be married off at an early age to avoid the risk and complications of higher dowry demands as demands for dowry is lower for child brides.
2. To assure that no occurrence of possible premarital sexual relationship takes place.
3. Most families having no son, marry off their daughter early, in order to obtain 'a male' believing that the groom's will look after the bride's family.
4. Desertion, abandonment, divorce, mostly occur when the bride's family has not gathered information and inquired enough regarding the whereabouts of the groom and family background despite there being some doubts in the groom's side.

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5. Consent of the bride to the marriage or even prior consultation of the bride's mother is never taken into account.
6. To avoid the economic vulnerability of bearing a girl child.
7. Lack of access and ignorance to adequate education of parents has also played a significant role in influencing a marriage and its disruption.¹
8. Some of these marriages were initiated in an informal manner prior to any legal marriage process as bound by law.

Causes of Post-Marital Desertion

Most of the desertions in our communities are characterized by the following reasons:

1. Failure to reproduce the generation line or issues.²
2. Failure to provide claim for dowry demands.
3. Subject to indiscriminate domestic, physical, sexual and mental torture and violence by the husband.
4. Migrant men are found to easily start new family elsewhere through second marriage or more without prior consent of the first wife, thereby abandoning and undercutting all types of support towards the deserted wife.³
5. Extramarital or illicit relationship by the husband.
6. Polygamy is widely practiced, and specific conditions bound by law are not seriously taken in to account by husbands.
7. Most women are also deserted if they fail to contribute to the newly formed family income, through economic contribution.

Consequences of Desertion

1. Low Social Status: Deserted women are often labeled as the woman of 'bad/immoral' character with the stereotypical belief that their desertion perhaps occurred as though she failed to be a loyal or be a 'good wife' or a 'mother'. As most deserted women are found to live alone with the status of a single wife or mother, this affects and worsens psychology.
2. Problems of sustaining livelihood, rearing children and health: Financial insecurity is still a major question for deserted women, they are left in the most deplorable conditions as they have to now deal with issues from housing, food, transportation and even medication and clothing dealing with domestic issues pertaining to violence and looking after dependents under their care as well.
3. Lack of reliable access to assets: While the law is there for a woman to seek help, a single woman who has recently been evicted or deserted cannot find adequate space to rent as it is customarily frowned upon in the society of Bangladeshi culture to allow, give space or rent out space to a single woman, or deserted woman. Remarriage is remotely impossible for deserted women as they are socially outcast, with matters made much worse by the ex-husband or their family

1 Neaz Ahmed and Faisal Ahmed , 'Problems and Challenges of Deserted Women in Bangladesh: An Observational Study', *Journal of International Social Issues* Volume 3. May 2015 (PDF Download Available). Available at: https://www.winona.edu/socialwork/Media/Ahmed_Ahmedmed_2015.pdf [Accessed on Nov 29 2017].

2. Mehnaaz Momen, Abbas Bhuiya, Mushtaque Chowdhury, 'Vulnerable of the vulnerables: The situation of divorced, abandoned and widowed women in a Rural Area of Bangladesh' Working Paper Number 11 , The BRAC-ICDDR,B Joint Research Project, Dhaka, Bangladesh, (PDF Download) -Available :http://research.brac.net/workingpapers/Working_Paper_11.pdf. [Accessed on Nov 29 2017].

3. Human Rights Watch, World Report 2017, <https://www.hrw.org/report/2012/09/17/will-i-get-my-dues-i-die/harm-women-bangladeshs-discriminatory-laws-marriage>[Accessed on Nov 29 2017].

and friends intimidating them or even violently subjecting them to physical violence, death threats and even resorting to sabotage at work place , or acid attacks.

Restrained Access to Justice for the Deserted Women:

Informal Mediation or Salish

Many deserted women opt for informal mediation for the hope of realization of *mehr* or maintenance to avoid the prolonged complications and lengthy litigation battles of courtrooms. But, women are not allowed to be heard and many a times biased judgments and decisions are passed as such mediation goes against her valid claims. Advocates and deserted women also told Human Rights Watch in a report that due to the negligence on the Government on this part, women were harmed resulted in illegal mediation rulings.

Problems with the Family Court System

Family courts of our country are regarded as the main avenue of claim for maintenance in judicial system and yet both the Family Courts Ordinance and personal laws in our country make clear it that family court judges can issue orders for maintenance, but this varies from religion to religion. For instance, upon divorce, however, Muslim women are entitled to maintenance only during the 90 days from notice of divorce until it is finalized, or if the woman was pregnant, until birth of the child. A Hindu woman is not entitled to maintenance if she is “unchaste,” converts to another religion, or fails to comply with a court decree for restitution of conjugal rights.” For Christians and others who renounced their religion and married under the Special Marriage Act 1872, the Divorce Act 1869 says only that a judge granting “alimony” may consider the wife’s “fortune”, the husband’s ability to pay, and the conduct of the parties in realization of maintenance.⁴ Hence this amounts to dire consequences for women from all religious communities in absence of clear guidance and judicial interpretation or discretion to award women maintenance from all religious beliefs. Marriage, divorce, separation, and economic rights at dissolution of marriage are governed almost exclusively by personal laws of Bangladesh and all three sets of personal laws discriminate against women with respect to marriage, divorce, separation, and maintenance. This way it defeats the recognition to marital property on an equal basis after divorce or upon separation.

Furthermore, huge backlogs of legal proceedings and lengthy litigation procedures hamper quick disposal of cases and tend to prolong suffering of such women.

State’s Insensitiveness to Women’s CEDAW Entitlements

Bangladesh ratified CEDAW on the 6th of November 1984, with reservations on Articles 2, 13.1[a], 16.1[c] and [f] on the basis of religious sentiments.⁵ Articles 2 and 16 of CEDAW, addresses the basic obligation of states to eliminate discrimination under law (article 2) and to eliminate discrimination in marriage and family relations (article 16).

But the Government of Bangladesh does not consider articles 2 and 16 binding as they conflict and are seen as contradictory to Muslim Family Laws Ordinance, 1961. As in marriages and separations, for example, women's right of choice is governed by the personal laws that give more importance to social obligation than personal choice. Article 16 of CEDAW requires that states ensure: “The same rights for both spouses in respect of

4.Human Rights Watch, World Report 2017, Available at:<https://www.hrw.org/report/2012/09/17/will-i-get-my-dues-i-die/harm-women-bangladeshs-discriminatory-laws-marriage> [Accessed on Nov 29 2017].

5.CEDAW and Women: The Bangladeshi Experience, WPRN Newsletter, 1(3), March - June 1998, Available at : http://www.aworc.org/bpfa/pub/sec_i/hum00001.html [Accessed on Nov 29 2017].

ownership, acquisition, management, administration, enjoyment and disposition of property”, but the State personal law of Bangladesh disregard the women right to equality in marriage and at its dissolution on marital property. This puts the abandoned, deserted women to go homeless, vulnerable, undergoing depression, psychological trauma or/and even affect the ones under her care in the same way.

Recommendations:

The Government needs to reform the personal law of our country’s governing laws of marriage, divorce, guardianship, maintenance, inheritance, etc. coming from different respective religions of Bangladesh together with a legal body that oversees compliance of such laws between the national and the international community so that such laws for women are upheld with equality and in a proper and justified way. Enactment of a Uniform Family Code could potentially remove the barriers and deprivation faced by the deserted women.⁶ We can also cite reference of the Caribbean Community (CARICOM) Model Legislation on Maintenance and Maintenance Orders for deserted women to obtain easy realization of maintenance.⁷ Deserted women should be protected with special attention from social insecurity arising out of desertion from poverty, homelessness, employment for sustaining livelihood, access to education for minors and safe health. Although Government has taken notable initiatives for the deserted women, many rural women are not able to access such facilities due to the failure of the local government to conduct proper, thorough and rigorous census about the number of such underprivileged and deserted women. A more sincere, robust effort by field level officials in charge of this to carry out the right research and census on a serious note is needed. Social awareness activities are needed extensively to discourage the practice of polygamy which is seen as accelerating connections to domestic violence and desertion and abuse of marriage systems. Deserted poor women should have easy access to initiate their legal claims on maintenance in legal proceedings with financial support from Government and all family courts and appellate procedures should ensure quick disposal of cases in days and not taking years or decades. The Government should also amend the partiality laid down in a provision of the 1987 Land Reform Action Program stating that ‘Khas’ land distribution could only be availed by the female-headed households if there is “able-bodied” male present to be eligible which pose direct discrimination.⁸ Governments can take steps to provide free medical care and advances or subsidies against unpaid maintenance to the deserted women to facilitate them from the precarious situation. More Governmental and Development project agencies should focus on this vulnerable section. State should adopt vocational training allowance together with employment agencies to stabilize female unemployment problem capitalizing them to join in relevant skills learning facilities for this vulnerable section too.

Conclusion

It will need the collaboration of Government and people through social awareness, care and educating people of this vulnerable and underprivileged section to be taken to a serious note to bring about the very essence of equality and social justice.

6. Laws of Bangladesh, A Comparative Study on Women’s Right in Bangladesh under Hindu and Muslim Personal Law: Available at <http://bdlaws24.blogspot.com/2013/02/a-comparative-study-on-womens-right-in-8893.html?m=1> [Accessed on Nov 29 2017]

7. Human Rights Watch, World Report 2017, Available at <https://www.hrw.org/report/2012/09/17/will-i-get-my-dues-i-die/harm-women-bangladeshs-discriminatory-laws-marriage> [Accessed on Nov 29 2017]

8. *Ibid.*