

Woman Lawyers' Convention-2016

Perspectives and challenges in implementing CEDAW in view of existing personal laws in South Asia'

Organized by: Bangladesh National Woman Lawyers' Association (BNWLA)

Date : 20 February, 2016, Saturday, at 3:00 p.m.

Venue : CIRDAP Bhaban, Dhaka.

**Speech of the Chief Guest: Mr. Justice Surendra Kumar Sinha
Hon'ble Chief Justice of Bangladesh.**

Justice Surendra Kumar Sinha
Chief Justice of Bangladesh
CIRDAP Bhaban, Dhaka
Dated 20th February, 2016

Respected Chairperson of the Ceremony, Distinguished delegates from home and abroad, Dignitaries, Learned lawyers, Ladies and Gentlemen,

Good Afternoon.

I deem it a great honor and privilege for me to be here with you in this auspicious occasion. It is an immense pleasure for me to be the part of this August Ceremony. At the outset, I express my thanks to the organizers for inviting me as Chief Guest of this occasion.

2. It is a great pleasure for me to be here with so many galaxies of lawyers at this Woman Lawyers' Convention-2016 organized by Bangladesh National Woman Lawyers' Association (BNWLA). I think the topic of the event titled *'Perspectives and challenges in implementing the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) in view of existing personal laws in South Asia'* is vital in terms of gender equality enshrined in the Universal Declaration of Human Rights and in the Constitution of Bangladesh as well.

3. We know that right from the dawn of history; women had been discriminated against and persecuted by men in myriad ways. Women had suffered such ignominies, indignities and harassment with fortitude and in a spirit of perseverance.

4. BNWLA being a prominent human rights organization has been playing an extensive role to promote women lawyers all over the country. Since its inception, over three decades, BNWLA has been striving for ending violence against women and children. BNWLA works across the country including

remote areas to establish equal rights for women and children. Moreover, the Organization brought out multifaceted aspects of society in the forefront which created an enabling environment for women to get justice.

5. Though the Universal Declaration of Human Rights(1948) and the International Covenant on Civil and Political Rights(ICCPR) and International Covenant on Economic, Social and Cultural Rights(ICESCR) (1966) promoted gender equality and elimination of discrimination against women, nothing has been changed in women's lives and struggles for which in accordance with relevant international conventions and instrument especially the emergence of the CEDAW in 1979 to give an opportunity for women in the universe to be treated equally.

6. The CEDAW signifies an important milestone in the strengthening of the international women's human rights movement and its growing recognition by the State as well as by the international institutions. A number of countries have made reservations regarding the substantive provisions on the ground of religion or have made their ratifications subject to their domestic jurisdictions. Though some States like Bangladesh, Pakistan, Egypt etc. have expressed their objections based on Islam and Sharia', others like Nigeria, Senegal, Uzbekistan, etc. have ratified without any reservations thus exposing the contradictions within the Muslim majority States relating to women's rights.

7. The biggest obstacle to the implementation of CEDAW and the improvement of women's familial relations in South Asia is the plurality of the legal system. CEDAW is concerned with women's rights issues relating to divorce, property rights, custody and guardianship within the family. Legal provisions to combat gender discrimination within the family are ineffective because of social and traditional values and influences. The implementation of CEDAW in the South Asian region, the journey on the road to equal rights for men and women has indeed come a long way. Still, given the enormous

challenges with regard to non-discrimination and equality of women in South Asia, the implementation of CEDAW must be underlined by concrete steps with regard to laws and policy making. Civil society organizations should work collaboratively to monitor and assess the status of women's rights and these groups have to make specific recommendations to the government in conformity with the spirit of CEDAW and also to continue advocacy for effective implementation of those recommendations.

8. We know that Violence against Women (VAW) is a global problem; it has been a creeping social-ill in every society, although the contexts and pervasiveness differ. Violence against women constitutes a violation of the rights and fundamental freedoms of women and impairs or nullifies their enjoyment of those rights and freedoms. Violence against women results in the prevention of the full advancement and development of women. As such, national development as well as endurable peace depends, in many ways, on how effectively this vice can be eliminated and the women are better protected.

9. Despite international and national attempts, there is a failure to protect and promote sacred rights and freedoms of women in the case of violence against women. In Bangladesh, violence against women has become a menace and a persistent problem, causing not only impediments to the advancement of the womenfolk but also multi-layered problems of economic and social nature for the justice delivery system. In our present society, women are oppressed even by their own family members or close relatives. They are also subject to violence at public places and violence by agencies of the state.

10. The first and foremost important instrument creating obligations for the government of Bangladesh to combat VAW is the Constitution of the country. It has mandated a society free from exploitation and based on the rule of law and respect for human rights and dignity. Apart from the Constitution, a series of international human rights instruments which Bangladesh signed/ratified/acceded to also generate obligations for it to fight violence

against women. Moreover, in November 2010, Bangladesh was elected to the Board of the UN agency on women, which has cast further obligation upon Bangladesh to take necessary step to prevent, eradicate and punish the perpetrators of violence against women. We have abundance of law to combat violence against women such as the Penal Code 1860, the Dowry Prohibition Act 1980, the Nari-O-Shishu Nirjatan Daman Ain, 2000, the Acid Aparad Daman Ain, 2002, the Paribaric Shahingshata (Pratirodh-O-Daman) Ain, 2010, the Legal Aid Act 2000, the Manab Pachar Pratirodh-O-Daman Ain, 2012 etc.

11. Besides, the legal framework including the 2011 Policy on the Advancement of Women, there are some governmental initiatives aimed at tackling the grim situation of violence against women. One such initiative is the establishment of a women support centre run by the Department of Women Affairs including the legal assistance facility.

12. A Central Cell has been formed by the Ministry of Women and Children Affairs to combat violence against women and children in 1990. The major roles of the Cell are to receive the allegations and statistics of violence against women and children and to follow up the remedial and legal measures through proper authority. The Inter-Ministerial Coordination Committee has been formed to supervise the activities of the Central Cell.

13. The Ministry of Women and Children Affairs has initiated the Multi-Sectoral Programme on Violence Against Women to mobilize state machinery to deal more effectively with redress and prevention of violence against women. The Department of Women Affairs has taken up Women Support Programme in order to provide support to women-victims of violence.

14. Multi-Sectoral Programme on Violence against Women, the joint initiative of the governments of Bangladesh and Denmark under the Ministry of Women and Children Affairs, is being implemented to combat the multi-faceted and complicated problem of violence against women (VAW). Under the

project One-Stop Crisis Centers (OCCs) were established in the Divisional Head Quarters to provide medical, legal, social and psychological support to female victims of violence.

Apart from the same under the project some pragmatic steps have been taken by the government.

15. A Public Interest Litigation was filed by Bangladesh National Woman Lawyers' Association to activate the government ministries against rampant incidents of sexual harassment of women at work place and educational institutions. The Court (14 BLC 694) noticed that, despite constitutional mandates for gender equality and the protection of fundamental rights of all including women there was virtually no law to effectively prevent and punish acts and behaviour known as sexual harassment of women. Drawing on comparable foreign highest Court decisions and certain international human rights instruments, prominently CEDAW (the Convention on the Elimination of All Forms of Discrimination against Women, 1979) which Bangladesh acceded to, it issued detailed guidelines "in the nature of law", binding the employers and educational institutions to follow them in preventing and suppressing sexual harassment of women at work places and educational institutions until an 'effective legislation' is enacted.

16. The highest Court of the country consistently held that in a case of rape, accused can be convicted on the basis on uncorroborated evidence of the prosecutrix if it is unimpeachable and self-contained. Because of the very nature of the offence makes it difficult to get direct corroborating evidence.

17. Generally the society has a tendency to attach a stigma to the victim, ignoring the fact that she is just a victim and not a party to the offence. By imparting proper education this sort of tendency may be diminished.

18. Judiciary, Police, Prosecution and all other stake holders including Non-Government Organizations (NGOs) have to play very significant role in disposing cases relating to violence against women.

19. There is positive side towards the women's empowerment. In ready-made garments industry sector 4.5 million women, nearly 90% of the workforce are employed in the sector. Without their skillful works and devotion, it would possibly be not where it is now. It is reported although they are physically weaker than men, this women workforce are more patience, resilient and adaptable to varying environments, though often labelled otherwise. The government is also keen and interested more women in every offices, sector corporations and autonomous bodies, and issued a circular to appoint 20% women against vacant posts. In primary education sector for the appointment of teachers, the government has relaxed the minimum qualification for women. In the lower Judiciary, it is not needed to fill up 10% post on the basis of quota since 40% to 45% candidates are selected on merit. There are 357 women Judges working in the judiciary and the ratio is about 25% which is more than U.K. and other developed countries. Today, women in Bangladesh have reached heights that are not even in existence in the developed countries. The Prime Minister, the Leader of the opposition, the Speaker and the Chairperson of one of the biggest opposition Political Parties are women in the country. Besides, one woman is a Judge of the Apex Court and six Judges are in the High Court Division. They all have set standards of leadership in all fields for us.

20. I strongly believe a society or State can't move forward depriving half of the population. It is significant to take into consideration women's immense contribution to the society. Woman Lawyers, as foremost section of the society, can play a very important role to uphold the rights of destitute and underprivileged women. It's a great opportunity for women lawyers to exchange their views and to convey a message to implement CEDAW so far it is consistent with our social and religious perspectives. I profoundly believe that this convention will be a spectrum of reflections which will encourage women

lawyers to combat all forms of discrimination against women and to create substantive equality.

21. I wish a resounding success of Woman Lawyers' Convention-2016.
Thank you all.

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