

## THE GIRL CHILD IN BANGLADESH: TOWARDS AN UNDERSTANDING OF HER 'LABOUR'

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### INTRODUCTION

The issue of child labour has become a source of global concern. Legislative measures for the protection of children and the eradication of child labour have been adopted at both national and international levels. Among the various international policies on child labour, the most extensive standards are those adopted by the International Labour Organisation (ILO) which has been advocating against the practice of child labour since its inception in 1919. In this regard the ILO's most significant policy is the Minimum Age Convention of 1973 which encourages member states to prohibit child employment by establishing a minimum age at which children's labour is allowed. Although Bangladesh has not ratified this Convention, her domestic legislation prohibits the employment of children in factories below a certain age.

The growth of industries during the last quarter of the 19th century encouraged the colonial rulers in the Indian sub-continent to enact, as early as 1881, a Factories Act which prohibited the employment of children below a recommended age in any factory. Since then the Act has been amended or re-enacted on several occasions. The most recent of these statutes is the Factories Act, 1965. The provisions of this Act regarding the admission of children into factory work are, in essence, reflective of the ILO standards on the subject. Apart from these, the American legislation, Child Labour Deterrence Act, 1993 (also known as the Harkin Bill) seeks the expulsion of child labourers from the garment export industry of Bangladesh under threat of trade sanctions.

Hence, existing legal provisions (both at the national and international levels) on the question of child labour are essentially restrictive in their approach. These legal provisions essentially proceed from the contention that child labour is an evil which requires elimination. The present paper, however,

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does not advocate eradication of all forms of work from the lives of children; rather, it seeks to support child workers in their attempts at improving the conditions under which they necessarily live and work. As Vittachi puts it.

the real issue ... is not whether children use their energies at home, in school or at work, but whether their energies are employed in any of these places in a way that is beneficial to them—or only to the benefit of someone else.<sup>1</sup>

This paper, therefore, focuses on the need to understand the nature of children's work before condemning it outright. It argues that legislation prohibiting child labour is unenforceable in the majority of cases. Apart from this, its prohibition presents a paradox that makes it hard to actually protect child workers from exploitation. By making the practice of child labour illegal, the paper argues, the vulnerability of children is heightened through their preclusion from whatever defences and legal rights adult workers may have (for instance, right to organise, right to minimum wages and so forth).

Moreover, children's life experiences are not universal and may vary with the prevalent socio-cultural norms. Perceptions of childhood may vary from country to country and from culture to culture. This paper does not intend to judge whether any of these perceptions is more humane than others and, therefore, incontrovertibly 'in the best interests of the child'. Rather, it seeks to stress that these various perceptions are bound to affect the lives of children in different ways. While the core argument here is not against the enforcement of international labour and human rights standards for the protection of children, it does argue against homogenising children as a "target as well as a metaphor of oppression".<sup>2</sup> It opposes the complete prohibition of children's employment without taking relevant cultural contexts into consideration. In Bangladesh, for example, the girl child is bound by traditional cultural prescriptions that are reflective of two major principles: the segregation of the sexes and the dependence of women on men. These two factors essentially proceed from the dominant traditional and socio-cultural norms that revere men and their inherent authority and relegate women to an inferior and subordinate position. It follows, therefore, that the problems faced by girl children during their lifetime tend to be quite different from those faced by their male counterparts. Consequently, remedies to such problems tend to be different as well. It is similarly argued that while some forms of child employment are detrimental to their health and development,

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1 Vittachi, A., *Stolen Childhood: In Search of the Rights of the Child*, Cambridge, 1989, at p.101.

2 Nandy, A., "Reconstructing Childhood: A Critique of the Ideology of Adulthood", 10 (1984-5) *Alternatives. A Journal of World Policy*, pp. 359-75, at p.368.

the vast range and diversity of children's work make it difficult sweepingly to condemn all child labour without a greater understanding of the variations in working conditions and the meaning of children's work in different societies.<sup>3</sup>

Therefore, "it is important to seek to formulate, interpret and implement all internationally-recognised human rights in proper cultural context."<sup>4</sup>

Very little research has been carried out in Bangladesh with respect to child labour in general. There has been even less concentration upon the situation of the girl child worker. This paper seeks to examine the specificities of the position of the girl child labourer in Bangladesh in an attempt to analyse and appreciate the various parameters within which she lives and works and suggests that universalising of the legal norms concerning her life and livelihood may not be a real solution.

### CHILD LABOUR REVIEWED

Although the problem of child labour is primarily a problem of global poverty and therefore, a normal phenomenon in the lives of the poor in the developing nation, it is not particular to any country or culture. Myers argues that while the generalisation that poverty is the main cause of child work in developing countries, it

may be incontrovertible from a global perspective, it is not the entire story, nor does it explain the more immediate factors leading some impoverished children to assume heavy economic responsibilities while others do not. Certainly influences other than poverty are also at work.<sup>5</sup>

Children, therefore, work in response to their particular socio-economic needs. The extent and nature of their work are influenced by factors other than economic compulsion alone.

The notion of child labour usually conjures up an image of a child occupied in an undesirable and unhealthy activity. Before examining the nuances of this notion, it is necessary first to understand the concepts of 'child' and 'labour' or 'work'. Although the phrases 'child labour' and 'child work' are often used interchangeably, it is now common to make a distinction between them. This distinction proceeds from ingrained assumptions in Western analysis of the position of children and among commentators on child labour regarding activities that are considered suitable for children and those which are not. Remunerated work outside the family for the production of goods is tantamount

3 Schildkrout, E., "Children's Work Reconsidered", 32 (1980) International Social Sciences Journal, pp.479-90, at pp.479-80.

4 An-Naim, A., "Cultural Transformation and Normative Consensus on the Best Interests of the Child" in Alston, P. (ed), The Best Interests of the Child. Reconciling Culture and Human Rights, Oxford, 1994, pp.62-81, at p.63.

5 Myers, W., "Introduction" in Myers, W. (ed), Protecting Working Children, London et al., 1991, pp. 3-10, at p.9.

to 'labour'<sup>6</sup> and therefore, unacceptable and evil. On the other hand, unremunerated activities within the familial context, although productive, are perceived as 'work'<sup>7</sup> and therefore, unexploitative and acceptable. In other words, it is preferable for children to engage in activities which are carried out in the private family sphere and avoid those that are undertaken in the public sphere.

Recognising this distinction between 'work' and 'labour', most legislation and lobbying efforts in prohibiting child labour and protecting child workers admit that some forms of work are acceptable for children. The International Labour Organisation (ILO), for example, is not opposed to all forms of child work. As Bequele explains on behalf of the ILO:

In some cases, such as traditional agricultural or handicraft production economic involvement is occasionally observed ... where children may assist their families on a part-time basis or where teenagers may work for a few hours to earn additional pocket money. That is not what we are concerned about. Rather, the ILO is concerned about those situations where children are compelled to work on a regular or continuous basis to earn a living for themselves or for their families, and as a result are disadvantaged educationally and socially ...<sup>8</sup>

Thus, child work is deemed acceptable as long as it is unpaid and undertaken within the context of the family. This assumption presupposes that exploitation can only take place in relations between an unrelated employer and a child. The possibility of exploitation by family members is ignored. Children may work for 'pocket money' but not for survival. Children who have made deliberate choices in favour of an autonomous existence by working in urban factories and controlling their own earnings, instead of unpaid and often prolonged work in family enterprises, are not considered. Therefore, there are confusions and contradictions in this approach to the problem of child labour. These require a thorough examination in order to obtain a clear picture of the dynamics of child work in its 'actual' contexts.

The inherent difficulty in generalising about what is good or bad lies in the fact that activities undertaken by children vary from society to society, cutting across age, gender and economic standing. Just as age cannot be a rigid criterion (as different societies have different age thresholds for demarcating childhood from adulthood), 'childhood' in itself is not a universal category. The definition of childhood is apt to vary from society to society in accordance with prevalent

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6 Bequele, A., "Child Labour: Questions and Answers" in Child Labour: A Briefing Manual, ILO Geneva, 1986, pp.10-18, at p.11. Also Blanchard, F., Report of the Director General, ILO, Geneva, 1983, at p.3.

7 Swepston, L., "Child Labour: Its Regulation by ILO Standards and National Legislation" in Child Labour: A Briefing Manual, ILO, Geneva, 1986, pp.19-32, at p.23.

8 See Bequele, supra note 6, at p.14.

social, economic and ideological factors. In Bangladesh, for example, the experiences of a girl during her childhood is quite different from those of a boy. This essentially proceeds from the cultural preference for the male. Unequal treatment of the girl child leads to her subordination at different levels of the society. The girl child is subjected to a system of gender disparity from birth. This disparity is perpetuated by patriarchy which is a dominant force in shaping the life and defining the role of the girl child (see below).

The forces of patriarchy treat children, especially girls, not simply as children but as 'women-to-be'. Elson draws parallels between the position of children and that of women in the labour market.<sup>9</sup> Like women, she argues, children are paid lower wages than adult men and accorded a lower position in the labour process hierarchy. The analogy, therefore, treats both women and children as a subordinated category. Elson regards the subordination of children on the basis of age hierarchy, as a "system of seniority in which those in junior positions are unable to achieve full social status in their own right".<sup>10</sup> As such, the exercise of adult male authority over children often results in the arbitrary and unrestrained control over children's lives for economic gain. While this form of adult authority is clearly oppressive towards children, unequal and discriminatory treatment of children on the basis of gender may be by no means a lesser oppression.

Therefore, notions of child labour and childhood require careful consideration by focusing upon not only the nature of children's work but also the value attached to it. The underlying assumptions regarding children's work patterns need to be studied against the daily experiences of the child worker. It is necessary to scrutinise how children's work is perceived not only by adults at different levels of the society but by children themselves. Where gender distinctions play an important part, the public/private dichotomy experienced by the woman is equally relevant to the girl child (as discussed later). The girl child suffers from a dual stigma—that of being a minor and a female. Therefore, she is subject to both gender as well as age hierarchies. It is necessary to understand that while labour in factories may not be ideal for children, the situation may not be any better in home-based family controlled enterprises. This, again, is particularly the case with respect to the girl child who is trained to be of service and subordinate to others throughout her life. Above all, the various ambivalences and inconsistencies of protective legislation require careful consideration for a better understanding of the problem of child labour.

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9 Elson, D., "The Differentiation of Children's Labour in the Capitalist Labour Market", 13 (1982) *Development and Change*, pp.479-97, at p.480.

10 *Ibid.*, at p.491.

## THE IMPACT OF SOCIO-CULTURAL NORMS ON THE GIRL CHILD

The present section explores various cultural, religious and ideological factors in the social milieu of Bangladesh which affect the legal rights and status of women and children. It is necessary to point out that this section represents only the perceived codes of behaviour expected of Bangladeshi women and children. The issue of children cannot be isolated from that of women in the backdrop of Bangladesh where a combination of forces makes it difficult to discuss their rights independently of the status of women. This is especially true in the case of female children as they are, ideologically, 'miniature women' or 'women-to-be'.

### PATRIARCHY

The predominant force in the social organisation of Bangladesh is patriarchy. Patriarchy in this context means that every avenue of power and authority within the society is entirely in male hands. Patriarchy places the male, who is in control of all property rights, at the head of a given household. Socially, customarily and legally males in the family are given preference in all matters over females. It is argued that patriarchy finds expression in the perceived notions of female dependence and subordination. The practice of patriliney creates in the woman, whether mother, wife or daughter, a feeling of worthlessness, servitude and dependence within the family. The role of woman is characterised by lack of freedom and a variety of constraints that effectively suppress and limit individual development.

It must be emphasised that patriarchy is a concept that has been widely used by Marxists, feminists, anthropologists and social scientists. Consequently, the definitions used to describe the institution are also different. For example, initially radical feminists viewed patriarchy as a direct result of gender exploitation.<sup>11</sup> It was treated as a representation of the unequal relations between men and women which left women vulnerable.

Marxist feminists, on the other hand, assert that patriarchy is a set of social relations which, by distribution of power and resources, enables men to dominate women.<sup>12</sup> Thus, patriarchy was regarded essentially as a mechanism by which men gained control over the labour of women through marriage, childcare, domestic labour and overall economic dependence. Thus women's

11 See for example Millet, K, Sexual Politics, London, 1971; and Firestone, S., The Dialectic of the Sex, London, 1972.

12 For instance, Hartmann, H., "The Unhappy Marriage of Marxism and Feminism: Towards a More Progressive Union" in Sargent, L. (ed), Women and Revolution: A Discussion of the Unhappy Marriage of Marxism and Feminism, London, 1981, pp.1-41. Also Barret, M., Women's Oppression Today, London, 1988.

exploitation within the family derives from men's control over both productive and reproductive activities.<sup>13</sup>

Although ideas of both radical and Marxist feminists can be used to analyse the subordination of women in Bangladesh, Courville's observation that the 'patriarchal mode of production' framework which focuses on the 'material basis of sexism' has considerable bearing upon the patriarchal situation in Bangladesh. As Courville enlarges

This perspective constructs a gender-relations-based class society in which the 'class of patriarchs' owns and controls the means of production and a 'dependent class' of workers comprised of wives, unmarried daughters and younger sons, provides the labour. The primary motivation of the patriarchal class is the accumulation of social dependants.<sup>14</sup>

It follows therefore that the "material base of patriarchy is men's control over women's labour power".<sup>15</sup> Men gain and exercise this control over women through marriage, women's labour within the 'private' or domestic sphere, and consequently, their economic dependence on men.

It is argued here that patriarchy, as an ideology, also sets out basic standards and a model for women in the family and society to which they are expected and encouraged to conform. As such, the present paper goes beyond the portrayal of the **father** as exercising power over women in a patriarchal culture and stresses that male domination assumes different forms at different times and at different levels of the society. As Barret puts it aptly: "Patriarchy as an ideology is the 'site for the construction and reproduction of women's oppression' in the political, economic and social structures of society".<sup>16</sup> As such women, within the household, are dominated by fathers, husbands and sons in their capacities as daughters, wives and mothers, respectively. In the public space women tend to face oppressive treatment by employers and male colleagues and men in the streets generally. In time women themselves identify with and accept the values set by patriarchy. The patriarchal process leads to the naturalisation, within the society, of the notions of 'womanhood' and 'femininity' perpetuated by patriarchal control and domination. As Ramazanoglu correctly concludes

However, patriarchy is defined, it is a concept used to attempt to grasp the mechanisms by which men in general manage to dominate women in general. It refers to ideas and practices ranging from the most intimate of sexual encounters to the most general economic and ideological factors. It came to mean not only the power of men in general over women in general, but also the hierarchical

13 Beechey, V. , "On Patriarchy", 3 (1979) *Feminist Review*, pp.62-82, at p.71.

14 Courville, C., "Re-examining Patriarchy as a Mode of Production: The Case of Zimbabwe" in James, S. and Busia, A. (eds), *Theorizing Black Feminisms: The Visionary Pragmatism of Black Women*, London, 1994, pp.31-43, at p.32.

15 See Hartmann, supra note 12, at pp.18-19.

16 See Barret, supra note 12, at p.253.

character of male power, and the ideological legitimation of this power as natural, normal, right and just.<sup>17</sup>

Similarly the term is used here to demonstrate the prevalence of an overall male domination of the female at the social, legal, cultural, ideological, sexual and economic levels in Bangladesh.

Patriarchy's chief institution is the family and it is herein that the inferior status of women is clearly defined.<sup>18</sup> Perpetuated by patriarchy, gender differentials in Bangladesh, as will be seen below, are evident in areas of social norms, health, education and legal rights. A number of social ideologies and prejudices operate in the backdrop of Bangladesh which affect the status of the girl child, who is subjected to various forms of neglect and discrimination. The deep-rooted social aversion to female offspring expresses itself from birth and develops with age, following the girl child into maturity and adulthood. The degree of this aversion may vary between men and women within the family and affect different stages of the girl child's life differently.

Descent in Bangladesh is traced patrilineally where the male child is the chief and only perpetuator of the line. Sons alone bear the distinction of being the father's real successors and of upholding the family name and honour. The son is viewed as the sole supporter of his parents in their old age. A daughter, on the other hand, merits an altogether different treatment. The importance of a daughter as a source of old-age assistance is seen as insignificant.

Consequently, parents make minimum investment in the welfare of the girl child. This often leads to her higher mortality. Higher levels of malnutrition in the female child can be explained by the differential allocation of food within the family. Excerpts from adult conversations clearly demonstrate the selective deprivation and rejection of girls in dietary practices. Kabeer cites examples from her study on gender and poverty in Bangladesh: "If there is less food, my sons get more than my daughters. After all they have to go to school" or "if there is not enough food and my son cries, I try to feed him. It is easier to make my daughter understand".<sup>19</sup> The son usually eats with his father and is served with the bigger and better servings. The daughter joins her mother after the men have eaten their meal and is satisfied with sharing whatever is left over. Chen et al. observe that

where behaviour can be sufficiently powerful to influence outcome, there is consistent discrimination against female children in comparison to male children.

17 See Ramazanoglu, C., *Feminism and the Contradictions of Oppression*, London et al., 1989, at p.34.

18 Mukhapadhyay, M., *Silver Shackles: Women and Development in India*, Oxford, 1984, at p.10.

19 Kabeer, N., "Monitoring Poverty as if Gender Mattered: A Methodology for Rural Bangladesh", *Discussion Paper 255*, Institute of Development Studies, Sussex, 1989, at p.13.



The level of malnutrition among girls is substantially higher than among boys. This may be attributed at least in part to marked differences in the intrafamily allocation of food between children of differing sexes.<sup>20</sup>

Illnesses of girls are ignored in a similar fashion. They are taught not to complain about any discomfort. The ideology of 'femininity' and 'womanhood' manifests itself in their passive acceptance of the codes of patience and self-sacrifice with which they are expected to conform. On the other hand, medical facilities are made available for the ailments of male children.

Gender disparity is also evident in the education patterns of children. The prevailing system nurtures a general reluctance to educate female children. Parents are far from enthusiastic about sending their daughters to school. They remain unconvinced about the utility and value of educating a daughter. If any investment in education is to be made, it is to be done in favour of the boy child. Rural parents reason that it is the boys who will provide economic support in their old age and therefore, the investment in education remains within the family. Investment in the education for the girl child, on the other hand, passes on with her as she leaves home after marriage. Moreover, enlightened brides are not very popular among the men who believe that they are less amenable to discipline. Therefore, if the family has enough resources to send children to school, they will send the boys even if the girls are brighter.<sup>21</sup>

Although the legal status of women in Bangladesh may be an enviable one as they are guaranteed equal rights with men in all spheres under Article 28(2) of the Constitution of Bangladesh, the enforcement of the right is far from effective. Similarly, while 86.6 per cent of the total population of Bangladesh are Muslims<sup>22</sup> whose rights with regard to marriage, divorce and inheritance are governed by Muslim law, women's rights under Muslim law are often not implemented. However, although Muslim law provides property rights to females, the shares of males and females are not equal.<sup>23</sup>

Thus, as she grows up the girl child learns to accept the preferential treatment given to the male members of the family. In a milieu of scarcity, whatever little is available, be it good food or clothing or opportunities for education and health facilities, is first offered to the males. From a very early age a girl child is encouraged to imbibe the essential virtues of 'ideal Bengali

20 Chen, M. et al., "Sex Bias in the Family Allocation of Food and Health Care in Rural Bangladesh", 7 (1981) *Population and Development Review*, pp.55-70, at p.66.

21 Jahan, R., "Women in Bangladesh" in *Women for Women*, Dhaka, 1975, pp.1-30, at p.4.

22 See *1992 Yearbook of Bangladesh*, Bureau of Statistics, Dhaka, 1993.

23 For more on the Muslim Laws on inheritance see David, P., *A Textbook on Muslim Law*, London, 1979; Fyzee A.A.A ; *Outlines of Muhammadan Law* (4th edition, 7th impression), Delhi , 1993.

womanhood', namely, patience, obedience, endurance and sacrifice. El-Saadawi elaborates that

Femininity requires a woman to share the same characteristics laudable in obedient and efficient servants, well adapted and resigned to their inferior position. Masculinity, maleness, on the other hand, is supposed to be distinguished by qualities that are the absolute opposite, the qualities of a master, of strength, determination, initiative and boldness.<sup>24</sup>

Similarly, the female child is expected to respect the demarcations set by the patriarch of the family, whether father, grandfather or brother. Often married very young (as discussed later), she is then bound by the authority of the male head of the family she marries into, i.e. father-in-law, husband or elder brother-in-law.

Throughout her life, the female has no identity of her own. She is always known as someone's daughter, wife or mother. The man is central to her life. Whyte and Whyte confirm that the practice of addressing a woman according to her relationship with some other, usually a male, points to the weakened sense of individuality in the woman.<sup>25</sup> The woman often regards herself as one component of a family. Consequently, the concept of individuality, still less individual freedom, is alien.<sup>26</sup> As Bhatta puts it

Little girls are fed on the model of 'tongueless', desireless, submissive, passive, obedient, sacrificing, serving pious women, non-persons who are to live and die as daughters, wives and mothers, who should never ever aspire to have an identity of their own.<sup>27</sup>

Therefore, customs, social practices and legal provisions all appear to pave the way for making the girl child into a lesser being. The girl child suffers neglect and discrimination at every stage of her life where her capacity for tolerance and patience are exploited because from birth to death, from infancy to old age, a female goes without consideration in all aspects of life within and outside the family.<sup>27</sup>

## RELIGION

Although religious ideology supplements the various constraints experienced by females in the society, its importance may be overemphasised. While not disputing, for example, Cain et al's. contention that Islam asserts a

24 El-Saadawi, N., *The Hidden Face of Eve : Women in the Arab World*, London, 1980.

25 Whyte, R. and Whyte, P., *The Women in Rural Asia*, Boulder, 1982.

26 *Ibid.*, at p.12.

27 Bhatta, Z., "Socialising of the Female Muslim Child in Uttar Pradesh" in Chanana, K. (ed), *Socialisation, Education and Women. Explorations in Gender Identity*, New Delhi, 1988, pp.231-39, at p.232.

27 Noman, A., *Status of Women and Fertility in Bangladesh*, Dhaka, 1983, at p.5.

strong ideological and normative force that regulates behaviour and expectations in Bangladeshi society,<sup>28</sup> the present section argues that religion has frequently been misinterpreted and misused in order to establish, and further, overall patriarchal control. Moreover, Islam alone does not 'represent a strong apology' for patriarchy because irrespective of religious belief, the majority of females in Bangladesh are entrapped by male domination which enforces and reinforces their dependence on men.<sup>29</sup>

Islamic doctrines are regarded by many Muslim traditionalists as eternal and universal. They do not admit any new interpretation on the injunctions laid down in the *Qur'an*. Since women are deemed by them to occupy an unequal position under Islamic theological and legal doctrines, they are seen as enduring a "universal and uniform state of subjugation".<sup>30</sup> To the modernists, however, Islam being consistent with common sense, its injunctions are to be the objects of interpretation (*ijtihad*) which brings out the values and principles of which they are expressions.<sup>31</sup> Therefore, to characterise all women under Islam as being *ipso facto* subservient is to disregard the fact that religious sources have been subject to changing interpretations.<sup>32</sup> Interpretations, therefore, vary from place to place, culture to culture, and such variation has direct implications upon male-female dynamics.

Many verses in the *Qur'an* refer to the fact that men and women are equal before *Allah*.<sup>33</sup> The *Qur'an* says "And women shall have rights similar to the rights against them".<sup>34</sup> Men and women also have equal obligations and duties: both are enjoined upon to pray, give alms, be truthful, observe modesty, lead virtuous lives and so forth. Moreover, both men and women reap equal benefits

28 Cain, M. et al., "Class, Patriarchy and Women's Work in Bangladesh", 5 (1979) *Population and Development Review*, pp.405-38, at p.407.

29 Supra note 27, at p.4.

30 Hale, S., "The Politics of Gender in the Middle East" in Morgan, S. (ed), *Gender and Anthropology: Critical Reviews for Research and Teaching*, Washington D.C., 1989, pp.246-67, at p.247.

31 El-Solh, C. et al., "Introduction: Islam and Muslim Women" in El-Solh, C. and Mabro, J. (eds), *Muslim Women's Choices. Religious Belief and Social Reality*, Providence et al., 1994.

32 Esposito, J. , *Women in Muslim Family Law*, New York, 1982.

33 El-Saadawi, N., "Woman and Islam" in Al-Hibri, A. (ed), *Women and Islam*, Oxford et al., 1982, pp.193-206, at p.199; Banohar, M., "Islam and Women's Rights", pp.27-39, at p.35 and Al-Faruqi, L., "Women in a Quranic Society", pp.40-57, at p.43, both in Mesbah, M. B. M. and Al-Faruqi, L. (eds), *Status of Women in Islam*, New Delhi, 1990.

34 Ali, Y., *The Holy Qur'an. Text, Translation and Commentary*, Verse 2:228 Maryland, 1983, at p.90.

from *Allah* for the good work that they do.<sup>35</sup> The *Qur'an* also implies the pursuit of knowledge by all Muslims irrespective of their sex.<sup>36</sup> Throughout the ages women preachers, scholars and saints gained significant recognition for their role in the field of spiritual guidance and in their pursuit of knowledge.

Similarly women played an important role in affairs of the state and society.<sup>37</sup> Although modest in their bearing, these women were never veiled, nor did they live segregated and isolated lives.

Indeed, Islam views men and women as identical in as far as it is stated in the *Qur'an* that "man and woman were created of a single soul".<sup>38</sup> Contrary to what is commonly assumed, Islam does not advance women's inferiority but affirms the potential equality between the sexes.<sup>39</sup>

However, among various verses in the *Qur'an*, the one that is most commonly cited as indicative of male superiority is Verse 4:34 which states that

Men are the protectors and maintainers of women, because God has given the one more (strength) than the other, and because they support them from their means.<sup>40</sup>

Some scholars interpret the verse to read that men are the protectors (*qawwam*) and maintainers of women because they support them from their means.<sup>41</sup> On the face of it, it appears that since men are protecting and maintaining women or are 'in-charge' of women, financially or otherwise, it is, therefore, only logical to deduce that men are superior to women. Some women scholars are influenced by such arguments which promotes male superiority. Melika Salihbegovic, a self proclaimed feminist, for example, states that "if a woman is believer, then she will want to follow the *Quran*, and obey her husband".<sup>42</sup>

This view is hardly compatible with those of more liberal Muslim scholars who argue that the notions of superiority and responsibility have overlapped to produce a somewhat blurred picture. What the *Qur'an* has given is not to be construed as sexual superiority of one over the other. Engineer explains that although the *Qur'an* appears to have given men a slight edge over women, it must be understood in its proper social context.<sup>43</sup> Where men are the chief

35 *Ibid.*, Verse 33:35, at p.116.

36 See Al-Faruqi, supra note 33, at p.45.

37 Al-Faruqi, L., "Women's Rights and Muslim Women", 13 (1972) *Islam and the Modern Age*, pp.76-99, at pp.84-5.

38 Glasse, C., *The Concise Encyclopaedia of Islam*, London, 1989, at p.420.

39 Mernissi, F., *Beyond the Veil: Male-Female Dynamics in Muslim Society*, London, 1985, at p.19.

40 Supra note 34, at p.190.

41 *Ibid.*, at p.190 and Esposito, supra note 32, at p. 108.

42 In Toynbee, P., "Behind the Lines", *The Guardian*, February 4, 1988, London.

43 Engineer, A., *The Rights of Women in Islam*, IBS Buku Sdn. Bh.D (Malaysia), 1992, at p.45.

providers and maintainers of their families (as they had been during the Prophet's time), they are so by virtue of the dependence of their families on the wealth they earn. If women did not earn at the time of the Divine Revelation, as do now, the implied superiority in the *Qur'anic* text would be deemed not to apply any more. As Esposito comments

The traditional interpretation of man's priority mirrored the influence of customary practice upon some exegetes. However, when the social situation of the women changes, as it has for increasing numbers of women in the twentieth century, they will no longer necessarily be dependent upon their husbands for maintenance and protection. Consequently, the concept of 'priority' of husband over wife in the socio-economic sphere is subject to change.<sup>44</sup>

It is clear, therefore, to liberal scholars that the fact that men are *qawwam* over women is a contextual statement and not a normative one.<sup>45</sup>

Women, therefore, are the twins of men; there is no difference between them except in physionomical characteristics. The distinction in the physical realm, says Doi, is based in the equitable principle of fair division of labour.<sup>46</sup> Men and women have complementary roles which conform to the nature of things in which they play different parts. Consequently, the ambivalence regarding equality is found to reside in the socio-economic and physical context rather than the spiritual.

Where social and customary attitudes are pervasive, scriptural norms are interpreted to fit in with the prevailing notions and attitudes in the society. The perceived notions in Bangladesh, which are essentially patriarchal, are, for example, found to identify more with the customary interpretation of religious injunctions in the male-female argument. This means that religious directives are largely distorted to suit existing cultural norms which are found to degrade women and deny them their rights. Thus, male-dominated societies often harness even just and egalitarian norms laid down for women in the divine scriptures in order to perpetuate their power.<sup>47</sup> The institution of *purdah* is one such instance.

Measures of *purdah* are considered essential in order to protect the chastity of the female since sexual purity is an overriding consideration at marriage. The practice of *purdah*, therefore, reflects a concern with a woman's sexual vulnerability<sup>48</sup> and the consequent need to protect her from possible violation or sexually motivated assault from non-family males. While Aziz et al. quote a

44 Supra note 32, at p.108.

45 Supra note 43, at p.46.

46 Doi, A., *Women in Shariah (Islamic Law)*, London, 1989, at p.10.

47 Supra note 43, at p.1.

48 Vatuk, S., "Purdah Revisited: A Comparison of Hindu and Muslim Interpretations of the Cultural Meaning of Purdah in South Asia" in Papanek, H. and Minault, G. (eds), *Separate Worlds: Studies on Purdah in South Asia*, New Delhi, 1982, pp.54-78, at p.59.

Bengali saying: "chastity is a woman's best ornament",<sup>49</sup> no mention is made of the need to protect the sexual purity of men. El-Saadawi reflects that

The honour or chastity of a girl is likened to a matchstick that can only burn once and then is over. Once a girl has lost her virginity, therefore, she has irrevocably lost her honour, and can never retrieve it. On the contrary, his chastity can be burnt a hundred, nay a thousand times, but he will never lose his honour or consume it.<sup>50</sup>

As a girl child leaves behind her first years and enters into puberty, the attitude of parents and guardians regarding boys and girls continues to diverge. The girl is withdrawn from free interaction with the external world, and in particular with males. Greater limits are placed on the freedom of the female child in terms of association, communication and contact. This also results in withdrawing the girl child from school where segregation of the sexes is difficult to maintain, particularly in the rural context.

Parents of the girl child, in anticipation of marriage of their daughter, proceed to restrict the female child to the small coterie of family members and kinsmen. Since marriage for the girl is the ultimate goal in life, her family zealously protects her from any possibility of losing the virtues that have been so meticulously instilled in her. Youssef explains that

the imposition of chastity norms, the continual anxiety surrounding the subject of woman's sexual misconduct or suspicion thereof can be interpreted as the most effective way by which kin groups protect their 'investments' and guarantee the kind of marriage for their daughters and sisters that will reflect favourably upon their own status and position.<sup>51</sup>

The chief rationalisation for female seclusion resides in the safeguarding of *izzat* (honour), both familial and personal, and women's individual portrayal of *sharam* (shame). Where families are represented by men, it is really the preservation of male honour that forms the core of the argument. A woman's *izzat* is not her own — it is her husband's or father's.<sup>52</sup> On the other hand, shame is seen as a woman's responsibility. This division of honour and shame is related to the fact that honour is seen as actively achieved by men while shame is seen as passively defended by women.<sup>53</sup> Women, on the one hand, are regarded as sex objects who are required to be kept apart in order to protect men from their

49 Aziz, A. at al., *Life Stages, Gender and Fertility in Bangladesh*, Dhaka, 1985, at p.78.

50 Supra note 24, at p.79.

51 Youssef, N., "The Status and Fertility Patterns of Muslim Women" in Beck, L. and Keddie, N. (eds), *Women in the Muslim World*, Cambridge et al., 1978, pp.69-99, at p. 94.

52 Wilson, A., *Finding a Voice. Asian Women in Britain*, Virago, London, 1978, at p.5.

53 Rozario, S., *Purity and Communal Boundaries: Women and Social Change in a Bangladeshi Village*, London et al., 1992, at p.86.

charms, and on the other, they are seen as being susceptible to sexual assaults, thereby, needing protection themselves. In other words, women are, at the same time, sexually aggressive and vulnerable. Here, the dependence of women on men and the dominance of men over women play an integral part in determining their respective roles. As Papanek describes

Women's proper behaviour, as sheltered persons, becomes an important measure of the status of their protectors and the achievement of symbolic shelter is valued by the man as a measure of control over his environment. In a culture where male pride is very significant — and very fragile — element of identity and status, the seclusion of women is an important aspect of male control.<sup>54</sup>

The system of *purdah* is, therefore, related to the maintenance of moral standards as specified by the society.<sup>55</sup> These moral standards have become so deeply ingrained that it is not only the males who have definite ideas about the behaviour of women but also women themselves.

*Purdah* is often seen essentially as an Islamic institution; Islam is said to have enjoined upon women the practice of *purdah*. According to Papanek the prescriptions of *Qur'an* regarding *purdah* and the status of women “have been elaborated and systematised in various ways in different Muslim societies.”<sup>56</sup> In Bangladesh, although it comes in many styles and forms, *purdah* is generally enforced and legitimised in the name of Islam.<sup>57</sup> It is believed that the observance of *purdah* is a sacred duty of Muslim women as it is sanctioned by religion.<sup>58</sup>

There is, however, a difference of opinion regarding female seclusion in Islam among various scholars and theologians. Verse 24:31 of the *Qur'an* states

And say to the believing women that they should lower their gaze and guard their modesty; that they should not display their beauty and ornaments except what (must ordinarily) appear thereof; that they should draw their veils over their bosoms and not display their beauty ...<sup>59</sup>

*Qur'anic* texts are interpreted in various ways. While liberalists believe that Islam should move with the times, scholars in favour of a more traditional interpretation of the *Qur'an* believe that being of divine origin, and therefore immutable, whatever is enjoined upon by the *Qur'an* is valid forever.

54 Papanek, H., “Purdah in Pakistan: Seclusion and Modern Occupations for Women” in Papanek and Minault (eds), supra note 48, at p.193.

55 Papanek, H., “Purdah: Separate Worlds and Symbolic Shelter” in Papanek, H. and Minault, G. (eds), *ibid*, pp.3-53, at p.7.

56 *Ibid.*, at p.22.

57 Blanchet, T., *A Plan of Action for Assistance to Women in Bangladesh*, Dhaka, 1987, at p.4.

58 Chaudhury, R. and Ahmed, N., *Female Status in Bangladesh*, Dhaka, 1980, at p.6.

59 Supra note 34, at pp.904-5.

Although most liberal thinkers agree that Islam preaches propriety, modesty and decorum, they believe that it is wrong to interpret such teaching to mean total restriction or denial of freedom and free will. Islam enjoins upon women not to display their charms so that they become objects of attraction but the *Qur'an* does not advocate the veil nor segregation of sexes, neither does it restrict their freedom of movement.<sup>60</sup> Moreover, Verse 24:30 of the *Qur'an* enjoins believing men also to "lower their gaze and guard their modesty."<sup>61</sup>

As already discussed, moderate scholars believe that some parts of the *Qur'an* are eternally relevant while others are found to be relevant to the Prophet Muhammad's (peace be upon him) time. Therefore, Muslims are under an obligation to excise from their practices all those which are no longer relevant, in accord with the spirit of Islam.<sup>62</sup> Ameer Ali, a proponent of this line of thought remarks that the Prophet Muhammad (peace be upon him)

recommended to the womenfolk the observance of privacy. But to suppose he ever intended his recommendation should assume its present inelastic form, or that he ever allowed or enjoined the seclusion of women, is wholly opposed to the spirit of his reforms. The Koran itself affords no warrant for holding that the seclusion of women is part of the new gospel.<sup>63</sup>

Jeffery suggests that *purdah* cannot simply be regarded as an Islamic institution, although 'Islamic ideals' or notions of 'honour' and 'shame' are important in providing religious and moral justification for the seclusion of women.<sup>64</sup> The seclusion of women is not just for Muslims, but neither is it for the poor (no matter what their religion), nor for those who live in the more egalitarian systems based on hoe agriculture. The seclusion of **some** women is but an integral part of a particular type of social system.

Therefore, interpretations of the scriptural texts are found to assume arbitrary dimensions where women are made to suffer discrimination in the name of religion. Mernissi is emphatic in her denial of religious influence in the subordination of women when, in actuality, it is the result of flagrant domination by men over the centuries. She states

If women's rights are a problem for some modern Muslim men, it is neither because of the Koran nor the Prophet, nor the Islamic tradition, but simply because those rights conflict with the interest of a male elite. The elite faction is trying to

60 Khan, S., *The Fifty Percent. Women in Development and Policy in Bangladesh*, Dhaka, 1988, at p.103. See also Rahman, F., "The Status of Women in Islam: A Modernist Interpretation" in Papanek, H. and Minault, G. (eds), supra note 48, at p.290.

61 Supra note 34, at p.904.

62 Jeffery, P., *Frogs in a Well: Indian Women in Purdah*, London, 1979, at p.19.

63 Ali, A. *The Sprit of Islam*, Methuen et al., 1967 (reprint), at p.249.

64 Supra nore 62, at p.33-4.



convince us that their egotistic, highly subjective and mediocre view of culture and society has a sacred basis.<sup>65</sup>

Selective implementation of Islam is responsible for the entrenchment of unequal value and consequent subjugation of females in an all-pervasive patriarchal society. *Qur'anic* injunctions are frequently violated in respect of women's rights to the extent where women are often made to believe that such rights do not exist. Despite the religious provisions, women are not free agents in their marriage, their consents in marriage are not regarded as essential, their dowers are not paid, they are denied the right to divorce their husbands and they are deprived of the care and maintenance that is central to the argument in the male-female dynamics. Moreover, male control over women is also achieved by denying them access to economic resources and depriving them of their legal right to control their assets. This is in direct contravention with the dictates of Islam which grants them the right to own and inherit property, to enter into business transactions and to have absolute control over their assets.<sup>66</sup>

Although Islam has given women a very respectable niche by conferring certain fundamental rights, women, nevertheless, suffer from degradation and inequitable treatment in a manner favoured by the male dominated society in which they live. "It would be incorrect to attribute abuses that undoubtedly exist within the Islamic world to Islam itself rather than to human nature."<sup>67</sup> Religious directives that are carried out in practice are largely determined by cultural norms within a given society. The *Qur'anic* teachings are distorted in accordance with the prevailing social norms, thereby creating a wide gap between what has been ordained and what is being practised. Hence religion becomes a tool of patriarchy rather than a means of contesting it.

Although religion plays a significant role in the lives of the people of Bangladesh it, nevertheless, appears that in the majority cases, patriarchal norms often have the upper hand. Men prefer to follow the dictates of religion rather dogmatically only where it is convenient for them and when they fit their own pattern of making a choice in their lifestyles. The institution of *purdah*, for instance, is socially enforced but religion is used for 'leverage'. Ram justifiably sees female seclusion as little more than reiterations of self serving justifications offered by the powerful.<sup>68</sup> The practice of *purdah* places great restraints on the

65 Mernissi, F., *Women in Islam: An Historical and Theological Enquiry*, Oxford et al., 1991, at p.ix.

66 Shaheed, F., "The Cultural Articulation of Patriarchy" in Zafar, F. (ed), *Finding Our Way: Reading on Women in Pakistan*, Lahore, 1991, pp.135-58, at p.140.

67 Supreme note 38, at p. 420.

68 Ram, K., "The Ideology of Femininity and Women's Work in the Fishing Community of South India" in Afsar, H. and Agarwal, B. (eds), *Women, Poverty and Ideology in Asia*, London, 1989, pp.128-47, at p.129.

lives and freedom of females. They remain strictly confined within their prescribed roles which have derived their validity largely through male dominated interpretations of religious prescriptions.

However, "the problem of dismissing religion as patriarchal ideology" is that there is a possibility of ignoring the "range of ideas, beliefs, practices, and institutions which constitute religion."<sup>69</sup> There is another aspect to religion. It is often a dominant force in shaping women's lives which enhances their sense of worth. Ramazanoglu points out, for example, that women in Northern Ireland are politically compelled to identify themselves as either Protestant or Catholic and feminist activity has rarely succeeded in transcending these divisions.<sup>70</sup> This form of identification, must therefore, have some deep religious underpinnings. Similarly, although some scholars like Tabari argue that even the most liberal interpretations of Islam are of little help in liberating a woman.<sup>71</sup>

Religion, as a form of 'refuge', plays an important role in the Bangladeshi woman's spiritual life. Religious values contribute significantly in the construction of a woman's relationship within the family and in the wider orbit of the society. For example, women often seek solace from holy men or saints if they fail to conceive children. They wear *tabiz* (amulets) which contain a verse from the *Qur'an* in order to evict the evil spirits that are believed to impede their fertility.<sup>72</sup> Women make their children use similar amulets to ward off illnesses. Abecassis recalls an incident in a village in Bangladesh where the practice of *purdah* was considered by women as a protection against spirits.<sup>73</sup> Women who did not own a *burqa* (veil) would apparently go to quite a lot of trouble to borrow one if they had to leave the *bari* (house).

Thus, while it may be true that religion contributes significantly to the oppression of women, it is therefore difficult to regard it simply as patriarchal ideology. In other words, religion does not necessarily proceed from a vacuum; rather, it has evolved over the ages and has closely intermeshed with various social institutions to meet the demands of the social actors therein. Although religion may diminish women and legitimate their subordination to men, it may also meet other needs for self-respect, spirituality, identity and purpose.<sup>74</sup>

69 Supra note 17, at p.151.

70 *Ibid.*

71 Tabari, A., "Islam and the Struggle for the Emancipation of Iranian Women" in Tabari, A. and Yeganeh, N. (eds), *In the Shadow of Islam: Women's Movement in Iran*, London, 1982, pp.5-25, at pp.18-9.

72 Monsoor, T., *From Patriarchy to Gender Equity: Family Law and Its Impact on Women in Bangladesh*, unpublished Ph.D.dissertation, School of Oriental and African Studies, London, 1994, at pp.73-4.

73 Abecassis, D., *Identity, Islam and Human Development in Rural Bangladesh*, Dhaka, 1990, at p.33.

74 Supra note 17, at p.153.

## MARRIAGE AND MOTHERHOOD

Bangladeshi society is essentially shaped by a male hierarchical order, as is seen from the earlier discussions. Manifested through male authority and control, the patriarchal organisation is preserved through marriage and the family. Patriarchy also signifies a sexual system of power which is rooted in biology, i.e., in the woman's reproductive role.<sup>75</sup>

Marriage is central to an understanding not only of gender relations but also the status of children in the family. Marriage is an important determinant of woman's status both within the family as well as in the society. The age at which most females marry is indicative of the importance of marriage. In the rural areas it is a matter of shame if parents fail to marry off their daughters between the ages of 12-15 years at the latest. In fact, there is a popular saying in that a girl becomes an old woman at the age of twenty. The girl herself often feels guilty if she is not married before that time.

The 1981 Vital Registration Survey states that the mean age at marriage for girls is 17.8.<sup>76</sup> According to the 1991 provisional Vital Registration Survey the mean age at marriage for girls had risen to 18.1.<sup>78</sup> Although the practice of child marriage is becoming less common, in view of dominant socio-cultural practices, the above statistics seem a little unrealistic. It is usual for girls to marry between 13-16 years of age.<sup>79</sup>

Muslim law (under the Hanafi Sunni school<sup>80</sup> which predominates in Bangladesh) permits every Muslim of sound mind who has attained the age of puberty to enter into a contract of marriage. Muslim law also permits the elders of the family to fix a marriage union between young people who are often little more than toddlers. This union is solemnised with the understanding that the couple will begin to lead their conjugal life when their physical maturity permits.

This brings us to the sexual aspect of child marriage. Virginity of the bride is a paramount consideration in marriages. The girl's family do their best to protect her physical purity during her childhood and pre-adolescence. Early marriages for girls are contemplated and conducted to ensure that they are safely in their husbands' homes before the onset of their own sexual awareness and to reduce the possibility of sexual abuse within their families or the wider

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75 Nanda, B. and Mangalagiri, A., "Patriarchal Ideology and Women's Oppression" in Kaushik, S. (ed), *Women in Society: Women's Oppression. Patterns and Perspectives*, New Delhi, 1985, pp.11-22, at p.16.

76 Supra note 22.

78 *Ibid.*

79 See Khan, supra note 60, at p.2.

80 The *Hanafi* school is one of the oldest schools of *Sunni* law. Its proponent was Imam Abu Hanifa. This school relied primarily upon the principle of *qiyas* or analogical deduction in its interpretation of law.

community. If a girl, by some misfortune loses her virginity, the chances of her marriage are remote. It is to avoid such an occurrence that the family tries to get her safely married without taking any risks that are likely to jeopardise the girl's prospects of marriage.

Although the Child Marriage Restraint Act, 1929 prohibits marriage of girls under the age of 18 years and boys under the age of 21 years and prescribes penalties for infringement of these provisions, child marriages are far from obsolete. This may be due to the fact that despite the restrictions, such marriages are, nevertheless, valid and have all the legal consequences.<sup>81</sup> However, the imbalances, both legal and social, resulting from the invalidation of such marriages would be many: firstly, children born out of the union would be illegitimate; secondly, the wife and children would be deprived of their maintenance and inheritance rights; and thirdly, the wife and children would face social ostracism. These various considerations justify the legal concession over the otherwise irregular liaison.

An unmarried daughter is often regarded as a 'guest' in her parent's house.<sup>82</sup> She is treated like a transient element within the family, to be sheltered temporarily until she is married. She is fed, clothed and nurtured by her parents almost as if in anticipation of the day when she is to be married. Marriages involving a choice of partner are considered scandalous and therefore, marriage alliances arranged by parents/guardians are the rule of the day. The obligation of seeing one's daughter married as advantageously (for the family) and as early as possible in the interests of family honour overshadows any consideration of the happiness of either party.<sup>83</sup> However, this does not necessarily indicate that such considerations are altogether absent. Thus, Jeffery et al observe

Parents arrange their daughter's marriage with mixed feelings: sadness at losing their daughter, fear that they might fail to settle her well, anxiety about maintaining their honour, satisfaction at having fulfilled their duty.<sup>84</sup>

Under Muslim law the consent of the parties to the marriage is mandatory. In most cases, however, the consent of the girl is a mere formality to be dispensed with by the parent or guardian without any consultation with the girl. Ideals of female deference, heightened by custom which regards open interest in her own marriage as shameful and indelicate, compel the young girl to pretend

81 The Child Marriage Restraint Act, 1929 conflicts with the rules of Muslim law which permit the parent/guardian to contract the marriage of a minor before the age of majority (under Muslim law, a minor attains majority on attaining puberty).

82 Von Harder, G., Women in Rural Bangladesh: An Empirical Study in Four Villages of Comilla District, Saarbrücken, 1978, at p.15.

83 Supra note 25, at p.68.

84 Jeffery, P. et al., Labour Pains and Labour Power: Women and Childbearing in India, London, 1988, at p.25.

ignorance and remain silent. Males, on the other hand, are consulted at great length and viewing of many girls may be arranged to facilitate the making of a choice. The girl suffers great humiliation in this process. She is likely to be paraded before a series of prospective in-laws before she is fortunate enough to be 'picked'.<sup>85</sup>

Marriages are arranged by male guardians, although a network of female relatives and informants may operate informally to ensure a suitable match.<sup>86</sup> Throughout the entire exercise of arranging a marriage, the girl is merely an object to achieve a desired end. This practice demonstrates clearly the "social construction of passivity and dependence in female gender identity."<sup>87</sup> The system of arranging marriages helps to sustain the traditionally subservient images and roles of women. Youssef confirms that

Tight control through an early and parentally supervised/ controlled marriage, as well as strict seclusion before that event, instil the idea that only one life exists for the woman. Motivation is channelled in the direction of marriage by creating desires for familial roles, by extolling the rewards accruing from the wife-mother status, and by the severe community censure of spinsterhood.<sup>88</sup>

The arrangement of marriages is usually surrounded by tension with intense negotiations between the parties. Dower or *mehr* is paid amongst Muslims by the groom's family as security for the bride in case of a breakdown of the marriage. The practice of dowry or *jahez*<sup>89</sup> a predominantly Hindu practice, significantly shifted the terms of marriage negotiations in favour of the groom's family.

The institution of dowry in Muslim marriages is a relatively recent practice in Bangladesh that has become significant during last two decades or so. Although Hindu ideology sees dowry as a 'gift', the prevailing practice of dowry is more like 'demand' and is indeed termed as such in Bangladesh. What started out as a practice to elevate the position of the girl at marriage, and by the same token the status of her family, has assumed an altogether different perspective. The bridegroom and his family demand gifts from the bride's family which may range from a bicycle to a car, depending on the socio-economic status of the parties involved, as a condition precedent to marriage. This incurs a lot of misery

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85 Supra note 18, at p.13.

86 Kabeer, N., "Subordination and Struggle: Women in Bangladesh", 168 (1988) *New Left Review*, pp.95-121, at p.101.

87 White, S., *Arguing with the Crocodile: Gender and Class in Bangladesh*, Dhaka, 1992, at p.97.

88 Supra note 51, at p.78.

89 Dowry or *jahez* is made up of gifts to the bride from relatives and friends which varies according to the economic standing of the family. For more on *jahez* see Korson, H., "Modernisation and Social Change — The Family in Pakistan" in Das, M. and Bords, P. (eds), *The Family in Asia*, New Delhi et al., 1978, pp.169-207.

for the bride's parents and after marriage for the bride herself. Instances where young brides have been burnt alive or otherwise tortured for failing or refusing to procure more money from their families are many, particularly in the low-income families of Bangladesh.<sup>90</sup>

According to Sharma the shift in marriage exchanges occurred on the basis of the **economic compensation theory**.<sup>91</sup> The idea is that 'bride price' is given where women do 'productive' work to compensate the bride's family for the loss of an economically active member and to compensate the resources that have gone into raising her. 'Dowry', on the other hand, arises where women do no 'productive' labour and instead represent a 'cost' for the husband and his family. Sharma concludes that such shifts reflect changes in the proportion of household income earned by the male and female members. In other words, shifts in marriage payments represent the relations of economic dependence between men and women rather than the work performed or cash earned.

It is difficult, however, to accept Sharma's theory in its purely economic context. It ignores the fact that economic evaluation of women's work does not necessarily determine the value of women in marriage transactions or the treatment of young brides. Bardhan rightly points out that ideas of work as being 'productive' or 'valuable' are essentially social constructs and as such do not represent the real value of the contributions made by different members within a household.<sup>92</sup> The demand by the groom's family for dowry as a condition for marriage, therefore, reinforces the idea that a girl is an economic liability. Consequently, this practice plays an important part in the construction of the notion of 'woman' in Bangladesh.

While not arguing that the prevalence of ruinous dowry payments makes the arrival of several daughters a family disaster,<sup>93</sup> it is only right to point out that to regard an unmarried girl as 'economically unproductive',<sup>94</sup> is to grossly underestimate the single girl and her value. Prior to her marriage an unmarried girl learns to undertake a substantial workload in her parent's household. Rural practices reveal that marriages are often arranged to take place just prior to harvest time whereby young brides provide much-needed assistance. Treated as an unpaid serf, a bride can be relied upon to shoulder the major part of intra-household activities.

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90 See Akanda, L. and Shamim, I., *Women and Violence*, Dhaka, 1988.

91 Sharma, U., *Women, Work and Poverty in North-West India*, London et al., 1980, at pp.137-43.

92 Bardhan, K., "Women's Work, Welfare and Status. Forces of Tradition and Change in India", 6 (1986) *South Asia Bulletin*, pp.3-16, at p.9.

93 *Supra* note 25, at p.32.

94 *Supra* note 58, at p.283.

After marriage the young bride shifts from her parent's orbit to that of her husband and his family. This marks her transition from childhood to adulthood, even though a trifle prematurely. It is as new brides that women come closest to the feminine ideal of subordination and dependence.<sup>95</sup> Marriage for a woman, before she is mentally and physically developed, means a lifetime of bondage with little or no say in the regulation of her own life. When she moves into her husband's home, the virtues of patience and sacrifice instilled in her from an early age, are put to the test.

The decorum expected of a young bride is based on devotion, sacrifice, obedience, and servitude. This is augmented by a popular notion in Bengali culture that a wife's heaven lies at the feet of her husband.<sup>96</sup> The ideal relationship between a man and his wife resembles that between a master and his slave.

As most rural women at the start of marriage live in joint families, a young bride not only has to please her husband but his entire family. White explains

While marriage marks the transition from childhood to womanhood, it also involves the loss of what she has known and 'rebirth' into a new life. She becomes the household's most junior member, whose chief virtue is submission, learning to do what will please the family and proving her worth through obedience, hard work, good temper and modest behaviour.<sup>97</sup>

Consequently, the new bride occupies a somewhat weak position in her new home. She is compelled to observe stricter *purdah* than as a child, hardly communicates with her family, her mobility is limited and her workload increases manifold. She is the subject of constant criticism, particularly from the other females in her husband's family, for example the mother-in-law, who are ever watchful for 'lapses' in the newcomer's behaviour.

Thus, marriage in Bangladesh has considerable significance in the life of the girl child. It represents a source of submission, pride and celebration. As White rightly points out: "Marriage is essentially contradictory: it is both a prime means of female subordination, and also the basis of women's fulfilment and advancement."<sup>98</sup>

Female gender constructions undergo further changes with motherhood. While, says Jeffery, the status and character of a new bride are ascertained before the marriage, the test of her fecundity has to wait until later.<sup>99</sup> She explains that it is in this facet of married life that the uterine capacities of women are of vital importance. Treated as an inferior member of the family the only

95 Supra note 87, at p.109.

96 Hartman, B. and Boyce, J., *A Quiet Violence: View from a Bangladesh Village*, Dhaka, 1983, at p.82.

97 Supra note 87, at p.97.

98 *Ibid.*, at p.98.

99 Supra note 62, at p.82.

strategy whereby a young bride may secure some security, economic and otherwise, for herself in her husband's home is by producing heirs, preferably male. This is also another means of resisting the power she is subjected to in her husband's house. This form of security serves other purposes as well which are deemed to be available well into her old age. Cain et al. point out.

Within the constraints of the patriarchal system, women do everything they can to hedge against risk and to create independent sources of security—The best risk insurance for women, however, is to produce sons, as many and as soon as possible. Without a son, given the high probability of widowhood, a woman's welfare in later years is extremely uncertain, regardless of steps she may have taken to create other sources of security.<sup>100</sup>

Therefore, paramount to the consolidation of a woman's identity and status amongst her in-laws is the socio-biological role of reproducing the patrilineage.<sup>101</sup> By stressing on biological paternity in the tracing of children's lineage, patrilineal descent, therefore, makes women irrelevant in genealogical reckoning.<sup>102</sup> This contributes significantly to the systemic devaluation of women.

Although motherhood is the most celebrated identity for a woman in Bangladesh, it demonstrates the lack of power a woman has over her own sexuality. She is devoid of authority to decide on the number of children she would like to bear, with the husband nearly always wanting more children. The culture of female subordination increases with the woman's inability to refuse access to her husband's sexual advances at any time.<sup>103</sup> The concept that the husband is her lord and master influences her priorities. As a result, any reluctance on her part may lead to physical abuse and violence by her husband and his kin.<sup>104</sup> Moreover, the practice of early marriage, which prolongs the reproductive period, also has a positive influence on total marital fertility.<sup>105</sup> Consequently, frequent pregnancies occur which endanger the health of the wife.

Infertility, particularly in rural Bangladesh, is a disaster, where the wife becomes the principal bearer of the stigma and consequent shame. The wife is invariably blamed for the absence of children in a marriage. She is considered an ill omen if she fails in this essential task and is avoided, even excluded, from

<sup>100</sup> Supra note 28, at p.433.

<sup>101</sup> Chen, M., *A Quiet Revolution: Women in Transition in Rural Bangladesh*, Dhaka, 1986, at p.56.

<sup>102</sup> Supra note 86, at p.101.

<sup>103</sup> However, under Muslim law a woman may deny access to her husband in the event of his failing to pay the prompt dower demanded by her. For more see Pearl, D., supra note 57, at pp.63-4.

<sup>104</sup> Adnan, S., "‘Birds in a Cage’: Institutional Change and Women's Position in Bangladesh", 46 (1989) *Journal of Social Studies*, pp.1-34, at p.5.

<sup>105</sup> Ahmad, A., *Women and Fertility in Bangladesh*, New Delhi, 1991, at p.37.



auspicious ceremonies within the family. Both sides of the family are concerned about the fecundity of the girl, although in different ways. Apprehensive about the criticisms and consequent humiliation, the bride's family is worried for their daughter's well-being and position in her husband's house if she fails to bear children soon after marriage. For the groom's family, on the other hand, the hope for grandchildren is overlaid by one important element, that is, patrilineal descent.<sup>106</sup> The valuation of children in Bangladesh, therefore, finds expression in the overall cultural attitude towards women and their ability to continue their husband's lineage.

### **SEX-ROLE SOCIALIZATION AND THE GIRL CHILD**

The upbringing of children and their socialisation into different social roles depends, to a great extent, on the adults with authority in the family. It is they who assign junior members to particular tasks in domestic and other productive activities. The process of socialisation may differ to a great extent from race to race, religion to religion, region to region. The common ground, however, is the idea of acquainting the child with various modes of participation in the activities of the community.

The scenario in Bangladesh sees parents, particularly fathers, with undisputed authority over their children. Fathers, in keeping with the authoritarian style, require complete obedience from their children. Parental control and authority create an unconscious and widespread assumption in the society that children are 'owned' by their parents, in the sense that they belong to them. Contrary to the modern Western concept that a child owns itself, adults in Bangladesh harbour no notion that their children could, in fact, be individual and separate entities. Parents believe that because of the various sacrifices made on behalf of their children throughout their childhood, parents are entitled to dictate and regulate the lives of their children. This belief is augmented by children's dependence on their parents which is apparent both in the material and emotional sense.

For children in Bangladesh, the process of socialisation is shaped to a great extent by patriarchal norms. Patriarchal attitudes have their roots in the manner parents themselves were raised as children. In Bangladesh, social practices and beliefs are so densely embedded that people find it impossible to ignore the traditions they have grown up with and to which they are accustomed. As a result, they tend to reproduce the roles they have been trained to play in their relationship with their own children. Children, like women therefore, remain under the domination of the patriarch in the family. Mukhapadhyay states that the chief contribution of the family in patriarchy is the socialisation of the young (largely through the example and admonition of their parents) into the prescribed

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106 Supra note 62, at p.83.

attitudes of the ideology of the patriarch towards the categories of role, temperament and status.<sup>107</sup>

Men are accustomed to dominating their children as they do their wives and acting as the chief decision-maker within the family. Consequently, the moral subjugation suffered by women is transmitted to their children in early childhood. Children are groomed by their mother and other older females in the family to regard patriarchal authority with respect, reverence and fear. Mannan reiterates

With authority vested in the hands of the household head, he predominates as the decision-maker. Women and young children in these households tend to have little, if any, control over the major events of their lives. Decisions regarding (children's) schooling, vocation and marriage and even day to day activities are largely out of their hands.<sup>108</sup>

Thus the conception that 'father knows best' is the prevalent norm within the family. In this way, children learn to demarcate between the powerful, i.e., the father and the weak, i.e., the mother.

Consequently, the process of socialisation in Bangladesh affects the male and female children in different ways. It is common for parents and teachers to instil traditional and sex-stereotyped ideologies into children's minds. A boy's gender development is generally based on identification with the father and other adult males in the family. For girls, on the other hand, it is essentially the mother and other female members of the family whose footsteps they are required to follow. It is even common for parents to restrain themselves from demonstrating affection by touching or embracing children of the opposite sex after a certain age.<sup>109</sup>

Socialisation of girls in Bangladesh is in keeping with the lifelong role of subservience and self-effacement that women are expected to play. A girl learns to defer to her brother(s) and the male patriarch and perceive the fact that she is merely a transitory member of the family. Initiation to the subordinate role of women, ordained largely by social norms, begins by training the girl to perform the part of a docile daughter in preparation for her role as a compliant wife and a dependent mother. Opposed to this is the role of a leader that is bestowed on the male child. Parikh and Garg describe the experiences of the girl child

The parents indifferent acceptance of her makes the female child realise that her status is secondary to that of the male child. She experiences no space for herself and learns to be invisible, obedient, conforming, and careful about creating no

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<sup>107</sup> Supra note 13, at p.11.

<sup>108</sup> Mannan, M., *Child Work and Family Life in South Asia*, Labour and Population Team for Asia and the Pacific (LAPTAP) Working Paper No.2, Bangkok, 1990. at p.1.

<sup>109</sup> Supra note 49, at p.48.

stress. She learns to accept herself as unwanted, or as a transient to be cared for, but never to belong. She also acquires doubts about her value as a person.<sup>110</sup>

A girl is expected to learn social decorum suited to her gender quite early in her childhood. For example, she cannot roam around naked after a certain age, whereas, boys of her age are free to play or swim naked even up to the pre-adolescent stage, that is between ages 9-11. Cultural notions of *purdah* and propriety therefore, discourage female nudity. The experience of rejection and the need for acceptance, compel the female child to conform to the norms and expectations laid down by the family.<sup>111</sup> However, a similar breach of social decorum by the male child is overlooked by virtue of his gender.

Gender identification for boys is achieved at the expense of devaluing what is feminine in the world around him. They are initiated to feel that, being male, they are special and are depended upon to carry on the family name and lineage. They are groomed to fit into the role of a future patriarch and come to regard their female family members as non-entities.

Often the female child performs the role of surrogate mother and housekeeper. Although this is more usual in households where the mother is required to work outside the home, the female child is, nevertheless, geared to undertake her responsibilities within the family without protest. She perceives that her mother's world is limited to her family and that her own vocation is to satisfy the needs of its members. The girl child imitates her mother's role and acquires the necessary resilience to meet, tolerate and adjust to differing and varying demands of the family.<sup>112</sup> This is done irrespective of the degree of hardship and self-sacrifice she has to undergo in the process. The transition, therefore, from a acquiescent daughter to an acquiescent daughter-in-law is generally an easy one. While the psychological and cultural climate of societies determine the patterns whereby the role of each child is selected, the family acts as an active agent in the transmission of sexism in their attitude towards their children.<sup>113</sup> In view of the insensitive form of gender discrimination practised within the family it would be normal to assume that it would heighten the hostility and envy of the female towards the male. On the contrary, there is evidence that "women turn aggression against themselves and transform cultural devaluation into feelings of worthlessness and inferiority."<sup>114</sup>

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110 Parikh, I. and Garg, P., *Indian Women: An Inner Dialogue*, New Delhi, 1989, at p.101.

111 *Ibid.*, at p.102.

112 *Supra* note 18, at p.12.

113 Mannan, M., *Status of Women in Bangladesh: Equality of Rights — Theory and Practice*, Dhaka, 1989, at p.57.

114 Kakar, S., *The Inner World. A Psycho-Analytic Study of Childhood and Society in India*, Delhi, 1981, at p.59.

It is clear, therefore, that the power of patriarchy casts the girl child into a sex-stereotyped mould from the early years of her life. It appears from the discussion that women generally reproduce the very conditions that perpetuate their subordination. The collusion of older women in younger women's subordination, for example in the relationship between mother-in-law and daughter-in-law or during socialisation of little girls by adult females, aptly demonstrates how women consciously uphold cultural values that ultimately restrain them. This is the result of the internalisation by the woman of the ideological role expected of her simply because she is born a woman.

The traditional and cultural constructions of femininity and masculinity discussed above, play an important part in determining the implications of the perceived differences between the lives of men and women in Bangladesh. Cultural prescriptions in Bangladesh contribute significantly to the designation of certain roles as appropriate for women and others as suitable for men. Smock explains that

... the division of labour between the sexes in any society derives more from cultural conditioning than from economic determination. Each society tends to hold the sexual division of labour inhering in its distribution of roles as inviolate and to believe that it reflects the most fundamental nature of woman and man.<sup>115</sup>

Therefore, the socio-economic roles and status of women, men and children are defined by dominant norms and values which shape the institutional order of the society which, in turn, 'helps to define the form in which the cultural potential is realised'.<sup>116</sup> Based upon this understanding, the following section assesses the socio-economic roles of women and children in Bangladesh in an attempt to draw out and understand how the culturally-constructed sexual-division of labour affects the girl child at home and at work.

## THE SEXUAL DIVISION OF CHILD LABOUR

For a better understanding of the sexual division of child labour in Bangladesh, it is essential to discuss first the dichotomy between male (public) and female (private) spaces. The public/private dichotomy indicates the culturally differential power and resources allocated to men and women in the society and the consequent subordination of women therein.

The dichotomy between the public and the private is often justified by referring to men and women's inherent physical and biological qualities. Theories on the subordination of women are based on the assumption of

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115 Smock, A., "Conclusion: Determinants of Women's Role and Status" in Geile, J. and Smock, A. (eds), *Women, Roles and Status in Eight Countries*, New York, 1977, pp.385-421, at p.395.

116 *Ibid.*, at p.397.

biological determinism.<sup>117</sup> These theories, observes Pandhe, reduce women to biological entities, and their tasks are viewed as the work of 'nature', whereas men are elevated to the status of culture by regarding their tasks as truly human.<sup>118</sup> Mies similarly explains that although the concept of sexual division of labour overtly suggests that men and women simply discharge different duties, it conceals the fact that men's tasks are considered as truly rational and therefore, 'human' while those of women are regarded as 'natural'. She elaborates

The sexual division of labour—could be paraphrased as one between 'human labour' and 'natural activity'. What is more, however, this concept also obscures the fact that the relationship between male (that is 'human') and female (that is 'natural') labourers or workers is a relationship of dominance and even of exploitation.<sup>119</sup>

Biological factors in determining women's status are often influenced by cultural notions of purity and pollution. The ideology of impurity, specially in relation to women, is not new in Bangladesh. Bangladeshis (formerly Indian East Bengalis and then East Pakistanis) share with Indian West Bengalis a cultural identity in the form of language, traditions and a value system which has been influenced by Hinduism.<sup>120</sup> The reason behind this is that when Islam spread to Bengal, the inhabitants in the region had been familiar for centuries with the cultures and social structure of the Hindus and the Buddhists.<sup>121</sup> Consequently, most of the original converts to Islam and their descendants were lower caste Hindus who, despite the newly adopted faith, retained many local rituals and customs. Islam as a social force, therefore, was tempered and reinforced by the cultural context into which it was introduced.<sup>122</sup>

Consequently, concepts of purity and pollution may have stemmed from the Hindu ideology that while men are intrinsically pure, women are impure.<sup>123</sup> Women's impurity and pollution are associated with various physiological processes such as sexual intercourse, menstruation and child birth. Blanchet's

117 Punalekar, S., "Gender, Class and Culture: Situation of Girl Children in India" in Devasia, L. and Devasia, V. (eds), *Girl Child In India*, New Delhi, 1991, pp.25-37, at p.26.

118 Pandhe, S., *Women's Subordination: Its Origins*, New Delhi, 1989, at pp.30-31.

119 Mies, M., *Patriarchy and Accumulation on a World Scale: Women in the International Division of Labour*, London, 1986, at p.46.

120 Supra note 53, at p.9.

121 Ali, A., "Muslim Mind and Society in Bangladesh: An Historical Retrospect" in Ali, A. (ed), *Islam in South and South-East Asia*, New Delhi, 1985, pp.185-229, at p.185.

122 Supra note 86, at p.96.

123 Hershman, P., "Virgin and Mother" in Lewis, I. (ed), *Symbols and Sentiments*, London, 1977, pp.269-292, at p.270.

findings from her research on rituals of birth in rural Bangladesh confirm and reinforce the view that pollution is regarded as a part of female nature.<sup>124</sup>

Physically polluted women are required to contend with many restrictions. Menstruating women are often barred from cooking for the family,<sup>125</sup> processing or touching crops and are even considered to be susceptible to the influence of 'evil spirits'. They avoid certain categories of food, like eggs and fish to avoid odorous menstruation. They are often required to sleep away from the rest of the family. Sexual contact during this time is forbidden. Blanchet maintains that

in Bangladesh, and possibly elsewhere in Muslim India, the notion of purity and pollution appears in another guise, mainly that of pervasive philosophical outlook which links purity with auspiciousness and impurity with misfortune, illness and catastrophe.<sup>126</sup>

These various mechanisms are simply manifestations of female subordination in a society where the cultural ideologies have become naturalised to the point where they are accepted by women themselves. The perceptions regarding female pollution, therefore, have their validity entrenched more in tradition and custom than in religion, particularly Islam. "Lying beneath the— Islamic values are other values presupposed by actual behaviour."<sup>127</sup> In Islam although menstruating women are restricted from pursuing religious functions like *namaz* (praying), fasting, entering a mosque, touching or reciting the *Qur'an*, they are not prohibited from discharging their ordinary household duties and activities related to everyday life.<sup>128</sup>

By relegating women to the private sphere, they have been denied liberty, visibility and independence. As females are socially perceived as passive and vulnerable, they are also reluctant to seek work outside the home. Moreover, women's dependence has a cultural meaning because it is a matter of shame if the man of the house is unable to support his family in full. In Bangladesh, although all members in a family pool their resources in the interests of the household, it is primarily the men who must control and support the family. It is matter of *izzat* (honour) to do so. A man who does not perform his duties accordingly is subjected to ridicule in the community. Patriarchal ideology, therefore, strictly demarcates the spheres of men and women. Men have to maintain their 'maleness' by assuming full responsibility, financial and otherwise, of all the members in the family. This includes the control and discipline of the women and children within the household. Any lapse on the

124 Blanchet, T., *Meanings and Rituals in Birth in Bangladesh*, Dhaka, 1984, at p.35.

125 Islam, M., "Social Norms, Institutions and Status of Women" in *The Situation of Women in Bangladesh*, Dhaka, 1979, pp.225-64, at p.247.

126 Supra note 124, at p.30.

127 Dumont, L., *Homo Hierarchies: The Caste System and Its Implications*, London, 1972, at p.258.

128 Supra note 53, at p.99-100.

part of the women and children under their charge is deemed to reflect disfavouredly on male superiority and honour. Kabeer observes that

men tend to control most of the household's material resources, including the labour of female and junior members of their households, and also to mediate women's relations with the non-familial world. Women are generally reluctant...to seek incomes outside the socially sanctioned relationships of family and kin, first because there are few options to do so, and second, because they could forfeit the support of their kin.<sup>129</sup>

In the interests of good relationships in the households--and social status in the community — it is, thus, important that women present no challenge to the formal authority of their men.<sup>130</sup> Kabeer confirms

Women's well-being therefore tends to be tied to the prosperity of the household collectivity and their long-term interests best served by subordinating their own needs to those of the dominant male members of the household.<sup>131</sup>

The crucial aspect of this situation is that women almost never control any purchases. While the handling of cash is essentially undertaken by men, women are responsible for the 'inside' job of nurturing the home and family. Feminists argue that these differences result in the continued oppression of women. As Gavison describes

One frequently criticised characterisation views the market, like the hunt or war, as cruel and harsh, governed by self-interest and power. The family, on the other hand, is a realm of affection, love, harmony and co-operation. Under this perspective, men, because they are stronger, volunteer to face the harsh 'outside' world, and women, grateful to have been spared, provide the warmth and support that enables the men to return to the harsh world of money-making.<sup>132</sup>

Therefore, in another sense, women being economically disabled, continue to be subservient to male dominance in their domestic, productive and reproductive life.<sup>133</sup> Given their perceived status as economic dependants, women tacitly assume their complementary role in which male superiority and dominance are often taken for granted.<sup>134</sup>

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129 Kabeer, N., "Poverty, Purdah and Women's Survival Strategies in Rural Bangladesh" in Bernstein, H. et al. (eds), The Food Question, London, 1990, pp.134-148, at p.137.

130 White, S., "Behind Whose Throne? Power and Images of Women in Bangladesh", 9 (1989) Politics, pp.28-33, at p.32.

131 *Supra* note 129, at p.137.

132 Gavison, R., "Feminism and the Public/Private Dichotomy" in Eckelar and Maclean (eds), A Reader on Family Law, Oxford, 1994, pp.99-151, at p.119.

133 Manohar, K., "Rural Women, Class Formations and Development" in Kausik, *supra* note 75, pp.41-8, at p.45.

134 Dube, S., "Men's and Women's Roles in India: A Sociological Review" in Waid, B. (ed), Women in the New Asia, Paris, 1963, pp.174-203, at p. 192.

While authority and decision-making are essentially vested in the male, traditional ideology demands that women remain within the boundaries of the home. Their work, therefore, is also carried out within prescribed boundaries. The chief responsibility of women lies in the reproduction and nurturance of children, who represent the future generation of family lineage and labour. The reproductive capacity of women is used as a mechanism whereby they are eliminated from activities outside the sanctuary of their homes. Apart from bearing and rearing children, women are largely responsible for the overall post-harvest processing of crops, cattle and poultry keeping, kitchen gardening, craft and handiwork, gathering firewood and cowdung for fuel and collecting water for domestic use. Other chores include cooking and cleaning. These chores are, however, not considered to be productive or income-generating and are regarded as a 'natural' manifestation of women's domestic roles.<sup>135</sup> Women, therefore, 'rule the roost' whereas men rule the society.<sup>136</sup> However, any attempt on their part to alter the customary form of sexual division of labour is perceived as a serious threat to established norms of gender identity in terms of masculinity and femininity.<sup>137</sup>

In Bangladesh the economic activities of women are often hidden, disregarded or go unnoticed primarily because they are perceived of as wifely duties rather than as work.<sup>138</sup> Agarwal argues that

... the 'visibility' of women's work is especially important as it [is] not enough that women and girls do productive tasks, but also that the work is *socially recognised* as valuable. Agricultural fieldwork which is physically more visible than home-based work and work which brings in earnings which is economically more visible than, say, the 'free' collection of fuel-wood, fodder and water, appears to be given (by no means justifiably) a higher social value.<sup>139</sup>

The perception that women's household work is not economically valuable invariably places a lower economic value on the women themselves. The perception is often shared by those women as they regard their work as an

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135 Supra note 101, at p.52.

136 Supra note 66, at p.147.

137 Mackintosh, M., "Gender and Economics: The Sexual Division of Labour and the Subordination of Women" in Young, K. et al. (eds), Of Marriage and the Market: Women's Subordination Internationally and Its Lessons, London, 1984, pp.3-17, at p.13.

138 Wallace, B. et al., The Invisible Resource: Women and Work in Rural Bangladesh, Boulder, 1987, at p.1.

139 Agarwal, B., "Neither Sustenance Nor Sustainability: Agricultural Strategies, Ecological Degradation and Indian Women in Poverty" in Agarwal, B. (ed), Structures of Patriarchy: The State, the Community and the Household, London et al., 1990, pp.83-120, at p.93.



extension of their caring and nurturing functions, rather than as a materially rewarding activity.<sup>140</sup>

However, empirical evidence shows that although women are culturally constrained to low productivity occupations, their wage income is often critical for the survival of poor households where male earnings are inadequate for the sustenance of the entire family.<sup>141</sup> Female participation in wage earning is often underestimated in official statistical reports. The chief reason for this seems to be an unwillingness on the part of women to undermine male superiority by admitting to earning wages outside the home. The World Bank Country Report maintains

that even when female contributions are 'visible' ... females or males who respond to enumerators are unwilling to admit to female income earning or expenditure-saving activities. Also, because it is not yet socially acceptable for females to be seen as independent income earners, males or even females ... are often unwilling to admit that women are engaged in wage employment.<sup>142</sup>

Male monopoly, therefore, continues even in the face of a gradual erosion of the traditional patriarchal values that reinforce gender subordination and seclusion.

The segregation between men and women in the economic sphere is duplicated and reinforced at the ideological and political level.<sup>143</sup> Observance of *pardah* is a powerful operator in this regard.

Adherence to *pardah* norms helps to maintain the distinction between male and female spaces. However, *pardah*, in its proper sense, can be maintained only when there is a general well-being in the family. Women who enjoy a high economic social standing observe strict *pardah* and do not generally work in the fields. Although *pardah* is found to be dispensed with in the face of poverty, any improvement in the economic condition of the household often results in the invariable and immediate withdrawal of its women from wage labour.<sup>144</sup> In such cases, some women feel proud of being able to keep *pardah* especially because it proclaims the change in circumstances for their families.

140 Kabeer, N., "Do Women Gain from High Fertility?" in Afsar, H. (ed), Women, Work and Ideology in the Third World, London, 1985, pp.83-106, at p.93.

141 Cleland, J. et al., The Determinants of Reproductive Change in Bangladesh: Success in a Challenging Environment, Washington D.C., 1994, at p.76.

142 World Bank Country Report, Bangladesh: Strategies for Enhancing the Role of Women in Economic Development, Washington D.C., 1990, at p.27.

143 Westergaard, K. "Implications of Rural Pauperization for the Economic Role and Status of Women in Rural Bangladesh" in Ballhatchet, K. and Taylor, D. (eds), Changing South Asia: Economy and Society, London, 1984, pp.21-32, at p.22.

144 Greeley, M., "Patriarchy and Poverty: A Bangladesh Case Study", 3 (1983) South Asia Research, , pp.35-52, at p.41.

During the socialisation of children, the parent's sexual division of labour is normally reproduced in their offspring. Children learn to adjust their personality and skills to fit their anticipated roles. The early sexual division of labour in which boys and girls work encourages 'sexual dualism'.<sup>145</sup> In the context of Bangladesh, this means that like the father, male children are delegated work outside the precincts of the home, whereas, girls, like the mother, play the traditional domestic role within the boundaries of the homestead. Such a thorough division of tasks at a very young age engenders unambiguous and powerful norms regarding appropriate work roles and responsibilities of males and females.<sup>146</sup>

Cultural factors often have an independent effect on sex roles and consequent division of labour among children in the family. In many regions social traditions dictate and decide which job should be undertaken by boys and which by girls. In certain circles, for example, customary norms ensure that boys are employed much more than girls or when there is a desire to emulate the standards of specific social classes.<sup>147</sup> Cultural influence is perceived in Bangladesh where the tradition of *purdah* arguably restricts participation of females in income generating activities outside the home. Sexual dualism, therefore, derives its validity from the culturally sex stereotyped division of labour.

Sex-role socialisation during childhood is also a process whereby patriarchy is perpetuated in Bangladesh. Mannan states that although the sexual division of labour is not obvious among very young children, once they reach the age of ten, the gender division becomes clearer.<sup>148</sup> Boys then undertake heavier tasks in the agricultural and marketing activities outside the home, while girls become increasingly confined to household activities. At this stage, boys are often resentful of and reluctant to undertake domestic activities within the household as they are strictly labelled as 'girl's work'.

Young girls spend most of their childhood learning the work roles, skills and tasks that constitute women's share of the division of labour.<sup>149</sup> They contribute substantially to household work, including food processing, collecting fuel and water and caring for younger children. Khuda in his study on child labour in a village in Bangladesh, found parents admitting that most girls begin to work earlier than most boys.<sup>150</sup> The starting age for domestic work for girls

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145 Fyfe, A., *Child Labour*, Cambridge, 1989, at p.25.

146 *Supra* note 28, at p.423.

147 Mendelievich, E., *Children at Work*, Geneva, 1979, at p.32.

148 *Supra* note 113, at p.26.

149 *Supra* note 28, at p.423.

150 Khuda, B., "Child Labour in Rural Bangladesh: Some Findings from a Relatively Developed Village" in Kanbargi, R. (ed), *Child Labour in the Indian*

can be below the age of five. As with female labour in general, much of the labour of girls goes unrecognised and unappreciated. They carry the heaviest burden of preparing food, fetching water, cleaning the house, washing the clothes and caring for siblings. Yet their activities are considered to be 'unproductive'. As the jobs undertaken by female children do not directly bring cash into the family their work carries little value. Since the process of socialisation involves learning by doing, young girls, by assisting their mothers, spend most of their childhood working. This form of work allocation continues through their teens and well into adulthood.

The tendency to overburden the girl child often stems from the expectation that she will leave home after marriage. Since the net outflow of wealth from a daughter to her parents stops after marriage, it seems better to make her work hard while she is still home.<sup>151</sup> A young girl's apprenticeship, however, does not terminate with marriage. The subordination experienced by the new bride in her new home increases manifold when her diligence and skills are critically evaluated by her mother-in-law and other older females of her husband's family.

It is evident that a combination of conservatism and traditional values demand that there be very little separation of the child's world from the adult's world. The contribution of children's labour demonstrates how child work can be a mechanism by which sex roles are learned and perpetuated.<sup>152</sup> Consequently, children are left with very little time and space within which to experience the transition from childhood to adulthood. Nor do adults feel the need to chalk out a social framework for their children to grow up and develop within. Patriarchal notions together with poverty ensure the continuing link between parents and children. This results in the impossibility on the part of one to escape from the other. Moreover, as sons absorb their 'authority' from early in their lives, the rigid division of child labour along gender lines facilitates and strengthens the control and domination perpetuated by men within the family and the society.

It is evident that children, like women, contribute substantially to household welfare from a very early age.<sup>153</sup> Apart from serving as means for women to fulfil their 'societal, familial and personal goals'<sup>154</sup>, children also have an economic value to their families. Consequently, there is a strong link between the economic needs of the family and the household size. The socio-economic

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Subcontinent: *Dimensions and Implications*, New Delhi, 1991, pp.49-62, at pp.53-4.

151 Banerjee, S., *Child Labour in India*, Anti-Slavery Society, Child Labour Series, Report No.2, London, 1979, at p.8.

152 Supra note 145, at p.25.

153 Cain, M., "The Economic Activities of Children in a Village in Bangladesh", 3 (1977) *Population and Development Review*, pp.201-27, at p.213.

154 Supra note 105, at p.103.

scenario and the agrarian structure in Bangladesh encourage people to bring up large families. Kabeer notes that the economic rationale for family size is influenced to a large extent by the need of the household economy to build its labour force and perpetuate itself.<sup>155</sup> This operates as a major disincentive for adopting family planning measures in Bangladesh.<sup>156</sup> While extra children for the poor spell extra hands, parents, however, fail to perceive the validity of the contra-argument that “the fewer mouths to feed, the fewer hands would be needed.”<sup>157</sup> Even if they do perceive it, women can do little to control the situation as they hardly have any say in the planning of their families. Moreover, given the high mortality rates<sup>158</sup>, it may be deemed sensible to have more children.

The potential labour power of children, therefore, is significant. Where households are the key units of production, their survival depends on their ability to reproduce themselves and maintain their viability.<sup>159</sup> Cain and other, in their study on the structure of the labour market and reproductive behaviour in rural South Asia, assume that children in poor households mean extra labour power.<sup>160</sup> This ensures a steady income for the family by diffusing the risk of unemployment among a number of workers. Jeffery and other also contend that parents are inclined to have many children, preferably sons, to avoid the trouble of having to employ outside labourers.<sup>161</sup> Cain states that the demand for labour in both household production and household maintenance being high, the advantages of being able to draw on family labour are many.<sup>162</sup> Therefore, aside from hired labour, a household usually counts on the labour supplied by its own members.

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155 Supra note 140, at p.98-9.

156 Ellickson, J., “Rural Women” in Women for Women, Bangladesh 1975, Dhaka, 1975, pp.81-9, at p.82.

157 Hossain, H. et al., No Better Options? Industrial Women Workers in Bangladesh, Dhaka, 1990, at p.49.

158 According to the State of the World's Children 1995 UNICEF Report, the mortality rate for children under five years has been reported as 122 in 1993. The infant (under one) mortality rate at the time is reported to be 94.

159 Crehan, K., “Rural Households: Survival and Change” in Bernstein, H. et al. (eds), Rural Livelihoods: Crises and Responses, Oxford, 1992, pp.113-134, at p. 113.

160 Cain, M. et al., “Labour Market Structure and Reproductive Behaviour in South Asia” in Rodgers, G. and Standing, G. (eds), Child Work, Poverty and Underdevelopment, ILO, Geneva, 1981, pp.245-87, at p.253-4.

161 Supra note 84, at p.183.

162 Cain, M., “The Household, Lifecycle and Economic Mobility in Rural Bangladesh”, 4 (1978) Population and Development Review, pp.421-38, at p.426.

Similarly, the International Labour Organisation (ILO) assessment suggests that about 80 per cent of the child labour in the world can be classified as unpaid help within the family.<sup>163</sup> By far the most extensive use of child work in developing countries is in family farming. Apart from running and fetching for adults, children may also shoulder adult responsibilities to a great extent. The system of engaging children in subsistence farming permits parents to reduce their own workload by utilising their children's labour. Some of the tasks performed by children, such as cutting fodder, carrying water, feeding livestock and looking after younger siblings relieve adults for more productive work. Not only is it true that many millions of poor families have no choice but to demand long hours of work from their children, there is also some trade-off between the burdens of parental and child work.<sup>164</sup>

One other mechanism which makes a trade-off of work between parents and children possible is the pledging of the labour of children. This arises in cases where the parents have a loan or debt to pay off. The system is known as debt bondage. It occurs when a person with no security or collateral to offer and needing to raise a loan pledges his/her labour or that of someone under his/her control, as security for the loan. Children are pledged as part of this system.<sup>165</sup>

Children of both sexes play an essential part in complementing the family finances. Khan observes that a prevalence of family farming and unemployment problems in non-farm sectors compel family members to assist the adult males of the family in income generating activities.<sup>166</sup> She argues that in such an economy, it becomes difficult to determine the sex specific participation rate or work categories which shift constantly. Therefore, where families possess very few income generating assets, they deploy all available sources of labour to sustain the family. "The crucial element in the survival strategy of such a household is the mobilisation of its entire workforce irrespective of sexes".<sup>167</sup>

Parents regard children, usually the males, as an old-age insurance against such contingencies as death or illness of the principal earner, divorce or desertion in the case of the mother or risk of losing land and other assets due to natural calamities. In the absence of one's son, depending on a daughter, which, in effect, means depending on the daughter's husband, is precarious because

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163 Bouhdiba, A., Exploitation of Child Labour, Final Report of the Special Rapporteur to the Sub-Commission on the Prevention of Discrimination and Protection of Minorities, United Nations, New York, 1982, at p.17.

164 Supra note 145, at p.73.

165 See Sawyer, R., Children Enslaved, New York, 1988, at pp.45-66.

166 See Khan, supra note 60, at pp.8-9.

167 Islam, R., "Women, Work and Wages in Rural Bangladesh", 2 (1981) Journal of Social Studies, pp.56-69, at p.59.

there is no strong social obligation for a man to support his wife's parents.<sup>168</sup> Even where he agrees, he is likely to do so reluctantly, in which case, there is a chance that it will adversely affect the quality of the care. Gender subordination in the rigid social structure restrains the daughter from making overt contributions to her parental home. Therefore, an unmarried daughter's labour is squeezed to the last before her inevitable departure to her husband's home after marriage.

Expectations of assistance from children arise from the deep-rooted concept of sharing the burden along with the elders of the family. Mendelievich believes that within the social framework in which children are compelled to work, the most pressing need for them to seek work is to reduce, to the greatest extent possible, the poverty in which they live.<sup>169</sup> Even the smallest payments, in cash or kind, are welcome in an impoverished home. The chief reason behind children's solidarity within the family, therefore, appears to be the need to compensate, as much as possible, the economic burden that they represent and thereby, share the maintenance of the family.<sup>170</sup> All members of the family pool their resources for survival. In situations where pooling remains one of the greatest strengths, children not only expect to work, they often feel it is their moral duty towards their families. Apart from serving as a guarantee for future livelihood, children consider the economic contribution to the family income to be a 'legitimate obligation' an offspring owes to her/his parents.<sup>171</sup>

Children are, therefore, utilised to satisfy the perceived needs of the family and kin group to which they belong. The course they pursue to fulfil their economic duties is determined by relevant socio-economic factors. Early participation in economic activities, however, compel children to experience a fast transition through the different stages of their childhood. Such transition is found to be important in conceptualising their productive life cycles. As Cain observes in her study

One is struck by the apparently abrupt transition in children's status, from completely dependent recipients of parental indulgence and affection, to subordinate responsible economic actors — Given that most parents exercise direct control over their children for a limited, although not insubstantial, period of

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168 Cain, M., "The Material Consequences of Reproductive Failure in Rural South Asia" in Dwyer, D. and Bruce, J. (eds), *A Home Divided: Women and Income in the Third World*, Stanford, 1988, pp.20-38, at p.25.

169 *Supra* note 147, at p.8.

170 *Ibid.*, at pp.8-9.

171 Kung, L., "Factory Work and Women in Taiwan: Changes in Self-Image and Status", 2 (1976) *Signs: Journal of Women in Culture and Society*, pp.35-58, at p. 56

children's productive lives, the timing of the transaction is an important determinant of the net economic value of children to parents.<sup>172</sup>

It is important that children be viewed as valuable, even if (as in some societies), this is for purely economic reasons.<sup>173</sup> The economic activities of children and their contribution are, however, underrated. On the contrary, the sacrifices parents make in the care and upbringing of children are overstressed. Parents have a strong vested interest in the labour of their offspring as they stand to benefit most from it. Children are controlled in their decisions and are subordinate to their parents' wishes, in so far as they engage in occupations favoured and selected by the latter. In so doing, children inevitably find themselves working along gender biased divisions of labour.

The state of affairs discussed above does not, however, render women and female children completely helpless. On the contrary, they have their own methods of resisting the unequal treatment within the household. The devising of strategies to gain personal autonomy reveals their struggle against ideological barriers. The resistance of women and children is often legitimised by the weakening of the normative household ties within the society. The competition for scarce resources, for example, compels women and female children to break away from normative roles within the family and seek outside employment. For example, in the last few years the garment producing industry has provided women, particularly young, unmarried girls with an unprecedented source of employment.

In the patriarchal society of Bangladesh, since the male guardian is considered to be almost omnipotent, their protracted resistance to employment of their females in factories is hardly unexpected. A working wife/daughter threatens the *izzat* (honour) of the husband/father. The general idea is that family members will eat only when, and if, the adult male earns anything. As Kabeer explains

The marital contract in Bangladesh is based on the norm of male breadwinner/guardian and its corollary, female dependence and seclusion, and forms a key social relationship in the lives of adult men and women. An earning wife threatens the balance of power within marriage by her routine daily contacts with strange men (and attendant sexual connotations), by impugning the breadwinning ability of her husband, and consequently, by undermining the foundations on which his sense of masculine selfhood rests.<sup>174</sup>

Kabeer goes on to say that some women are found to have overridden these objections by striving to persuade their guardians that their moral character will

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172 Supra note 153, at pp.209-11.

173 Archard, D., *Children: Rights and Childhood*, London, 1983, at p.168.

174 Kabeer, N., "Women's Labour in the Bangladesh Garment Industry: Choice and Constraints" in El-Solh, supra note 31, pp.164-83, at p.169.

not be compromised by factory work.<sup>175</sup> Others choose not to inform their male guardians until after they have secured a job, thereby securing space for negotiation. When adult females fail to persuade their male guardians to permit them to work, female children presumably take their places and earn on behalf of the family. However, female children, while sharing their mother's willingness to indulge in feminine sacrifices, nevertheless attempt to ameliorate their own economic and social status by engaging in employment in export oriented industries. The usual scene that meets the eye in the early morning on the streets of Dhaka is that of an army of young women walking purposefully to work in the city's various garment industries. This sight was unimaginable even a decade ago in a society where traditionally women are governed by the dictates of patriarchy and were to remain indoors. Female children are thus making a rapid departure from the sex-stereotyped roles they have been brought up to play.

## CONCLUSION

It is clear from the above discussion that the girl child in Bangladesh internalises the prevalent patriarchal and religious ideologies, often to her own detriment. Imbued with notions of propriety, inferiority and a sense of guilt, the girl child is confined within the privacy of the domestic space where her work is unacknowledged and undervalued. The subordination of the girl child is perpetuated by the ideological legitimisation of the perceived role of girl children within the inner domestic sphere. Interestingly, this brings about another aspect of gender subordination. The distinction between 'work' as 'private' and unremunerated and 'labour' as 'public' and remunerated. This also emphatically highlights the perceived inequalities between the sexes and their division of labour. 'Work' being private is traditionally seen as a girl's activity whereas a boy's gainful activities are regarded as 'labour' since they are 'public' in nature. The gender ideology, therefore, proves particularly powerful in disguising the value of work performed by girls.

By drawing distinctions between 'work' and 'labour', law too plays a significant role in constituting the ideology that legitimises a sexual division of labour which proceeds essentially from the subordination of women in society. Thus, by designating activities by girls as 'work' and those by boys as 'labour', legal discourse on child labour continues to perpetuate ideologies of gender within the family and the community. The 'labour' that is carried out by boys in the public sphere appears to be worthy of restrictive legislation, as it is perceived as income-generating in the formal sense. In contrast, a girl's hidden 'work' within the private sphere, which carries little obvious economic (cash) value, does not merit the attention of such legislation. Therefore, it may be argued that

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<sup>175</sup> *Ibid.*



the orientation of the notion of child labour to economically-valued work naturalises the existence of the traditional divide between male and female children in society. However, the girl child workers in the garment industry of Bangladesh are an atypical case because they have not only crossed over to what is essentially 'male' territory but have also become visible through taking part in what has been categorised as 'labour'. It is only by virtue of their participation in waged employment in the public sphere that these female children become 'worthy' of protective legislation.

It has been suggested that female children's understanding of their needs and the consequent measures taken to satisfy them, when a generation ago their mothers were content with their passive roles, are actions that can be interpreted as

congruent with self-interest, given the inter-generational changes in their situations, even though the mothers' behaviour may appear to be altruistic and that of the daughters self-interested.<sup>176</sup>

Therefore, it would not be correct to assume that households are purely altruistic and co-operative units without taking into account the importance of power, conflict and inequality among various members within them. In this light, the Bangladeshi girl's emergence from seclusion into waged employment may be interpreted as conscious actions on the part of these girls motivated by both altruism and self-interest. Thus, apart from expending their energies and their earnings for the benefit of their families, Bangladeshi women and female children are making great strides in changing their cultural perceptions regarding their own well-being.

However, the liberation of female children from economic and social dependence through waged employment in export factories is not without problems. At the crux of this situation is the tension between different views on child labour. For example, in the West childhood is conceptualised as a formative period during which children develop skills for the future through educational programmes. As such child labour is considered to be a 'waste' of human resources.<sup>177</sup> In Bangladesh, on the other hand, children are regarded as economic assets who have an obligation to their families for raising them. Moreover, in view of the existing socio-economic conditions, work from an

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176 Agarwal, B., "Gender, Resistance and Land: Interlinked Struggles Over Resources and Meanings in South Asia", 22 (1994) *The Journal of Peasant Studies*, pp.81-125, at p.94.

177 Takanishi, R., "Childhood as a Social Issue: Historical Roots of Contemporary Child Advocacy Movements", 34 (1978) *Journal of Social Issues*, pp. 8-28, at p.15.

early age is considered to be essential for acquainting children with their future roles as adults.

Since children are highly vulnerable it is only right to be concerned about their welfare and to concentrate on circumstances that exploit children's vulnerability. The adverse effects of child labour may be traced to the socio-economic setting within which children work. Where children contribute to family economies and towards their own subsistence, Western notions regarding children's employment and the desirability of formal education appear impractical. While not glamourising child labour, it is argued that it should not be presumed that formal schooling is necessarily preferable to children's employment in all situations. Moreover, in Bangladesh it is clear from the prevalent gender stereotyped norms that child labour is not the only obstacle to effective learning.

I do not, however, stress that the recognition of the importance of cultural and traditional values should necessarily prevail over the human rights of the working child. Rather, where culture and traditions are inconsistent with the sustenance of the 'best interests of the child', then what is essentially beneficial for the child should be retained, at the same time relinquishing that which is harmful. In all this regard must be had to the child's own needs and desires. Similarly, policies on child labour would probably have greater success if they accepted the contradictions inherent in culture and law to produce a hybrid view that would actually benefit the child whom they intend to protect. Thus attempts should be made to achieve benefits accruing from child labour, at the same time guarding against potential dangers, before outright condemnation of the practice.