

research highlights

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Gender Relations in Bangladesh

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How are gender relations in Bangladesh constructed and how do they affect the capacity of women to exert agency in their lives? What is the effect of dowry, local justice and property rights; and what can NGOs do to make a difference?

Introduction

For more than a decade, CARE Bangladesh has been striving to promote sustainable livelihoods for poor rural households. Attempts are now being made to broaden and strengthen this approach, and to place women and girls at the centre of the organisation's development efforts (see *Boxes 1 and 2*). This paper, which summarizes a more extensive literature review, is intended as a contribution to the project. The first two parts explore how gender relations in general have affected women's power to take decisions, and identify significant changes that have recently taken place. Subsequent sections then go on to investigate how various more specific institutional arrangements – relating to dowry, locally administered justice and property rights – constrain women's ability to exert greater agency, and to ask what NGOs can do to make a difference.

Box 1: The series

CARE Bangladesh is transforming itself into a rights-based organisation that will identify and address the underlying causes of poverty. This is one of several studies designed to aid the transition by clarifying the nature of the context in which the organisation works and showing how this affects the activities undertaken. Further details of the series appear in Box 2.

Traditional gender relations and women's agency

In most respects, Bangladeshi society remains a classic patriarchy, where descent is traced through the male line and where, after marriage, a woman must normally reside in her husband's home. Social values sanction the segregation of the sexes, impose a strict division of labour and institutionalise male supremacy. Women ideally pass through a series of roles: from daughters, to wives, mothers and mothers-in-law, each of which imply different types of obligations, responsibilities and entitlements.

Households are corporately organised, leaving women dependent on men for their access to resources and social networks. Relationships with husbands are of central importance and characterised by asymmetrical interdependence, where the wife stands to lose much more from the termination of the marriage than her spouse. For this reason, women tend to adopt a submissive attitude and avoid overt conflict, only resisting men's control through subtle forms of negotiation or in more clandestine ways, and limiting their horizons to achieving a status of joint household managers. Considerable variations may, however, still arise within these broad parameters. Some relationships, especially when the woman is better qualified, may be of a more co-operative type, where the husband is less controlling and more caring, and respects the wife's management skills and intelligence.

At the other extreme, some may be abusive and violent and allow the woman hardly any agency at all. Relationships can also change as circumstances alter, for example, where a husband falls ill.

A woman's relationships with her wider circle of agnates (in-laws) depends upon whether she lives in a nuclear household or one with a joint structure - where typically the mother/father-in-law, and any brothers-in-law and their wives and children share a kitchen. Very poor single women may also sometimes form their own households whilst continuing to live in an extended family compound. The position of a woman in a joint household depends on the status of her husband, whilst a woman living within the extended family compound depends on her link to the household head.

The relationships between different women in the same compound combine elements of co-operation in the performance of tasks and conflict over the allocation of resources. For a daughter-in-law in her early years of marriage, the nature of the relationship with her mother-in-law becomes a crucial factor in determining her level of agency. Daughters-in-law are themselves ranked according to the seniority of their husbands, with the wife of the oldest son normally having authority over the wives of younger sons, although this can change if a younger son outstrips his elder sibling in economic status.

It is common among marginal and poor households for married sons to set up a separate household after two to three years of marriage, although they may continue to live in the same family compound. Under these circumstances, although women may still help each other out in times of emergency by taking over family chores, this reduces the control a mother-in-law can exert over her daughter-in-law. Women in this situation are more able to openly buy or sell personal items, lend grain to neighbours, save money, arrange visits to their natal families or use contraceptives. But although women may be able to gain greater agency in these respects, the overall ideology of male control, and the implicit threat of violence if a mark is over-stepped, still remain. At the same time, whilst the capacity to engage in such activities and to

become more mobile, might, from certain points of view, be regarded as empowering, this can also be interpreted as entailing a loss of social status.

Whether in a joint or a nuclear setting, women will also typically rely to some extent on their affines or on a wider group of neighbours and acquaintances to manage their day-to-day household affairs. Items like egg and milk may be borrowed, exchanged or sold within these circles, and women may act as intermediaries by helping other members sell goods in the market through their husbands. Such linkages may be especially important for widows whose mobility is restricted by *purdah*. Class, however, plays an important part in determining how such relationships are constructed. In particular, there is a limit to the extent poorer women can engage in reciprocal exchange, and many have traditionally been obliged to enter patron-client relations with their wealthier peers, which entail the performance of various domestic tasks for very low wages.

Where affinal and neighbourhood relationships break down or prove insufficient, women may call on their natal kin for support. Birth families might, for example, cover a daughter's medical expenses, call for a *shalish* (local adjudication) if the husband had been extremely abusive, or help a widowed sister or daughter to contest her claim to her husband's property. But the extent to which such assistance can be afforded is again a function of social class.

Recent changes

Whilst the patterns that have been described continue broadly to hold good, recent years have seen a series of significant changes that have started to modify the terrain of gender relations and offer women more room for manoeuvre. In paper 5 of this series (*Box 2*), Mallorie describes how a combination of technical and macro-economic change has drawn women progressively further into the agricultural labour force, helping them, in the process, to secure more control over household income.

Increasing labour migration has also proved of considerable significance. In particular, male migration overseas has had a marked impact on the wives left behind. In nuclear families, women in general and the older and more educated in particular, have been able to assume a greater role in deciding about issues like children's education and health care, and have become more active in the management of bank accounts and household expenditure. In most joint families, by contrast, women have not received remittances, which have instead been sent to their father-in-laws or other male family members. In these circumstances, the absence of the husband has also been associated with an increase in the degree of control exerted by her in-laws over the wife left behind, with any extra-household dealings being strictly monitored. In some instances, however, women have been able to counteract such behaviour by moving in with their own parents, or by seeking their support in disputes about how remittances should be used.

Women are also increasingly likely to become migrants themselves, and this has generally had a positive impact on their agency. Married women working in garment factories have gained a sense of entitlement and more voice in managing household resources. When migrants return home, however, their unwillingness to re-assume traditional gender roles can sometimes lead to conflict, and some have established separate savings accounts, which improves their fall-back position in the event of their marriages breaking down.

For many of the poorer women remaining within the rural areas, the increasing programme of NGO activities from the 1970s onwards has made a significant difference, with the provision of credit being central to most interventions. In a process that has again been covered by Mallorie, this has made a substantial difference to women's capacity to be heard and respected, although this does not necessarily lead to any fundamental shift in gender relations, and may on occasions spark adverse reactions where women miscalculate how much their husbands are prepared to concede in return for the greater resources they now contribute.

Many NGO programmes have achieved impacts going beyond the capacity to improve the material well-being and status of women within the context of the individual household. The formation of groups by women from poor households, in a society where by themselves women have previously only interacted with their kin and others in their *para*, often represents a significant change.

In certain instances, members have been encouraged to access state entitlements such as cash for education and free food. Other groups have taken action around issues of domestic violence and the threat of divorce. Others still have mobilised around *shalish* (discussed later). In addition, spontaneous protests by women members about the quality of health care services have been reported, and NGOs have mobilised women to protest against public policies and organise rallies in support of women's demands. But such mass protests only tend to lead to change where 'vertical linkages' to local representatives or high officials have been established.

NGO membership has also increased the likelihood that women will vote, but this has not been reflected in an active engagement in political processes. Measures taken by the government in 1997 sought to address this issue by reserving three seats on each Union Parishad (UP) for women. But despite high voter turnouts, the measure has so far not proved very successful, with women members generally unable to perform effectively through lack knowledge about the functions of the UP, and as a result of discrimination by their male colleagues.

To counter this, the government has subsequently issued a directive stating that women should head one third of the UP project implementation committees and at that least one women member would have to be included on two thirds of all project committees. Early indications are that this may be having some effect.

This completes the preliminary discussion of the broad construction of gender relations. Subsequent sections now consider developments in more specific arenas, starting with dowry.

Dowry payments

Dowry may be defined narrowly to refer only to cash payments, or more broadly to include consumer and other goods transferred by the bride's to the groom's family at marriage. It is most commonly known as '*dabi*' (demand), but may also be rendered as '*chaoa*' (wish), '*abdar*' (wish) or '*jamai-r samman*' (groom's honour) in different regions, and has fundamental implications for women's status and agency.

The practice has now extended to all communities and levels of society, and has completely displaced the bride price (*pori*) system that was formerly prevalent among Muslims. Traditionally confined to upper caste Hindus, among whom it is popularly supposed to compensate for the lack of female inheritance rights, it began to spread to lower castes during the Pakistan period, and was then taken up by wealthier urban-based Muslims after the formation of Bangladesh in 1971, before finally reaching out to the rural areas and Muslim families of more modest means from the 1980s onwards.

A survey conducted in 2004 found that the amount of dowry offered by Hindu families now averages 26,000 taka¹, whereas Muslim families paid 19,000. At the same time, the average value of the gold ornaments given to the daughter by Hindus was 34,000 taka, which was almost almost 7,000 taka higher than the overall national figure. These sums were, however, subject to marked regional variations, with the Dhaka division showing the highest levels, Rajshahi the lowest and Chittagong and Sylhet lying somewhere in between. Whilst dowry has become an important avenue of capital accumulation for nearly all men, the value and nature of the gifts commanded vary significantly by social class and level of education. Those from households with a monthly income below 2,000 taka typically receive cash payments of around 6,000 taka, whilst those with incomes of 10,000 taka are more likely to receive consumer goods, the average value of which is 27,000 taka.

¹ 1 taka = \$0.02

There is no comparable data on how women's education and status affect levels of payment, and different ideas have been advanced about what is happening here. One view suggests that highly educated women can be perceived by the groom's family as overqualified and difficult to control, leading to a high amount of dowry being demanded. But a bride's educational achievement may also be seen in itself as a form of dowry, since it is assumed that this will enable her to command a higher income. What is, however, clear is that men are prepared to accept lower payments in the case of young brides, who are thought more likely to conform to the cultural ideal of purity. This, in turn, provides an incentive for parents, especially those from poorer households, to marry their daughters off early. Parents of girls with the favoured lighter skin colouring may also be able to negotiate a lower payment.

No clearly agreed explanation has emerged as to why dowry has been taken up so comprehensively by Muslims, or to why it now takes the various forms that have been noted, and it would appear that a complex set of factors is at work. Some analysts have pointed to the social construction of women as dependents, who have no alternative to marriage, as the key. Because they are perceived to do no productive work, or to have a lower potential income than men, it is reasoned that the husband's household needs to receive some form of compensation. This, however, is difficult to square with the fact that dowry has been increasing at a time when more and more women are participating in employment outside the household.

Other observers have favoured explanations rooted in political economy. One variant of this school points to the emergence of a new indigenous class of bureaucrats, army officials, black marketers and politicians in the post-independence era, who turned to dowry as a vehicle for converting their newly acquired wealth into status; in the process ushering in a new set of consumerist values that then spread downwards through the economic hierarchy. Another sees the wider shift from an agricultural and land-based system to an urban-based cash economy as

the primary driver, and places particular emphasis on the significance of the opening up of urban based opportunities for higher education among better off males. Local level investigations also suggest that more specific economic changes, most notably the emergence of employment opportunities in the Middle East, may sometimes have played an important part. None of these proposed causes are mutually exclusive, but whatever explanatory value they may hold, it is clear that now dowry has become established, it has assumed a self-perpetuating quality, with bride's parents willingly paying in a desire to do what they can to secure the future happiness of their daughters.

Although almost everybody now has a stake in dowry, its overall social effect is still recognised as undesirable and legislation banning it has been enacted. Current anti-dowry laws are primarily a result of activism by women's organisations in the late 1970s, when incidents of dowry-related deaths were on the rise. The Dowry Prohibition Act, 1980, which is almost identical to the 1961 Indian Act, and which has subsequently been refined through a ruling of the Barisal High Court, is of central importance. This defines dowry as any property which is given or which is agreed to be given, whether directly or indirectly, by one party to the marriage, or by parents of one of the parties, or by any other third party, to the other party to the marriage. It also limits the value of gifts from those other than the parties involved in the marriage to 500 taka. Demanding, giving or taking dowry at, before or after the marriage as consideration for the marriage is prohibited and punishable by a prison sentence of between one and five years. Other relevant legislation includes the Cruelty to Women Deterrent Act of 1983, which was subsequently repealed and replaced by the Repression Against Women and Children Act (1995) and *Nari O Shishu Nirjaton Domon Ain* (2000).

None of this has in practice, however, made very much difference. People have generally proved unwilling to bring cases to court in the first place, since this would often be tantamount to an admission of guilt on their own part, and where cases are heard, they often become bogged down in technicalities

revolving around how precisely dowry should be defined.

NGOs, who see dowry as a prime source of violence against women, have been at the forefront of attempts to address this situation. Sessions have been organized to make members aware of the law, popular folk art forms has been used to communicate the anti-dowry message, and in the case of the Grameen Bank, the avoidance of dowry is included as one of the 16 decisions each member has to memorise. As a result of these initiatives, the formal legal position is now more widely understood, but there has been little or no impact on the incidence of dowry as such. Some NGOs have, however, helped women to use the law against in-laws harassing them for continued dowry payments after a marriage has taken place. Mediation services and the provision of legal aid have also provided a measure of protection for women confronted by divorce, or subject to more extreme forms of violence arising out of dowry related disputes. A greater level of effectiveness might in future be possible if action could be rooted in a more systematic analysis of the underlying causes of dowry and of dowry related violence, and if more could be done to provide women with effective fall back positions that would make it easier for them to exit violent relationships in the first place.

Access to local justice through *shalish*

Rural Bangladesh has a strong tradition of *shalish*, where male elders gather to consider local disputes and dispense forms of justice. From the 1960's onwards, these institutions have been accompanied by more formal government backed bodies based at Union level, which perform an overlapping range of functions. More recently still, NGOs have begun to get involved, seeking to reform the traditional *shalish* in ways that make them more responsive to the rights of women, whose interests are often intimately affected by the deliberations that take place.

Of these three co-existing types of *shalish*, the official model has had the least impact, and may be dispensed with first. It comprises two separate bodies. One is the Union Parishad Arbitration Council that originates from the Muslim Family Law

Ordinance of 1961. This empowers Union Parishads to intercede in disputes relating to divorce, polygamy and maintenance; but in practice, very few people seem aware of its existence and it is rarely activated. The second body is the Village Court, which was established by Ordinance in 1976, and is authorised to deal both with minor criminal offences and civil cases involving property not exceeding 5,000 taka in value. This has been used a little more, but has been impaired both by the narrowness of its remit and a lack of resources, and now appears to be in decline.

People generally prefer informal *shalish* to either of the officially constituted bodies, since these are held more regularly and offer a more accessible form of justice. These bodies are presided over by the local village elite and will normally include the UP chair; the local elders (*matbar*) who have a vested interest in the village economy as rentiers and moneylenders; and the village *mullah*, who may be the *imam* or the teacher of the local *madrasah*.

Although these traditional institutions enjoy no official status, the penal code and other laws still set statutory limits to their adjudication. These permit *shalish* to apply religious personal laws to settle family disputes relating to divorce, polygamy, maintenance and inheritance, and also through the Civil Procedure Amendment Act (2003) authorise them to deal with civil matters involving sums not exceeding 100,000 taka. But *shalish* cannot officially hear more serious criminal cases of the type that would normally have to be filed with the police, including murder, kidnapping, robbery, rape, assault and theft. In addition, they are specifically precluded, by Supreme Court Ruling, from issuing *fatwa*, and are forbidden from imposing inhumane and corporal punishment such as whipping, amputation, stoning or beating, which causes grievous physical injury or humiliation.

In practise these provisions are frequently ignored. There is a widespread acceptance, deriving from an apparent mistrust of formal justice, that *shalish* should be allowed to deal with criminal matters, with some people even thinking it appropriate for their jurisdiction to extend to the most serious cases, including

murder and rape. There is also a tendency for judgments to be based upon cultural norms and biases, rather than the relevant family or civil laws, especially in matters related to inheritance, polygamy and remarriage, and the judgments imposed are often arbitrary. Where community norms have been offended, *shalish* will frequently publicly humiliate or socially ostracize the person or the family of the accused, imposing degrading and egregious punishments in direct violation of formal law. This applies especially to the sphere of women's sexual behaviour and may actually be taken as far as whipping or stoning women who have been raped, on the grounds that in so doing they have been involved in an act of adultery. Accompanying these general difficulties is a more specific problem of inequity. Patron-client relations between a disputant and the committee members may affect outcomes, and it would be rare for judgments to be made against members of the male elite.

Women's participation in *shalish* is severely circumscribed. In certain parts of the country, they may be able to speak in their own cases, but they will normally lack the capacity to do so effectively. In more conservative areas, including Sylhet, Chittagong and Noakhali, and in other places where Islamism is increasingly taking hold, women must rely upon male relatives to speak on their behalf, and are totally excluded from proceedings, even as passive observers.

Recent NGO initiatives to reform the *shalish* have employed a range of mutually reinforcing measures in an attempt to counter biases against women and poorer men. Existing *shalish* committees have been modified or new ones formed to secure better representation of disadvantaged groups and parties sympathetic to their interests, which in turn makes it easier for ordinary people to put their case. Training, using role-play and other participatory methods, has been provided to raise awareness among committee members about relevant civil, criminal and family laws and human rights issues and the abuses inherent in actual *shalish* practice. Procedures have been tightened through the appointment of local mediators who record

complaints, issue notices to disputants, arrange sittings, attend sessions to make sure that everyone who wishes to can speak, monitor verdicts and follow up on implementation. Local referral systems with panels of lawyers have been put in place.

Whilst more systematic research is required to distil best practice and determine precisely what may or may not work under different circumstances, there are clear indications that all of this is helping to legitimise and secure women rights. The introduction of women mediators appears to have been a notable success, although some resistance to their work has inevitably been encountered, and they have not always been able to convert the greater awareness generated through training into actual improvements in practice. It appears that future efforts should focus especially on developing the leadership skills of women UP members so that they can then act with more authority on *shalish* and encourage other women to participate. Performance is also likely to improve as NGOs themselves become more attuned to local perceptions and practices, and more skilled in tailoring broadly based rights agendas to what can realistically be accomplished on the ground.

Women's property rights

The final area to be considered is women's property rights. The inheritance of property for Muslim women in Bangladesh is governed by the Muslim Personal Law (Sharia) Application Act of 1937, which is itself based on Hanafi law, one of the four legal schools recognised by the Sunnis, who account for the large majority of Muslims in Bangladesh. The underlying principle is that the bulk of property should pass to the male (agnatic) heirs, but that the claims of other parties specified in the Quran – most notably daughters, wives, mother and sisters – should also be recognised. In reality, however, these legal provisions enjoy little social legitimacy. As few as 10% of women actually receive their entitlement, and even where it is acquired, it remains hard to retain effective control over the property secured. Most women are reluctant to make any claim, giving up their rights voluntarily to ensure their brothers' support in case their marriage should subsequently break down.

Hostility from brothers or other family members, who may resort to using violence, and biased views on women's entitlement on the part of those who resolve land disputes, also make it hard for women to stake claims.

These issues have received somewhat less attention from human rights and development NGOs than the other areas considered in the paper, but some attempts have still been made to secure the implementation of existing laws, to lobby for a more equitable legal framework, and to seek innovative means for women to gain access to land and other property.

Efforts to implement existing laws begin with awareness-raising sessions included in more general legal education and human rights training programmes. At the same time, mediators have been trained to work through NGO-modified *salish*, and given specific instruction in how to counter the objections of religious bodies by pointing to the Quranic foundation of women's claims.

Instances of widows being helped to gain recognition of their claims in the face of opposition from their brothers-in-law have also been reported, but further study is required to determine the precise circumstances under which women feel able to stake claims in the first place, to see where such claims succeed and fail, and to identify where initial success translates into effective control in the longer term. Ideally, this would be conducted as part of a wider investigation into the relationship between inheritance laws, land ownership, and women's bargaining powers, both within and beyond the household. With this in place, it might then prove possible to replace the rather narrow and legalistic approach that is currently pursued with a more comprehensive and effective strategy.

Attempts to implement existing legislation have been accompanied by more ambitious initiatives to draft new and more equitable laws. Taking the Succession Act of 1925 as their point of departure, these seek firstly to ensure gender equality in inheriting property through demanding an equal share of property for women vis à vis men, and secondly to remove the inequity regarding inheritance between women belonging to

different communities. Lawyers have been engaged to draft a new Family Code based on these principles and to identify the types of reforms that would be required, and workshops, seminars and discussion sessions have been organised to build grassroots support. But the provisions made in the Sharia law have not been challenged in court, and prospects for implementation of the code are also threatened by opposition from the Islamic Foundation, which has drafted a number of specific objections.

Some other NGOs have focused on developing alternative means through which women can own property. The Grameen Bank provides loans that can be used for building houses on the condition that these are registered under the woman's name, whilst Samata mobilises landless women at the grassroots level to secure access to government (*khas*) land. But such initiatives, as well as again being vulnerable to opposition from religious groups, will again only be fully effective if women are able to exercise actual control over the use and disposition of any new property acquired. The case is yet to be made that women are producers, that they use land, and that they face discrimination in other areas of life because of their lack of access to property.

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Box 2. The series

1. Institutions and Rights
2. Social Capital in a Rural Community
3. Securing Access to Water Bodies
4. Land Policy and Administration
5. The Changing Role of Women
6. How Farmers Learn
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