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PROFILE OF BANGLADESHI WOMEN

Selected Aspects of Women's Roles and Status
in Bangladesh

Prepared for
USAID Mission to Bangladesh
by Susan Fuller Alamgir
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PREFACE

In February, 1976, all USAID Missions in Asia were requested by the Asia Bureau of the Agency for International Development (AID) to develop national profiles on the status of women in their respective countries. It was thought these national profiles might be useful to host governments, AID/Washington, and to USAID Missions in developing the strategy of future initiatives they may wish to undertake to improve the status of women.

In response to this request, USAID/Bangladesh contracted with Ms. Susan Fuller Alamgir, an American woman married to a Bangladeshi national and residing in Bangladesh for the past 5 years, to undertake the desk research for the Bangladesh profile. Ms. Alamgir, a trained librarian, was selected to undertake this research, not only because of her keen interest in the status of women in general, but also because she was personally in a unique position to observe and study the Bangladeshi woman's place in society from a Western perspective while actually living and participating very much within the culture.

The original request for this profile included a suggested outline or questionnaire to be used as a guide to preparation of the profile. Ms. Alamgir concentrated largely on the Part II sectors of the original

questionnaire--"Women's Legal and Social Status" and "The Rural Woman". Specifically, she investigated very thoroughly the laws and customs related to women's inheritance and property rights, marriage, and divorce. Because the legal aspects of population planning and the employment of women and children have been investigated by the Bangladesh Institute of Law and International Affairs, Ms. Alamgir has not dealt with those subjects in this paper. A full report of the Institute of Law study will be forthcoming; however, Ms. Alamgir did have access to an interim report of the study which was consulted in planning for the areas to be covered by the "Legal Status" section of this paper.

Very little field research has been done on rural women in Bangladesh. However, utilizing the limited information available, Part II of this paper responds to questions about the rural sector as given in the original questionnaire. While synthesizing the available information, this section also points out the inadequacies and gaps in the knowledge about rural Bangladeshi women. It is hoped this section will inspire further investigation of the particular areas for which information is scanty or non-existent.

The bibliography is divided into two sections based on the references consulted in relation to the research on the two broad areas discussed in the profile--women's legal status and the rural sector.

The statistics requested in the original questionnaire have been collected, to the extent they are available, and are attached as an appendix to the profile.

Finally, the original request for this profile included a number of broad questions about the general status of Bangladeshi women to be answered subjectively by the USAID Mission. As Women's Program Advisor to the Mission, I have attempted to respond to these in a very general way based on my own personal knowledge and two years of experience in Bangladesh and in consultation with several other individuals who also have experience and interest in the subject.

One of the most difficult things we had to face in developing the profile was to overcome thinking of Bangladeshi women in Western, Asian, or Muslim terms. None of these terms of reference adequately apply to the very unique situation of women in this country. The rural Bangladeshi woman has concerns about basic survival for her family and herself which come first and foremost in her priorities. Liberation, in the Western sense of the word, is a totally foreign concept which is only beginning to be discussed by a very small minority of urban Bangladeshi women. Therefore, the design and implementation of all women's projects, especially those funded by foreign donors, must be carried out with extreme sensitivity

and awareness of the unique position of Bangladeshi women, keeping in mind that it is absolutely essential to work within the cultural milieu.

In Bangladesh women's roles do follow a somewhat predictable pattern; nevertheless, there are also definite fundamental differences based on class (determined by land ownership and, to a lesser extent, by education), and also by religion and general economic conditions in various geographic areas. Data about women in Bangladesh are extremely limited. The data which do exist, such as the recently published collection of essays entitled Women for Women, are relatively small-scale studies heavily weighted toward the urban population which is less than ten percent of the total population of Bangladesh.

Women of Bangladesh must be seen as potential contributors or economic resources in the development process rather than just recipients of relief. This can be accomplished by recognition of the contributions already being made by women and by developing these present activities through additional training and support. Greater participation of women in agriculture and other development activities should be encouraged, especially as new methodologies are introduced.

Some recent indicators of the changing status of women in Bangladesh include the creation within the President's Secretariat of a Women's

Affairs Division headed by a Special Assistant to the President for Women's Affairs, the announced reservation of ten percent of public sector jobs for women, and the provision for women to compete in foreign and administrative service sections of the civil service exams for the first time starting in 1977. Other data which could be monitored to indicate changing status and the distribution of development benefits to women include changes in age at marriage and other marriage customs such as shifts in dowry payments, trends in fertility behavior, changes in employment of both educated and uneducated women, and the special recruitment of women to perform jobs not previously held by women.

I would like to take this opportunity to thank the individuals and agencies who have assisted Ms. Alamgir in this undertaking--by sharing their time, knowledge and materials. We sincerely hope the information collected in this profile will also prove to be useful to the many people whose hard work and dedication are furthering the cause of Bangladeshi women.

Sallie Craig Huber
Women's Program Advisor
USAID/Bangladesh

PART I - WOMEN'S LEGAL AND SOCIAL STATUS

This section attempts to answer some basic questions about the legal and social status of women in Bangladesh. The main emphasis of the section is on the legal rights of Muslim women, although some information on Hindu and Christian women is included. The statistics available at present are based on the 1974 Bangladesh Population Census. The census counted 71.4 million people of whom 37.1 million were male and 34.4 million were female. (1) The religious breakdown of the population was Muslim - 85.34%, Hindu - 6.89%, Scheduled Caste - 6.64%, Buddhist - 0.61%, Christian - 0.31%, and other - 0.15%. (2)

Social Status

Women in Bangladesh, today as for centuries, are dominated by a patrilineal and patrilocal kinship system. This applies to the majority of women irrespective of their religion, i.e. Islam, Hinduism, or Christianity. This system enforces the dependence of women on males--first, by keeping them under the social protection and care of male relatives, and secondly by according them status which is dependent upon the roles

(1) Bangladesh Census, 1974

(2) Government of Bangladesh, B.S. Statistical yearbook 1975. 1976:29.

they play within the system, i.e. as daughters, sisters, wives, mothers, daughters-in-law. Prior to marriage, women are usually under the protection of their fathers or brothers, though legally they reach majority at the age of eighteen. Before puberty, they have a fair amount of freedom of movement, but after puberty movement is severely restricted. Nevertheless a married woman who remains in her father's home or visits there for brief periods after marriage, has relatively more freedom in the parental home than she has as a married woman living in a nuclear or extended family.

Upon marriage, a woman usually moves to her husband's home and the responsibility for her protection is transferred from the father or guardian to the husband and his family. Being a wife and mother is seen as the primary role of women and it is through this role that she achieves her status in society. As a wife, she is expected to exhibit the qualities of self-sacrifice and patience. The social system does much to reinforce her dependent status both symbolically and in actuality. In order for her position to be secure, a woman must keep her husband and in-laws happy. This can only be accomplished by proper behavior and by bearing male heirs. Her inferior status is emphasized in many ways such as the custom of addressing the husband formally through indirect address, by keeping her head covered in his presence, and by remaining physically separate

when unrelated males are within the homestead. A woman is chiefly known by the kin terms related to her role, such as bou (wife), maa (mother), bhabhi (brother's wife), rather than by her given name.

After the death of the husband, the protection of women is socially transferred to the woman's sons, husband's family or, in their absence, to her own family. A woman without a son has relatively no social status within this system, and a woman who has only daughters may have difficulty in obtaining financial support from even her own family, especially from her siblings.

Legal Status

Like most western countries, Bangladesh has criminal and civil codes. It differs from the West, though, by allowing such social aspects of life as marriage, divorce and inheritance to be governed by personal laws. Personal laws are based on social customs and religious belief. As a result, there is no single set of laws that reflects the legal status of all Bangladeshi women. The following report attempts to clarify the existing differences within the context of the civil and personal laws as they apply to women's property rights, marriage and divorce rights and, in a limited sense, the relationship between a woman's legal rights and their social application.

Property Rights

Under both the civil and personal laws of Bangladesh, adult women have the right to own property. (3) They may purchase it with their own earnings or receive it as a gift. Muslim and Christian women may inherit property, but Hindu women can only take a limited life-time interest in inherited property.

A married Muslim woman's right to her earnings and property are guaranteed under traditional Muslim law, while a Christian woman's rights are established under the Married Women's Property Act of 1874 and the Indian Succession Act of 1925. The Married Women's Property Act of 1874 deals with wages and earnings. It states that:

The wages and earnings of any married woman acquired or gained by her...in any employment, occupation or trade carried on by her and not by her husband, and also any money or other property so acquired by her through the exercise of any literary, artistic or scientific skill and all savings from and investments of such wages, earnings and property, shall be deemed to be her separate property, and her receipts alone shall be good discharges for such wages, earnings and property. (4)

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- (3) The only limit that presently applies to property ownership by anyone is one of quantity. Under the Presidential Order P.O. 98, promulgated on August 15, 1972, a single family (whether joint or nuclear) is limited to a ceiling of 100 bighas (1 bigha=0.33 acres) of khas (land occupied directly not sublet) agricultural land.
- (4) Government of Pakistan, Ministry of Law & Parliamentary Affairs Law Division). Vol. II, 1966: 211-212

The Indian Succession Act of 1925 protects the property owned by her at the time of marriage:

No person shall, by marriage, acquire any interest in the property of the person whom he or she marries or become incapable of doing any act in respect of his or her own property which he or she could have done if unmarried. (5)

Hindu women once they are married are limited under the general Hindu Law in the types of property over which they can exercise full rights of ownership, i.e. property purchased from wages acquired as a result of employment cannot be sold or given away by the wife while the husband is living. The property over which Hindu wives have full control is called stridhana.

In all cases where married women are allowed to own separate property, whether under personal or civil law, they can enter into contracts regarding the property with any person or persons; may sue and be sued in their own name; may sell, rent or take a mortgage against it; or can give it away during their lifetime. Christian and Hindu women can will their property to whomever they choose. Muslim women, however, cannot will more than a third of their total estate, and they may not will

(5) Government of Pakistan, Ministry of Law & Parliamentary Affairs (Law Division). Vol. VIII, 1966: 221

their property to a person who would normally inherit from them under the Muslim laws of inheritance.

Property can be acquired through purchase, as a gift, or as inheritance. Except for inherited property, the fact that a woman has purchased landed property or received it as a gift does not establish her as the sole and legal owner of such property. In Bangladesh, it is neither the act of purchasing nor the receipt of property that determines ownership. Rather, ownership is determined by either the source of the income with which the property was purchased or who is intended as the actual beneficiary of a gift.

To purchase property a woman must have capital and, in order to prove that this capital with which the property was purchased is in fact her own, she must be able to prove that the capital derived from her own income. This capital may come from savings arising out of income from employment, sale of her personal property, rental fees or interest arising from business, or other forms of investment owned by her that she may have used as collateral to obtain a loan or liquidated for cash.

In Bangladesh only 4 percent of the total female population ages 10 years and above are economically active (see Table I) and only 12.2 percent are literate; therefore, very few women are qualified to seek

high paying and/or prestigious jobs. As a result, the probability of women accruing substantial savings from employment to be used as capital for the purchase of property is limited.

Nevertheless, there are several ways in which women can save. Informally they may save by purchasing gold or silver, by purchasing livestock, or by hiding cash. Formally they may possess savings accounts in either commercial banks, government banks, post office banks or in cooperative societies. Postal savings banks, of which there are 6,613 throughout Bangladesh, are available at the union (a geo-political unit comprised of about 10-15 villages) level. At these banks the following savings schemes are available: defense savings bonds, post office savings bonds, 6-year interest-cum-bonus schemes, prize bonds, national savings certificates and postal life insurance policies. For some working women, i.e. government employees, there is also the opportunity of savings in provident funds. These formal types of savings call for a certain amount of sophistication and/or mobility that to a large extent is not characteristic of the majority of women. This is, however, only an assumption since no data are available on how many women possess savings accounts or how much capital is involved.

Rural women can and do save through hoarding. Though most rural women are not employed for a wage, many are able to earn an income from

the sale of eggs and chickens, raising of goats and cows on a borga (sharing of products) basis, hoarding and selling at a higher price, and from loans of either cash or kind on a very small scale. From this small income they can save; however, their small savings are often used for medical or other emergencies rather than to purchase property.

In Bangladesh, there is no "presumption of advancement." This means that there is no legal assumption that a parent has a moral obligation to provide for his children or that a husband has a moral obligation to provide for his wife. In the gifting of property, it is imperative that at the time of transfer a legal document be drawn up stating that the person receiving the gift is meant as the sole beneficiary. If this is not done, it is possible for the former owner, under certain circumstances, to reclaim his gift. This reclaiming of property is possible because of the legality of benami transfer.

The word benami is of Persian origin and is composed of two words "be" and "nam" meaning "no name", or anonymous. The definition of benami transfer is:

Where a person buys property with his own money but in the name of another person or buys the property in his own name but subsequently transfers it into the name of another without any intention in either case to benefit such other person, the transaction is called benami, and the person in whose name the transaction is effected is called the benamidar. (6)

Benami holdings, which are indigenous to South Asia, have some similarities with holding property in trust. There are some fundamental differences, though, which include the following:

1. The knowledge and assent of the person in whose name a benami purchase is made is not necessary and is even immaterial.
2. The benamidar is not the "real owner" and receives no personal benefit from the property held in his name (a trustee is the present legal owner and beneficiary of property held by him in trust).
3. A benamidar incurs no obligation to maintain the property held by him (a trustee is liable for neglect to property which he holds in trust).

Since the legal "presumption of advancement" is invalid in Bangladesh, "ownership" is dependent upon the ability of the "owner" to prove that he has purchased the property with his own income. If a benamidar can show a source of personal income from which he could have purchased the property held by him, then it becomes almost legally impossible for the "real purchaser" to recover his property. If the benamidar cannot establish a likely source of personal income, the "real owner" can usually establish his ownership of the property in question without difficulty.

Thus, the one point upon which a property transaction turns is the "owner's" ability to prove purchase. As only 0.8 million women (34 per cent of all Bangladeshi women ages 10 years and above) are listed in the 1974 Census as constituting the female labor force and, since many women refuse their inheritance rights, it may be assumed that much of the property held by women is in the form of benami holdings. These holdings can at any time be reclaimed by the "real owner." For many women, gifted property is limited mostly to ornaments and household items given at the time of marriage. After marriage, Hindu women are limited in their legal rights over gifted property (see pages 21-22).

Inheritance

As mentioned previously inheritance is governed by personal laws. Muslims come under the Muslim personal laws. Hindus under the Hindu personal laws and Christians under the Indian Succession Act of 1925. In all cases, women who are wives, daughters, or mothers may, under different circumstances, inherit property.

Muslim Personal Laws of Inheritance

There is no single set of Personal Laws that apply to all Muslims. For the Orthodox Sunni sect alone, there are four major schools of law founded on the injunctions of the Koran - the Sunnah (tradition), Ijmāa (a consensus of jurists) and Kiyas (analogical deduction). These four

schools are the Hanafi School, the Maliki School, the Shafei School, and the Hanbal School. Each school is named after the Jurist who founded it. The Muslims of the Indian subcontinent, i.e. Pakistan, India and Bangladesh, are principally guided by the school established by Abu Hanifa. For this reason, the Hanafi school of law unless otherwise stated will be the basis for all discussion on Muslim Personal Laws.

The Muslim laws of inheritance are relatively straightforward but involve a great deal of mathematical computation. The following discussion is limited to some of the circumstances that involve women in their roles as wife, mother and daughter. In Islam there is no bar to women inheriting although the amount they inherit differs according to their relation to the deceased and number of other persons inheriting with them.

Except for one-third of the total estate which may be willed, the estate whether willed or intestate is divided according to set laws into specified shares. The one-third which may be willed cannot be willed to any person that falls within the category of legal inheritors. This means that a person may will $1/3$ of his property to an adopted child, leave it to a charitable organization or leave it to a friend. On the other hand, it cannot be left to a wife by her husband, or by a father to a specific daughter or son.

There is a group of people called primary heirs who, if they survive the deceased, always inherit a share. They include mother, father (and in his absence paternal grandfather), husband or wife, sons and/or daughters. The general rule of division is that a female receives half the amount of her male counterpart. The primary heirs are included in the three categories of legal inheritance - the sharers, the residuees, and the distant relatives. In the following examples, Koranic heir refers to the sharers, i.e. mother, father, husband or wife, and daughters. Agnatic heirs are lineal male descendants or ascendants, i.e. son, grandson, or uncle.

Inheritance as a Muslim Wife

When a husband dies, a widow is entitled to one-eighth of the estate. If there are no children she is entitled to an increased amount of one-fourth of the estate. On the other hand, should a wife die, her widower is entitled to one-fourth if there are children and one-half if there are none. For both the widow and widower this amount is fixed by law. Neither can inherit more than the specified share, and neither can inherit as a residuary. For example:

If there is a surviving widow (W), daughter (D), and son (S)

W = $1/8$ (as Koranic heir)
 D = $7/24$ (as Koranic heir)
 S = $14/24$ (as Agnatic heir)

If there is only a surviving widow

W = $\frac{1}{4}$ (as Koranic heir)
 $\frac{3}{4}$ (is residue and descends upon the distant relatives
as Agnatic heirs)

Inheritance as a Muslim Daughter

When a father/mother dies, a daughter is entitled to inherit either as a sharer or, where there is at least one surviving brother, as a residuary. Where there is no male descendant and one daughter she receives one-half of the total estate. Where there is more than one daughter but no male siblings, together they are entitled to a total of two-thirds of the total estate. If a daughter inherits as a residuary, then she receives half the amount of a brother. For example:

If the deceased leaves a surviving father and a daughter

D = $\frac{1}{2}$ (as Koranic heir)
F = $\frac{1}{6}$ (as Koranic heir) plus
 $\frac{1}{3}$ (as Agnatic heir). Thus, the father's total is $\frac{1}{2}$.

If the deceased leaves a surviving wife and daughter

W = $\frac{1}{8}$ (as Koranic heir)
D = $\frac{1}{2}$ (as Koranic heir)
 $\frac{3}{8}$ (descends upon the distant relatives as Agnatic heirs)

According to traditional Muslim law, if a child predeceases his parents, then his children are not entitled to inherit his normal share with the death of said grandparent. This custom has been altered by the Muslim Laws Ordinance, 1961, by section 4 which enacts:

In the event of the death of any son or daughter of the propositus before the opening of succession, the children of such son or daughter, if any, living at the time the succession opens, shall per stripes receive a share equivalent to the share which such son or daughter, as the case may be, would have received if alive. (7)

Inheritance as a Muslim Mother

When a son or daughter dies, a mother is entitled to a larger share of his or her estate than is a widow. But, unlike a widow, a mother is eligible to inherit as a residuee with the father. A mother's share in her son's estate is one-sixth when he has children. Under certain circumstances this amount can be increased to one-third. For example:

If there is a surviving father, mother and widow

W = $\frac{1}{4}$ (as Koranic heir)
 M = $\frac{1}{4}$ ($\frac{1}{3}$ of $\frac{3}{4}$ - as Agnatic heir inheriting with the father)
 F = $\frac{1}{2}$ (as Agnatic heir)

If the deceased leaves a mother and one brother

M = $\frac{1}{3}$ (as Koranic heir)
 B = $\frac{2}{3}$ (as Agnatic heir)

(7) Government of Pakistan, Ministry of Law and Parliamentary Affairs (Law Division). Vol. XIV, 1967: 68

Unlike any of the previous categories, there are circumstances when the mother and father inherit equally. For example:

If the deceased leaves a father, a mother and a son

F = 1/6 (as Koranic heir)

M = 1/6 (as Koranic heir)

S = 2/3 (as Agnatic heir)

From the above it should be clear that a Muslim woman can never inherit either a whole estate or its residue. This is the sole right of males. In spite of this, she always inherits some portion whether her relation to the deceased is that of mother, wife, or daughter. She also becomes the legal owner of any property inherited by her. However, it must be pointed out that Bangladeshi women do not always claim the property which they legally own through inheritance. The main reason for this is that a Muslim woman often "exchanges" her inheritance for visiting rights to her homestead. This social custom is called naior.

Naior is an informal kind of visiting right. A sister, instead of claiming her inherited share from her father's or mother's property, enters into an informal agreement with her brother or brothers whereby she gains the annual or semi-annual right to visit her family homestead. This agreement is not legally binding upon either party unless it is put in writing. For this reason it is possible for a daughter's descendants, especially if they are male, to lay claim to her rightful inheritance.

Though women usually gave up their claims to a share of an inheritance in favor of their brothers, Islamic law did not recognize such a renunciation. The woman's right to claim her share of the inheritance remained in abeyance. So, though the mother of a little boy may have relinquished her share in the inheritance to her brother, she might later make a claim to the land, which successful or not, would result in a long and bitter conflict... In the Shakhepur area.. two sisters belatedly claimed shares of their brother's land immediately after his death. They claimed that the land was rightfully theirs as the legitimate inheritance from their father. The brother's son fought this claim in the courts for eight years, losing the remainder of his land to court costs. (8)

It only becomes impossible for a daughter or her offspring to claim her share if she has at any time tried to claim the property, was thwarted in this attempt by her brother or brothers, and a period of seven years has elapsed without her filing a legal case against the brother. Title to land is also lost if the owner or any one owner has not shown any interest in or attempt to improve the property in the possession of another person within a period of 12 years.

By voluntarily forfeiting her right of inheritance, a woman does receive some tangible benefits. Naior helps to cement a good relationship between the woman and her brother. By being allowed to visit her home she is guaranteed better nutrition and a relaxation from the stricter code of behavior that is observed in the inlaws' home. Naior visits often coincide with periods of prosperity or ease of travel, i.e. May to June during the mango season and February to March during the winter season.

(8) Ellickson, J. 1972: 52-53

A positive relationship between a sister and her brother is further necessitated because of the general immobility of women. Their mobility is limited both by custom, i.e. purdah, and by ignorance. A male representative is almost an absolute necessity for any woman who wishes to seek a divorce or any widow who wishes to claim her share of her husband's estate. Men often complete most of the formalities as well as help to pay or give a loan to pay for the legal expenses involved. It is also this same lack of mobility that makes it difficult for a woman to manage any property she may own. She must often rely on relatives to oversee her interests, to hire men to work the land and harvest crops, and to function as middlemen in the marketing of produce.

Although women often do voluntarily relinquish their rights to ancestral property to their brothers, this is not the only reason why they do not acquire ancestral property. Aziz reports the following additional reasons based on village interviews:

Prior to death the father made legal transfer of all his property in favor of his sons so that the daughters could not claim any.

The daughter said that her father's property had been completely eroded by river.

She did not claim any paternal property as she had enough of her husband's property.

Her father had no property.

Her father had little property so she did not make any claim on it. (9)

Inheritance by Illegitimate and Adopted Children

Illegitimate children can legally inherit only from their mother. Even if a father admits parentage of a child, this does not enable the child to inherit from the father. If, however, a man does acknowledge that he is the father of an illegitimate child, a woman can legally sue him for child support during his lifetime.

Muslim law does not recognize adoption. An adopted child is only eligible to inherit from his real parents even though he may be supported during their lifetime by his adoptive parents. Children in this category, however, may be legally bequeathed up to, but not exceeding, one-third of the adoptive parents' estate.

Hindu Personal Laws of Inheritance

Like the Muslim Personal Laws, there is no one set of Hindu personal laws that apply to all Hindus. There are two main schools of Hindu law - the Mitakshara and the Dayabhaga Schools. Both schools are founded on three sources - the Śruti (that which is heard) believed to be the very words of the deity, the Smṛiti (that which is remembered) from the sayings of the Rishis or sages of antiquity, and custom. The Dayabhaga is the prevailing school in West Bengal and Bangladesh and is the primary source of the following discussion.

(9) Aziz, K.M.A. 1976: 100

The Dayabhaga Law recognizes only one method of the devolution of succession to property, i.e. the succession of all property whether jointly or separately owned. This mode of succession is primarily based on the capacity of a person to confer or to receive spiritual benefit. Those who can confer spiritual benefit fall into three classes of heirs - the sapindas, the sakulayas, and the samanodakas. Women who are wives, mothers and/or daughters fall within the first group comprised of 48 male sapindas and a total of 5 female sapindas. Unlike Muslim law there is no specific group that always automatically inherits, but rather an order of inheritance. Each class of heirs takes before and excludes the whole of the succeeding classes. Therefore sapindas come before sakulayas and the latter before samanodakas. Also unlike the Muslim personal laws, this order applies only to intestate property.

The order in which intestate property descends is dependent upon the sex of the owner, her marital status if the owner is female, and when, how, and from whom her property was acquired. In all cases there are only five classes of women that are eligible to inherit. They are the widow, the daughter, the mother, the father's mother and the father's father's mother. Male heirs, whether succeeding to a male or to a female, take absolutely while female heirs, whether succeeding to a male or female, take limited interest, i.e. life interest, in the property inherited by them. This means that they in fact do not hold the property as the sole legal owner and may neither sell it nor pass it on to their heirs.

The order of divestment of property owned by a Hindu male is as follows: son, grandson, and great-grandson inheriting equal shares followed by widow or widows (under the laws governing the marriage of Hindus in Bangladesh, a Hindu male may have an unlimited number of wives), daughter, daughter's son, father, and mother.

Inheritance as a Hindu Wife

The traditional rights of a widow to inherit have been altered by the Hindu Women's Right to Property Act, 1937. Instead of inheriting after sons, grandsons, and great-grandsons, she is entitled to inherit with the son when a Hindu husband dies intestate under the following provisions:

Section 3. (1) When a Hindu governed by the Dayabhaga School of Hindu Law dies intestate leaving any property--his widow, or if there is more than one widow all his widows together, shall, subject to the provisions of sub-section (3) be entitled in respect of property in respect of which he dies intestate to the same share as a son:

Provided that the widow of a predeceased son shall inherit in like manner as a son if there is no son surviving of such predeceased son, and shall inherit in like manner as a son's son if there is surviving a son or son's son of such predeceased son:

Provided further that the same provision shall apply mutatis (in so far as applicable) to the widow of a predeceased son of a predeceased son.

(3) Any interest devolving on a Hindu widow under the provisions of this section shall be the limited interest known as a Hindu women's estate, provided however that she shall have the same right of claiming partition as a male owner. (10)

(10) Government of Pakistan, Ministry of Law and Parliamentary Affairs (Law Division). Vol. IX, 1934-1939, 1966: 401

This right of inheritance is subject to the traditional conditions that a widow be chaste at the time of inheriting and that she has not and does not remarry. The rights to inheritance under this Act do not entitle her to get agricultural land. (11)

Inheritance as a Hindu Daughter

Daughters do not inherit from their father unless all of the first four categories of persons are absent. When all of the widows are dead, the inheritance goes first to the unmarried daughters, next to married daughters who are unprovided for, then to married daughters having children, followed by barren, childless and widowed daughters. The ability of all the above categories to inherit is also conditional upon their chaste status. An illegitimate daughter has no right of inheritance to her father's estate.

Inheritance as a Hindu Mother

A mother inherits after widows, daughters, and daughter's sons although the father inherits before the mother if he is alive. Only a natural mother can inherit; stepmothers do not have this right. Like a daughter, a mother takes a limited life interest in the estate conditional upon her chastity.

As mentioned previously, Hindu women do not own any inherited property, and cannot therefore pass such property on to their own descendants, or relatives. What property she does own is called stridhana. It is composed

(11) Rakshit, M.K. Vol. I. 1964: 69

of purchased and gifted property. According to Hindu law, every kind of stridhana belonging to a woman passes on her death to her heirs, though every kind of stridhana cannot be disposed of by a woman at her pleasure. The factors that govern a woman's control over her property are as follows:

1. A woman has complete control over property earned by mechanical arts during maidenhood and widowhood; over property gifted to her by her father, mother, or a brother; over property purchased with the income from her stridhana; over all gifts made "before the nuptial fire" and gifts made during the bride's procession.

A woman may give away, sell, will, lease, or take loan against the above types of property without her husband's consent.

2. A woman does not have complete control over property gifted by strangers after marriage; over property given after marriage by the husband or his family, or over property earned by mechanical means during marriage though all of the above property is technically her stridhana.

All of the property mentioned in section 2 above is subject to the husband's dominion during his lifetime, but a woman also gains complete control over this property upon her husband's death. Thus, inheritance of property owned by a woman depends upon whether or not the woman was married, and when and from whom the property was acquired.

For an unmarried Hindu woman, property devolves in the following order: uterine brother, mother, father, father's heirs in order of propinquity, and kinsmen of the deceased herself, that is, mother's heirs in order of propinquity. (12)

A married Hindu woman's property is divided into four classes each with its own order of succession.

1. Shulka - presents to the bride to induce her to go to her husband's home, or marriage fee: whole brother, mother, father, husband. (13)
2. Yautaka - gifts received by the woman at the time of her marriage: unbetrothed daughters, betrothed daughters, married daughters who have or are likely to have sons, barren married daughters and childless widowed daughters taking together in equal shares, sons, daughter's sons, and son's sons if she has children. If she does not have children, the order of inheritance of this class of gifts is husband, brother, mother, father. (14)

(12) Mulla, D.F. 1970: 175

(13) Mulla, D.F. 1970: 176

(14) Mulla, D.F. 1970: 183

3. Anwadheyaka- gifts presented by the father after marriage: unbetrothed daughters, betrothed daughters, sons, married daughters who are likely to have sons, barren married daughters and childless widowed daughters taking together in equal shares, daughter's sons, son's sons if the deceased has children. If the deceased had no children, the order of inheritance is brother, mother, father, husband. (15)
4. Ayautaka - gifts given by relatives either before or after marriage, excluding those given by the father after marriage, descend to: sons and maiden daughters taking together in equal shares, married daughters who are likely to have sons, son's sons, daughters sons, barren married daughters and childless widowed daughters. If there are no children the order of inheritance is brother, mother, father, husband. (16)

Illegitimate daughters have the same rights as daughters to inherit from their mothers. As with male property, women take only a limited lifetime interest in property inherited from a female. A women's chastity has no bearing on her ability to inherit another's stridhana.

(15) Mulla, D.F. 1970: 183-184

(16) Mulla, D.F. 1970: 185

In point of fact, it seems that Hindu women rarely inherit even the limited interest they are entitled to by law. Aziz, in a study of Comilla villages, observed that childless widows often forfeit their inheritance to their brothers-in-law. He also noted that daughters never inherited from either their fathers or mothers. (17) Instances were given where the new male owner made provisions for the maintenance of the widows and for providing the daughters of the former owner with ornaments and household effects at the time of marriage, as well as paying the cost of social visits and other social obligations. (18)

In order to provide for a daughter after his death, a father would sometimes give property to the daughter as a gift by legal document during his lifetime. Also, a husband would sometimes set aside a piece of property for the use of his widow during her lifetime. (19)

Christian Rights of Inheritance

The Christian laws of inheritance are regulated by civil law. Under the Indian Succession Act of 1925, Christians may will all or any portion of their properties to whomever they chose. The laws under this act applying

(17) Aziz, K.M.A. 1976: 101

(18) Aziz, K.M.A. 1976: 103

(19) Aziz, K.M.A. 1976: 104

to the divestment of Christian property apply only when a Christian dies intestate. In these circumstances, a surviving widow and all lineal descendants inherit.

Inheritance as a Christian Wife

If the intestate has left a widow, provided she has not made a valid contract before her marriage excluding her from her distributive share of her husband's estate, she inherits one-third of the estate with two-thirds going to the lineal descendants. When there are no lineal descendants, but persons who are kindred to the deceased, the widow receives one-half and the kindred one-half. When there are no lineal descendants and no kindred, the widow inherits the entire estate.

Inheritance as a Christian Daughter

If the intestate has left a daughter, she inherits equally with other siblings and/or lineal descendants as may arise through a deceased sibling. When there is a widow but no other siblings, a daughter is entitled to two-thirds of the estate. When there is no widow and no siblings, the daughter inherits the entire estate.

Inheritance as a Christian Mother

A mother is only entitled to inherit from the intestate when there are no surviving lineal descendants and no surviving father. In the absence of lineal descendants and a surviving father, but when there is a surviving

widow, a mother is entitled to one-half the estate (to be shared with surviving kindred, i.e. brothers and sisters or their lineal descendants). In the absence of lineal descendants, a surviving father, and a widow, the mother is entitled to inherit the whole estate along with any other surviving kindred.

Marriage

Based on the Child Marriage Restraint Act of 1929 and a subsequent amendment in 1961, the marriage of females under the age of 16 is illegal. This act defines a "child" as a person, if male, who is under eighteen years of age, and if female, who is under sixteen years of age. "Child marriage" is defined as a marriage in which either of the partners is a child. This act in no way nullifies or invalidates or in any other way affects the legality of a "child marriage." It only provides for punishment for contracting, performing or not preventing a "child marriage." The following are the provisions for such punishment:

Section 4: Whoever, being a male above eighteen years of age, contracts a child marriage shall be punishable with simple imprisonment which may extend to one month, or with fine which may extend to one thousand Taka, or with both.

Section 5: Whoever performs, conducts or directs any child marriage shall be punishable with simple imprisonment which may extend to one month, or with fine which may extend to one thousand Taka or with both, unless he proved that he had reason to believe that the marriage was not a child marriage.

Section 6: Where a minor contracts a child marriage any person having charge of the minor, whether as parent or guardian or in any other capacity, lawful or unlawful, who does any act to promote the marriage or permits it to be solemnised or negligently fails to prevent it from being solemnised, shall be punishable with simple imprisonment which may extend to one month or with fine which may extend to one thousand Taka, or with both; provided that no woman shall be punishable with imprisonment. (20)

Due to the absence of an efficient system for the registration of births correct age is difficult to establish and therefore the above law is very difficult to enforce.

Though a girl may be married at the age of 16 with the consent of her guardian, she cannot legally contract her own marriage before she reaches the age of 18. However, Muslim women do have the legal right to renounce a marriage contracted before reaching the age of 18, and if unconsummated the marriage will be rendered invalid. The registration of all Muslim marriages is required under the Muslim Marriages and Divorces (Registration) Act, 1974. Records of civil marriages performed in front of Magistrates are kept at the Collectorate but there seems to be no compulsion to register marriages among Hindus and Buddhists. Registration of Christian marriages is provided for under the Births, Deaths and Marriage Registration Act of 1886. Except for civil marriages, the laws governing the validity of the

(20) Government of Pakistan, Ministry of Law and Parliamentary Affairs (Law Division). Vol. VIII, 1924-33, 1966: 431-432

form of marriage is determined by personal (religious) laws of the persons involved.

A Muslim marriage is basically a contract between two mutually consenting parties, both of whom are above puberty. The marriage is simultaneously proposed by one of the contracting parties (the man) and accepted by the other (woman) in the presence of 2 competent witnesses. Mahr or dower is offered along with the proposal of marriages. The mahr is a sum of money or other property which the wife is entitled to receive from the husband in consideration of the marriage. If the amount of dower is not fixed, the wife is entitled to "proper" dower even if the marriage was contracted on the express condition that she should not claim any dower. In determining what is "proper" dower, regard is to be had to the amount of dower settled upon other female members of her father's family such as her father's sisters. Dower becomes confirmed by consummation of the marriage or by death of either husband or wife. For religious purposes, civil registration is not necessary for the marriage to be valid. Nonconsummation of the marriage does not render it automatically invalid.

In Bangladesh, limited polygamy, the practice of having more than one wife at a time, is permitted. A man may have as many as four wives simultaneously, but a woman may have only one husband at a time. The Muslim Family Law Ordinance (Act VIII of 1961), included a section that

was meant to limit a husband's ability to contract more than one marriage at a time. Section 6 of this Act, enacts that:

- (1) No man, during the subsistence of an existing marriage, shall, except with the previous permission in writing of the Arbitration Council, contract another marriage, nor shall any such marriage contracted without such permission be registered under this Ordinance.
- (2) An application for permission under sub-section (1) shall be submitted to the Chairman in the prescribed manner, together with the prescribed fee, and shall state the reasons for the proposed marriage, and whether the consent of the existing wife or wives has been obtained thereto.
- (3) On receipt of the application under sub-section (2), the Chairman shall ask the applicant and his existing wife or wives each to nominate a representative, and the Arbitration Council so constituted may, if satisfied that the proposed marriage is necessary and just, grant, subject to such conditions, if any, as may be deemed fit, the permission applied for. (21)

The grounds upon which polygamous marriages are approved include inability of the wife to look after the household due to physical or mental illness and the absence of any children. Polygamous marriages contracted in violation of the above ordinance are not valid, but are supposed to have the following consequences:

(21) Government of Pakistan, Ministry of Law and Parliamentary Affairs
(Law Division) Vol. XIV 1961-62, 1967: 69-70

1. The husband is responsible for immediately paying the entire amount of dower, whether prompt or deferred, due to the existing wife or wives, which amount if not so paid shall be recoverable as arrears of land revenue.
2. On conviction upon complaint, be punishable with simple imprisonment, which may extend to one year or with fine which may extend to five thousand Taka, or with both. (22)

Widows are free to remarry in Islam after observing a waiting period called iddat. The purpose of iddat is to determine whether or not the widow is pregnant. Iddat is fixed at four months and ten days, or three months if the widow is past menopause, and extends to delivery of the child or the completion of the prescribed number of days whichever occurs later. This waiting period must be observed when a valid marriage is dissolved by death. Marriage to a women undergoing iddat is prohibited and to a women lawfully pregnant who is undergoing iddat is unlawful. During this period a Muslim widow is not entitled to maintenance.

The registration of marriage by Muslim citizens is not dealt with under the Muslim Marriages and Divorces (Registration) Act of 1974. Persons called Nikah Registrars are granted licenses provided that not more than one Nikah Registrar shall be licensed for any one area. Every registrar is to maintain a separate register of marriages and all entries in each

(22) Government of Pakistan, Ministry of Law and Parliamentary Affairs (Law Division) Vol. XIV 1961-62, 1967: 69-70

register are to be numbered in a consecutive series, with a new series being commenced at the beginning of each year. "On completion of the registration of any marriage..., the Nikah Registrar shall deliver to the parties concerned an attested copy of the entry in the register, and for such copy no charge shall be made." (23)

Registrars are under no obligation to check whether the contracting parties to the marriage are in fact the ages they profess to be at the time of the ceremony. Therefore, for the present at least, these registrars do not act as a support to the Child Marriage Restraint Act of 1929. The Muslim Marriages and Divorces Restraint Act provides the following deterrent for non-compliance with the law:

Whoever contravenes the provisions of sub-section (I) i.e. registering his marriage with the Nikah Registrar shall be punishable with simple imprisonment for a term which may extend to three months or with fine which may extend to five hundred Taka, or with both. (24)

For Hindus, marriage is inherently a sacrament and not a contract. The legal effect of marriage upon the wife is to transfer her both bodily and spiritually from her parental family to that of her husband's. She adopts the gotra of her husband and theoretically becomes united to him in flesh and blood. (A gotra is a clan the members of which are believed to be

(23) The Bangladesh Gazettee, Extra. Part V, July 24, 1974: 5350

(24) The Bangladesh Gazettee, Extra. Part V, July 24, 1974: 5350

blood related. Among Hindus every effort is made to avoid marriage between members of the same gotra). That a girl has reached puberty is not necessary for the contracting or validity of a Hindu marriage. During the lifetime of the husband, he is to be regarded by the wife as a god and no religious rite is allowed the wife apart from those to which her husband adheres. In Bangladesh, unrestricted polygamy is allowed to Hindu males, but a Hindu female is allowed only one legal husband.

The principle purpose of marriage among Hindus is the begetting of sons.

Through a son the father conquers the world;
 through a son he obtains immortality but
 through his son's grandson he gains the world of the son.
 Because a son delivers his father from hell, he is
 therefore called putra, deliverer from Put (hell). (25)

The emphasis on having sons is for religious purposes as only men can light the funeral pyre and offer sacrifices to and for the deceased soul.

There were 8 forms of marriage that were recognized under ancient Hindu law of which only two are still recognized. These two forms are the Brahma form (where the father or guardian of the girl gives the bride in marriage without receiving any consideration from the bridegroom) and the Asura form (where a consideration is received).

(25) Rakshit, M.K. 1964: 40

There is no prescribed ceremony necessary to constitute a marriage valid, but according to orthodox rites the ceremony should include an invocation before the sacred fire and saptapadi (the taking of seven steps by the bridegroom and bride jointly before the sacred fire). With the seventh step the marriage becomes valid. Consummation is not necessary for the completion of a marriage. At present there is no law dealing with the registration of Hindu marriages.

The remarriage of widows is not allowed under traditional Hindu law, but this right has been granted under the Hindu Widow's Remarriage Act, 1856. This Act provides:

- (1) No marriage contracted between Hindus shall be invalid, and the issue of no such marriage shall be illegitimate, or by reason of the woman having been previously married or betrothed to another person who was dead at the time of such marriage any custom and any interpretation of Hindu law to the contrary notwithstanding;
- (6) Whatever words spoken, ceremonies performed or engagements made on the marriage of a Hindu female who has not been previously married, are sufficient to constitute a valid marriage, shall have the same effect if spoken, performed or made on the marriage of a Hindu widow; and no marriage shall be declared invalid on the grounds that such words, ceremonies or engagements are inapplicable to the case of a widow; and

In the case of a widow who is of full age, or whose marriage has been consummated, her own consent shall be sufficient consent to constitute her remarriage lawful and valid. (26)

(26) Government of Pakistan, Ministry of Law and Parliamentary Affairs (Law Division) Vol. I, 1966: 52

Although Hindu remarriage is allowed, it is very uncommon in Bangladesh. Those instances which do occur are usually among the shudra or the lowest class. Data on Hindu remarriage based on the Cholera Research Laboratory census of 1968 in Matlab Thana show that 13.8 percent and 2.8 percent of Hindu males and females, respectively, have more than one marriage. (27)

In Christianity, marriage is a sacrament. This sacrament is usually performed by a priest or minister in the presence of at least two competent witnesses, but a Christian marriage can also be performed by a Marriage Registrar. The procedures for obtaining a certificate to marry come under the Christian Marriage Act of 1872. In all cases, a notice must be given in writing stating the intent of the parties to marry, and this notice must be posted in a public spot. If no objections are filed against the marriage, then a certificate permitting marriage is issued, and the marriage can be solemnized. This certificate becomes invalid 2 months from the date of issue, if the marriage is not solemnized during that period. The completion of the marriage ceremony is not sufficient to make a marriage complete--consummation of the marriage is necessary. Only monogamous marriages are legal. With the death of either spouse, the other partner is free to remarry. Registration of Christian Marriages comes under the Births, Deaths and Marriages Registration Act of 1886.

(27) Aziz, K.M.A. 1976: 94

Marriage Customs

Traditionally, the early marriage of girls is favored by both Muslim and Hindu religions:

Parents start thinking about a future spouse for their daughter when she starts developing the physical characteristics of puberty. This does not necessarily mean that her menses have already begun. In most of the cases, it is the mother of the girl who starts thinking about the selection of a partner. She asks her husband to inform other people that there is a marriageable daughter in their family. (28)

Though the parents of the girl may be interested in finding a suitable partner for their daughter, it is probable that most marriages occur after the girl attains puberty. (29) Girls are conditioned from an early age to anticipate marriage and to accept the norms of behavior allotted to the roles she plays as wife and mother.

In Bangladesh the vast majority of marriages are arranged by the parents or other relatives of the parties to be united. The proposal of marriage is initiated from the groom's side and the father of the bride usually makes the final decision to accept a proposal, though his decision may be heavily influenced by relatives. The economic status of both the boy's and the girl's family are considered both in the offer and acceptance of a proposal of marriage. In addition, the personal qualities of the groom (i.e. education,

(28) Netherlands Family Planning Research Team, 1973: 40-41

(29) Aziz, K.M.A. 1976:88

health, character and position) and the bride (moral reputation, obedience, manners, pioussness, complexion, health, and skill as a housewife) are taken into consideration by both families. In some instances, the groom's opinion or acceptance of the bride may be sought, but a girl's opinions or desires are rarely taken into consideration.

Among Muslims, Hindus, and Christians, considerable negotiations and discussions go on between the two families, as well as among relatives, about traditional payment of dower and dowry. These demands are highly influenced by religious and family customs. The giving of dowry (a fixed amount of money or property to be given to the groom) has been present in all three religions for some time, but the demands being made upon the bride's family by both Muslims and Hindus seem to be increasing. (30) To a large extent these increased demands are offsetting the more traditional demands of dower for the bride (For Muslims, mahr dower is given to the bride and for Hindus, paner byah is a price paid to the father for the bride). These demands for dowers may often exceed the means of many fathers who also are expected to bear the costs of the wedding which usually takes place in the bride's home. Traditionally, dowry is supposed to be returned with the girl to her family if she is divorced. In reality, many women forego both their dower and, for Muslims, their mahr as claiming it

(30) Lindenbaum, S. 1974: 3

might harm their chances of remarriage or involve litigation. (31) In addition, a Muslim woman will often not oppose her husband if he wishes to take a second wife for fear that he might divorce her. It is socially more acceptable to be a co-wife than a divorced woman. (32) However, the 1968 Cholera Research Laboratory census in Comilla indicates that divorce is more frequent than multiple marriage. The statistics show that 25.2% of ever-married Muslim males had more than one marriage (33) while at the time of the census only 1.2 percent of the married Muslim men had polygamous marriages. (34) This trend in multiple marriages seems to indicate serial monogamy rather than polygamy.

(31) McCarthy, F.E. 1967: 30 and Abdullah, T.A. 1974: 19

(32) Netherlands Family Planning Research Team, 1973: 3

(33) Aziz, K.M.A. 1976: 94

(34) Aziz, K.M.A. 1974: 19

Divorce

As marriage under Muslim law is a contract, it can be dissolved both according to traditional Muslim law and/or under the provisions of the Dissolution of Muslim Marriages Act, 1939. Several forms of divorce are valid without the intervention of the court. These include talag, ila or zihar by the husband; talag-i-tafweez by the wife; and khula or mubaraat by mutual agreement between the parties. The forms of divorce that are valid only after the intervention of the court are Il'an by the husband or any of the causes brought forward under Act 8 of the Dissolution of Muslim Marriages Act by the wife.

Under traditional Muslim law, a valid Muslim marriage may be dissolved by divorce in the following forms:

1. Talag, or repudiation by the husband usually in the form of pronouncing "I divorce thee". The husband is entitled to pronounce a talag at any time he wishes without the consent of the wife regardless of whether she is Muslim or kitabī (Christian or Jew). Talag is the mere arbitrary act of a Muslim husband who may repudiate his wife at his own pleasure with or without cause. Upon pronouncing talag a husband is supposed to pay the former wife any residue of the mahr. Under Islamic law, a husband is allowed to remarry his wife if only a single talag is pronounced. After a third talag, a husband cannot remarry the same wife unless the wife herself remarries and divorces or is divorced by her new husband.

2. Talaq-i-tafweez, or divorce of the husband by the wife in the same manner as talag. A woman may pronounce talag only after the husband has delegated her this power. Once delegated though, this power cannot be revoked by the husband. A wife pronouncing talag does not lose her right to mahr unless otherwise specified in the marriage contract.

3. Ila, or vow of continence by the husband. When a Muslim husband who has attained puberty and is of sound mind swears by God or takes a vow (involving a penalty for its breach) not to have sexual intercourse with his wife for a period of four months or more or for an unspecified period and in pursuance of such oath or vow refrains from intercourse for a period of four months, he is said to make ila.

4. Zihar, or injurious comparison of the wife to certain prohibited relations. In the language of law zihar signifies a man comparing or likening his wife to any of his female relations who are within perpetually prohibited degrees by consanguinity, affinity or fosterage, or to any undivided part of any such relation's anatomy which it is not lawful for him to see.

5. Khula, or redemption by the wife. This is a dissolution of marriage sought by the wife by agreement made between the parties to the marriage involving the giving of some consideration to the husband for release of the wife from the marriage tie (usually the return of mahr).

6. Mubaraat, or separation by mutual consent. This is dissolution of marriage on the part of both parties who are desirous of dissolving it. (35)

7. Il'an, or imprecation. A claim for divorce on the part of a woman who has proven before a court of law that she has been falsely accused of adultery by her husband. (36)

In addition to the traditional forms of divorce offered by Muslim Law, a woman may also seek a divorce before a court of law under the Dissolution of Muslim Marriages Act, 1939. Under this act a married woman is entitled to obtain a decree for the dissolution of her marriage without necessarily losing her right to mahr on any one or more of the following grounds:

- 1) That the whereabouts of the husband have not been known for a period of four years;
- 2) That the husband has neglected or has failed to provide for her maintenance for a period of two years;
- 3) That the husband has been sentenced to imprisonment for a period of seven years or upwards;
- 4) That the husband has failed to perform, without reasonable cause, his marital obligations for a period of three years;
- 5) That the husband was impotent at the time of marriage and continues to be so;
- 6) That the husband has been insane for a period of two years or is suffering from leprosy or a virulent venereal disease;

(35) Mulla, D.F. 16th ed., 1968: 265-266

(36) Mahmood, S. 1967: 83

- 7) That she, having been given in marriage by her father or other guardian before she attained the age of fifteen years, repudiated the marriage before attaining the age of eighteen years: provided that the marriage has not been consummated;
- 8) That the husband treats her with cruelty, that is to say:
 - a) habitually assaults her or makes her life miserable by cruelty of conduct even if such conduct does not amount to physical illtreatment, or
 - b) associates with women of evil repute or leads an infamous life, or
 - c) attempts to force her to lead an immoral life, or
 - d) disposes of her property or prevents her from exercising her legal rights over it, or
 - e) obstructs her in the observance of her religious profession or practice, or
 - f) if he has more wives than one, does not treat her equitably by accordance with the conjunction of the Quran.
- 9) On any ground which is recognized as valid for the dissolution of marriages under Muslim law. (37)

Though a disparity exists between Muslim men and women in relation to the right to divorce, in practice it is more a disparity of convenience. A man can obtain a divorce under all circumstances by pronouncing a talag, giving a notice and by waiting for ninety days. A woman, on the other hand must often take recourse to a court of law which can be inconvenient,

(37) Government of Pakistan, Ministry of Law and Parliamentary Affairs (Law Division). Vol. IX, 1966: 716-717

time consuming, costly (38), and in many cases socially degrading for the woman and her family. An example of how social factors are involved can be seen in the following occurrence:

A young man had been divorced by his wife, or rather, the wife's father had gotten a divorce for her. The villagers of Shaheenpur maintained that it was impossible for a woman to divorce her husband in Islam. But they were aware that a secular law of the Government of Pakistan (The Muslim Family Laws Ordinance of 1961) made it possible for a woman to divorce her husband. They were not in sympathy with this law, but were occasionally forced to recognize its existence. (The husband refused to recognize the legality of the divorce and took his case to the Union Council). He could not win in such a government court on the merit of his case. The law was against him and with his wife and her father. (The husband's challenge assumed that his wife's father would not) appear at the Union Council, and the young man would win his case by default. It would be an extremely shameful thing for a father to go to the Union Council to ask for a divorce for his daughter from his peers. It was mentioned at the bicar (a kind of village or neighborhood council) in the village that the father would be shamed for ever if he went.

(A bicar was called and) after about four hours of discussion, the husband was finally worn down. He agreed to divorce his wife and pronounced the required phrases three times. The bicar was ended successfully. The rules of their religion and the village had been satisfied. The husband had divorced his wife in front of witnesses and could not take it back later. (39)

Under Section 7 of the Muslim Family Law Ordinance, 1961, a husband's right to divorce by talag as well as a wife's right to divorce by

(38) The court fee in cases where a person is seeking only divorce title and is not claiming maintenance, compensation, or alimony is Taka 20 (about \$1.33) plus lawyer's fees.

(39) Ellickson, J. 1973: 62-63

talaq-i-tafweez has been modified so that merely the pronouncing of talag is not sufficient for a valid divorce. A divorce by talag must be written and cannot take effect before ninety days after its receipt by the Chairman of the Arbitration Council: Under this section it is stated:

- 1) Any man who wishes to divorce his wife shall, as soon as may be after the pronouncement of talag in any form whatsoever, give the Chairman (of the Union Council) notice in writing of his having done so, and shall supply a copy thereof to the wife.
- 2) Whoever contravenes the provisions of sub-section (1) shall be punishable with simple imprisonment for a term which may extend to one year or with fine which may extend to five thousand Taka or with both.
- 3) Save as provided in sub-section (5), a talag unless revoked earlier, expressly or otherwise, shall not be effective until the expiration of ninety days from the day on which notice under sub-section (1) is delivered to the Chairman.
- 4) Within thirty days of the receipt of notice under sub-section (1) the Chairman shall constitute an Arbitration Council for the purpose of bringing about a reconciliation between the parties, and the Arbitration Council shall take steps necessary to bring about such reconciliation.
- 5) If the wife be pregnant at the time talag is pronounced, talag shall not be effective until the period mentioned in sub-section (3) or the pregnancy, whichever be later, ends.
- 6) No thing shall debar a wife whose marriage has been terminated by talag effective under this section from remarrying the same husband, without an intervening marriage with a third person unless such termination is for the third time so effective. (40)

(40) Government of Pakistan, Ministry of Law and Parliamentary Affairs, (Law Division). Vol. XIX. 1966: 70

Under Muslim law a woman may receive custody of minor children, but she can never become their guardian. The natural guardianship under Islamic law remains with the father.

The mother is entitled to the custody (hizanat) of her male child until he has completed the age of seven years and of her female child until she has attained puberty. The right continues though she is divorced by the father of the child, unless she marries a second husband in such case the custody belongs to the father. (41)

Any person who is entitled to be a guardian under Muslim law may act as such without any previous order of the court. (42) However, a woman may seek guardianship of her children through civil procedures.

As with widows, a divorced woman may remarry after iddat (a waiting period of 90 days) or after the birth of a child if she is pregnant at the time the divorce is pronounced.

Under the Muslim Marriages and Divorces (Registration) Act, 1974, divorces may be registered. The local Nikah (marriage) registrar may register a divorce effective under Muslim law within his jurisdiction, and on completion of the registration he should deliver to the parties concerned an attested copy of the entry of the divorce in the register. There is supposed to be no charge for such copy. (43)

(41) Mulla, D.F. 16th ed., 1968: 291

(42) Mulla, D.F. 16th ed., 1968: 290

(43) Bangladesh Gazette, Extra. Part V, July 24, 1974: 5350

Under the Hindu law, marriage is an indissoluble sacrament that ties the husband and wife together for religious purposes for the remaining lifetime of both partners. Divorce is not known to the general Hindu law and neither party to a marriage can divorce the other unless divorce is allowed by custom. In Bangladesh, divorce is generally sanctioned among the shudras and other lower castes. Change of religion or loss of caste does not per se operate as a dissolution of marriage, nor does the adultery of either party, nor even the fact of a wife deserting her husband and becoming a prostitute operate as dissolution.

Although by custom there is no provision for divorce, the Hindu Married Women's Right to Separate Residence and Maintenance Act, 1946, does offer a woman some respite from a marriage on certain grounds. Under this Act it is stated:

Notwithstanding any custom or law to the contrary a Hindu married woman be entitled to separate residence and maintenance from her husband on one or more of the following grounds:

- (a) if he is suffering from any loathsome disease not contracted from her;
- (b) if he is guilty of such cruelty towards her as to render it unsafe or undesirable for her when with him;
- (c) if he is guilty of desertion i.e. if abandoning her without her consent or against her will;
- (d) if he marries again;

- (e) if he ceases to be a Hindu by conversion to another religion;
- (f) if he keeps a concubine in the house or habitually resides with a concubine;
- (g) for any other cause:

Provided that a Hindu married woman shall not be entitled to separate residence and maintenance from her husband if she is unchaste or ceases to be a Hindu by change to another religion or fails without cause to comply with a decree of a competent court for the restitution of conjugal rights. (44)

There is no legal provision for the registration of Hindu divorces.

Divorce among Christians in Bangladesh is governed by the provisions of the Indian Divorce Act, 1869, which allows:

1. Any husband may present a petition to the District or to the High Court, praying that his marriage may be dissolved on the grounds that his wife has, since the solemnisation thereof, been guilty of adultery.
2. Any wife may present a petition to the District or to the High Court, praying that her marriage may be dissolved on the grounds that, since the solemnisation thereof, her husband has exchanged his profession of Christianity for the profession of some other religion, and gone through a form of marriage with another woman;
 - or has been guilty of incestuous adultery;
 - or of bigamy with adultery;
 - or of marriage with another woman with adultery;
 - or of rape, sodomy or bestiality;

(44) Government of Pakistan, Ministry of Law and Parliamentary Affairs (Law Division) Vol. X 1966: 304-305

- or of adultery coupled with such cruelty as without adultery would have entitled her to a divorce a mensa et toro;
- or of adultery coupled with desertion, without reasonable excuse for two years or upwards. (45)

In addition to divorce there are several grounds that render a Christian marriage null and void. These include:

1. That the respondent was impotent at the time of the marriage and at the time of the institution of the suit;
2. That the parties are within the prohibited degrees of consanguinity (whether natural or legal) or affinity;
3. That either party was a lunatic or idiot at the time of the marriage; and
4. That the former husband or wife of either party was living at the time of the marriage, and that the marriage with such former husband or wife was then in force. (46)

As can be seen from the above, there is a definite disparity between the legal rights to divorce of a husband and wife.

As there is no traditional law allowing for a valid Christian divorce without the intervention of the court, the decision of guardianship of children is based on the welfare of the child as determined by the court.

(45) Government of Pakistan, Ministry of Law and Parliamentary Affairs (Law Division). Vol.I, 1966: 311

(46) Government of Pakistan, Ministry of Law and Parliamentary Affairs (Law Division). Vol. I, 1966: 314-15.

There is no bar to Christian women remarrying as long as they do not see any conflict between their religious beliefs and their desire to remarry. A Christian women's right to remarry comes under the Indian Divorce Act of 1869 which states that:

When six months after the date of the decree for a dissolution of a marriage made by a District Judge have expired, or when six months after the date of any decree... dissolving a marriage have expired, and no appeal has been presented against such decree to the High Court in its appellate jurisdiction... it shall be lawful for the respective parties to the marriage to marry again as if the prior marriage had been dissolved by death. (47)

Divorce Customs

There are no general reliable data available either on the frequency of divorce or on who initiates divorce. It seems probable that more women are divorced by men than vice versa as a woman's social and economic status is closely linked to that of her husband's. This lack of data may be ascribed in part to the fact that for Muslims the non-registration of talag does not invalidate a divorce, but only makes it ineffective, i.e. to become effective a divorce does not require a second pronouncement of talag. All that is required is that the notice of talag be sent out and iddat be observed as required under the Family Laws Ordinance of 1961.(48)

(47) Government of Pakistan, Ministry of Law and Parliamentary Affairs (Law Division). Vol. I, 1966: 323

(48) Huda, N., Barrister at Law. Personal communication, May 1977.

At the village level, however, it would seem that the pronouncement of talag under traditional Muslim law is sufficient to make it valid and effective. Enumeration of divorce is also complicated by the fact that the Muslim Marriages and Divorces (Registration) Act of 1974 does not make the registration of divorce, whether effective under traditional or civil law, mandatory upon the parties concerned.

Almost all the information concerning social practices relating to divorce are based on individual cases and not on any systematic study. From these cases and from general references, the following suggestions are given for why women do not seek divorce as well as examples of what sometimes happens to women who are divorced or who seek divorce.

Women who might be better off mentally and physically if divorced are assumed not to seek divorce for the following reasons:

If the husband does not agree to the divorce, the wife may wish to avoid the publicity of a court case;

The inability of the woman to pay the court fees from her own source of income;

Lack of support from relatives, i.e. father, brother, etc., who could initiate divorce proceedings on her behalf;

Social pressures exerted by the woman's family since both a woman who is divorced and a woman who seeks divorce bring shame on her family and it is feared by her family that her divorce would decrease the marriage prospects of unmarried sisters;

Where there are children, to keep the family unified;

Fear of the loss of social and economic status and security.

Women who seek divorce or are divorced, especially Muslim women, are frequently exploited. Muslim women often do not receive the dower promised in the marriage contract-- though they could legally go to court and claim it. Sometimes they are fraudulently deprived of their dower-- cases have been cited where women have signed blank pieces of paper on which the husband subsequently wrote a statement that the woman acknowledged receipt of the full amount of her dower. (49) Among lower class women, especially younger women who have good chances of remarriage, dower rights are often not claimed as the claiming of dower inhibits their chances of remarriage. (50)

In general, it can be said that there is a discrepancy between the facility with which men, both Muslim and Christian, can initiate and get a decree of divorce and the difficulty and lengthy procedures encountered by women. For Muslim women, there is the added disadvantage that she has neither the right to appeal a divorce by talag nor traditional grounds for claiming maintenance after the mandatory period of iddat is completed. As a result, marriage does not offer a woman any real guarantee of security except possibly through her children.

(49) Huda, S., Advocate. Personal communication, May 1977

(50) Abdullah, T. 1974: 19,32

PART II - THE RURAL WOMAN

Rural Sector Introduction

According to the 1974 census, the estimated population (adjusted) of Bangladesh was 76.2 million. Approximately 90 percent of the population is classified as belonging to the rural sector. The vast majority of this sector is dependent on agricultural pursuits for its livelihood. Electricity, sanitary latrines, and running water are not available for most of this population.

Agriculture in Bangladesh is largely a monoculture with rice the principal food crop accounting for 80 to 85 percent of the total area cultivated and more than 98 percent of total food grain production. The principal cash crops include jute, edible oil, tea, tobacco and sugarcane. Bangladesh agriculture is predominantly a subsistence agriculture in which an average of 60 to 80 percent of production is used for self-consumption, 10 to 30 percent is marketed and the remainder is accounted for by seeds and losses. (51) Average farm size is very low. According to the 1968 Pakistan Master Survey of Agriculture, farms having less than 2.5 acres represented 57 percent of the total area available. (52) The small size of

(51) United Nations Research Institute for Social Development, 1976: 21

(52) Bangladesh occupies an area just over 55,000 sq. miles (about 33 million acres, of which 22.6 million acres is arable).

farms is to some extent due population pressure on the limited amount of land available. (53) About 20-25 percent of the total agricultural labor force are landless laborers. Poverty and marginal conditions of life are the rule for large segments of the rural population.

The key to the social and economic (and often political) hierarchy in rural Bangladesh is the possession of land. Land is considered the most secure form of investment. As land ownership is a primary determinant of social status and, to a certain extent survival, the pressure to hold on to land or to acquire land is enormous.

Due to economic pressures and other factors, i.e. the high cost of credit and low yields on small fragmented holdings, marginal land-owners are being displaced and are adding to the numbers of landless laborers. The 1967-68 Master Survey of Agriculture indicated that 32.52 percent of the farm households are involved in some form of tenancy. Data concerning tenurial arrangements from the Land Occupancy Survey currently being conducted by USAID/Bangladesh in cooperation with the Bangladesh Bureau of Statistics are not yet finalized. Preliminary results, however, suggest that the extent of tenancy and the amount of land involved is far greater than had previously been indicated and that the widely accepted conception of Bangladesh as a nation of owner-cultivators is unfounded.

(53) The total rural population land ratio is 1:0.34 acre and the total rural male population land ratio is 1:0.76 acre.

According to the 1974 census, the estimated number (adjusted) of rural women was 28.71 million. Marriage is almost universal for rural women. Approximately 75 percent are married before the age of 18 and the vast majority are married by the age of 25. The average Bangladeshi woman can expect six live born children during her reproductive life (see Table 2) with a child mortality rate of 25-30 percent.

Like their male counterparts, the majority of rural women are involved in agriculture, but the 1974 census lists only 555,000 women as being economically active in the agricultural sector (see Table 3). The reason for this low number is that the census did not recognize as economic activity the auxiliary production activities that women perform within the home but for which they are unpaid.

Widowhood, divorce and separation are or can be a real threat to the economic and social well-being of rural women and their children. With the death of their husbands, even when there are kin upon whom they can rely for financial support, women lose the status they held as wives. As McCarthy points out:

Traditional criteria for status in the villages are:
Prestigious occupations; ownership of land, bullocks and other livestock; education; wealth; and long-standing family prestige. Also important is a complete family, i.e., husband, wife, children and extended kin all living together. A family that can feed and care for its widows, divorced daughters and young unmarried kin has higher status than other families who are unable to provide

economically for kin beyond the nuclear family. . . in the village or larger society (a woman's) status is basically determined by that of her father, and with marriage is a reflection of that of her husband.(54)

Since a woman has little or no status as an individual, women who have been widowed or divorced are frequently remarried. (55) After the age of 34, the possibility of women remarrying lessens and after 49 the incidence of remarriage is negligible; whereas men appear to remarry at all ages (see Table 4). Unless there is a son or kin upon whom the woman can rely, poor rural women have few courses of action open to them and no one upon whom they can rely to take care of them in their old age or if they fall sick. Similarly, there would be no one to care for her children should the woman die. Working outside the homestead or begging is socially unacceptable in rural society and women who work or beg usually "don't count socially". When they can get work, they often work in other homesteads, become midwives, or work in the fields. The lack of alternative ways or possibilities for improving their condition means that many widows operate with only a narrow margin of safety between subsistence and starvation. Disaster conditions like river erosion, flood, or drought coupled with the lack of local

(54) McCarthy, F.E. 1967: 52,62

(55) According to the 1974 census figures, 78 percent of divorced females fall into the 10-29 age group. This probably reflects the fact that many women in the older age groups have remarried.

economic prospects is likely to force an increasing number of village women to migrate with their children in search of relief programs or to go to cities where they can beg in anonymity. (56)

The literacy rate for rural women is very low. According to the 1974 census, the total overall literacy rate for females is 12.2 percent, less than half the rate for males. An urban-rural comparison shows that the urban female rate of literacy is 27.9 percent as opposed to a rural female rate of 10.9 percent (see Table 5). It is estimated that approximately 30 million female are illiterate in spite of the fact that there are no legal bars or restrictions to female participation in formal education. Some of the reasons put forward for the low rate of rural female literacy include: significant social constraints, as insufficient number of free primary schools (57), difficulties in paying indirect costs (books, pencils, clothes, food) (58), lack of an adequate transport system (roads are poor and frequently non-existent). In view of the fact that segregated education is preferred, the scarcity of primary (8,415) and secondary (8,053) female teachers and girls

(56) For a discussion of this topic see Farouk, A. 1977, and Farouk, A. et. al., 1976.

(57) There are approximately 42,496 government schools offering tuition-free, co-educational primary education. On the average, Bangladesh has 93 schools for each thana and about 9 schools for each union.

(58) A recent village study found educational costs for primary education (including fees and indirects costs) to be Tk. 121 annually per child and for secondary education to be Tk. 433 annually per child (Khatun, S. 1977: 17).

schools are also significant in deterring the spread of female education, especially in the rural area.

For the majority of rural women, education consists of traditional techniques learned at home. For those girls who do attend school, the academically oriented curriculum offered by formal institutions neither prepares them adequately to improve traditional methods of household work necessary in rural areas nor provides them with alternate educational qualifications that could make them employable outside their homes.

Lastly, but of no less significance in influencing the status of rural Bangladeshi women, is the social value placed on the segregation of the sexes and the social custom of purdah. (59) Although there is some evidence that the rigidity of this custom is being relaxed due to economic stress, many women still remain confined to their homesteads. Although some women may go outside the compound to fetch water from a hand-pump or well, wash clothes in a pond, pick vegetables in a garden plot or collect fire wood, women rarely if ever go shopping in the market. Rural women

(59) Purdah, literally meaning the curtain, refers to the system of seclusion of women prevalent in the Middle East and South Asia. In the strictest sense purdah involves keeping women confined within the four walls of the home and putting them in veil when moving out of the home. In a wider context purdah refers to women's modesty and restrictions on their inter-actions with males who do not fall in the specified categories with whom contact is permitted by religion. (Jahan, 1974: 1)

seldom leave the homestead except to visit relatives , and when they do move outside the home they are often covered in such a way that they are not physically recognizable. Thus physical movement even under normal conditions is cumbersome and it becomes increasingly more difficult during the monsoons when most of the low lying deltaic plain remains flooded. The Pakistan National Impact Survey found that 75 percent of the rural wives in East Pakistan had never visited a town or city and that an additional 15 percent had not visited a town or city during the last 12 months. Only 10 percent of the wives occasionally visited a town or city. (60) Except for in and out migration of women due to marriage or economic necessity, it is probable that these statistics are still representative of the rural situation. This lack of mobility handicaps rural women in many ways and makes them an easy target for physical and economic exploitation.

Reliable data on women, especially rural women, are very scanty and much of the information which is available is based on observations that are far from complete. Nevertheless, this information has been utilized herein as a base for making some general statements about rural women and to suggest areas for further study. There is a real need for adequate documentation of the roles women play in rural society. It is hoped that

(60) Pakistan National Impact Survey, 1968-69: 19

data from village studies currently being conducted by the Bangladesh Institute of Development Studies, Rajshahi University and the Bangladesh Rural Advancement Committee will validate, clarify, and expand many of the statements made. It is also felt that further studies of the involvement of rural women in decision making, compilation of rural women's household time budgets, and a further look at rural women and savings are justified.

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1. Do men and women more or less share agricultural labor and what is the division of labor in the fields?

Men and women do share agricultural labor, but their roles are divided. Agricultural field work involving planting and harvesting of crops is done by men while women remain within the bari (a village sub-unit made up of 5 to 6 households which share a common courtyard, residents of which are usually related), and complete post-harvesting and preplanting processing. Among the poorer households there may be some overlap of field and home activities; however, as the economic status and land holdings of a household increase, so does the rigidity of the roles played by men and women of the household. In Muslim families in particular, the visibility and mobility of women decreases as economic status increases.

Examples of the types of labor that women perform with relation to rice, the principal food crop, include the following (see Table 6):

- a. Preparing the courtyard by gathering, mixing and spreading cow-dung and mud with a broom so that the courtyard hardens like plaster.
- b. Some women help with threshing which can be done by any of five methods -- bullock, pedal thresher, barrel, feet, and tractor threshing. Of these methods, bullock threshing is the one most commonly used by women. In this process, the women are engaged

in putting bundles on the threshing floor and in spreading and turning the paddy. This method is widely used for local rice varieties. (61)

- c. After threshing, paddy is stored until it can be winnowed and sieved by women. This process cleans out foreign particles, and separates the strawparts from the kernel. Sieving is done two or three times through progressively smaller sieves and then the kernel is winnowed. When the winnowing is done by kula (a shallow horseshoe-shaped basket), 1.3 seven-hour person days are required to completely winnow a yield of 37 maunds (1 maund = 40 seers = 82.3 pounds). (62)
- d. In many areas, paddy is parboiled (steeped in water and/or steamed) before husking. This process is done by women. Paddy which is parboiled is easier to husk and the proportion of cracked rice is reduced. Parboiling also increases the nutritional content of the rice.

The number of times the paddy is parboiled and the length of parboiling depends on how wet the paddy is, if the paddy is to be kept for home consumption or to be sold, whether the paddy will

(61) Von Harder, G.M. 1975: 67

(62) Ibid

be used to make rice, moori (puffed rice), or cheera (flattened rice), and the thickness of the husks.

e. Parboiled paddy is stored in baskets until it can be dried. Drying is done by men, women and children in the courtyard or wherever there is space. The paddy is spread and turned regularly with the feet or rake-like instruments to ensure complete drying. The average drying time required for an average yield of 33 maunds per acre is 11 person days; however, the drying time depends on:

- (1) the yield of the special season;
- (2) the variety--High Yielding Varieties (HYV) usually need more time as the kernel is larger and husk is thicker;
- (3) the drying place;
- (4) the thickness of the layer;
- (5) the season;
- (6) the usage purpose. (63)

f. After the paddy is dried it is stored in large baskets, which women specially seal with a mixture of mud and cowdung. Sometimes paddy is taken directly from the fields after threshing and while it is still wet by moneylenders collecting on their loans to small and tenant

farmers . However , the paddy is usually sold after drying . Only rarely is labor employed to produce rice which could be sold for a higher profit . The paddy that is kept for consumption is husked in small amounts as needed--usually twice a week .

- g. Husking is done by women working in groups of 2 to 4 at a time . A dheki (a large , heavy lever/pounder) is generally operated by two women who pound the paddy . A third woman stirs the paddy , removes it when it is husked and then puts in new paddy . A little more than one seer (2.05 lbs.) can be pounded at one time . By this process it takes approximately one work day to husk one maund of paddy . (This is an estimate as definitive data are not yet available) . This process , as opposed to rice mill processing , removes the husk but not the mesocarp and requires a final husking before consumption . Though this method is more time consuming it is probably more economical to the subsistence farmer as dheki-husked rice is easier to store and keeps better than milled rice .

Rice-milled paddy is only economically meaningful for surplus and large farmers , landlords , and moneylenders who process 15 to 20 maunds or more at a time with the intent to sell the milled rice on the open market . Though representing only a small

percentage of the total agricultural population, these people supply a large percentage of the marketed rice.

Rice mills have had a negative impact on rural women by taking away one of the few traditional employment opportunities available to them, i.e. the ability to husk paddy either at home or in the homes of others for a wage.

- h. Seed preservation and storage is done by women. The seeds take about three times longer to dry than ordinary paddy, and are then sealed hermetically with a cow dung and mud mixture in baskets or earthen pots.

In general, women do not perform agricultural work for a wage. Only the most destitute women are willing to work in the fields or seek post-harvest employment in other homesteads. These women are often heads of households, i.e. widows or deserted women with small children and/or no sons. In one village study it has been observed that:

Almost no wage field work is done by women. An exception is picking chillis. Some of the poorest widows in the village pick chillis in the winter for a wage of Tk. 1.25 (US \$0.68) per day. It is more common to find women working (within a homestead) at processing rice, in particular husking, for a wage. (64)

(64) Cain, M.T. 1976:37

Women's wages, like men's wages, vary seasonally and according to the size of the crop, but they are consistently lower than men's wages. Women who work a full day are usually provided with one or two meals in addition to their wage in either cash or kind, i.e. paddy. For example a woman may be given a maund of paddy to husk with the understanding that she will return 30 seers to the owner. Under normal conditions, there will be a remainder 1 to 2-1/2 seers of rice. Another example is that a woman may be given a maund of paddy to parboil and husk. Under this contract she may be required to return 25 seers to the owner and can keep the remainder as her wage usually 5 to 7-1/2 seers. (65)

2. Do women as a whole know less about agricultural technological advances than men?

Yes, in the sense that men have greater access to modern knowledge and are the first to get it. Also, almost all special training programs and investments have gone to provide training and improved technology for men, and as a result some programs have failed, at least in their initial stages, because the needed information was not transferred to women so that they could effectively perform their traditional roles of seed storage, etc. One such case occurred with the introduction of high yielding varieties of wheat.

(65) Rahman, M.L., Agriculture Division, USAID/Bangladesh. Personal communication, April 1977.

Men were given training on how to preserve and store wheat seed-- a role traditionally performed by women. The men did not transfer this information to their wives and, as a result, there was not enough seed grain for planting the following year. (66)

Where technological advances are succeeding, it may be assumed that transfer does occur; however, whether this is done directly or indirectly is not documented. Dr. S. Zeidenstein found in interviews with rural women that the wives of farmers using high yielding varieties of rice were aware of the different names of the varieties; prepared and stored seeds separately; knew the names of different brands of insecticides and fertilizers that their husbands were using, how much of each kind was needed, and its cost. However, high yielding varieties are grown on only about 11 percent of the cultivable land. The high cost of inputs limits the use of high yielding varieties to a very small percentage of households. Still it has been noted that where special agricultural programs are established for women, i.e. the Integrated Rural Development Program (IRDP), women can and do readily learn about agricultural technological advances.

(66) This example was given by A. Farouk during a discussion session at the Regional South and Southeast Asian Seminar on Women and Development, Dacca, March 25 to April 1, 1977.

3. Do rural husbands consider it beneath their dignity to have women engaged with them in the decision making process?

From a public point of view, yes. A man would never admit that he sought or followed his wife's suggestions. When asked, women also tend to emphasize that their role is a submissive one and that men do as they please. Practically speaking, men probably do include women in decisions that affect them both. There is some evidence that women tend to participate more in decisions that affect the family (selling of assets, education, food needs), in families that are poor, without or living apart from relatives, or have female members earning wages.

4. Does the rural husband decide by himself how many and which of the family children will attend school or are decisions on educating the children a joint affair?

For a large majority of the rural population who are surviving on a subsistence economy, this question is not meaningful, since there is no choice involved. Although many people value education per se, the costs involved as well as a lack of local institutions (especially girls' schools) preclude the involvement of the poorer segment of the population in the educational process. Another important aspect with relevance for women is that females are not considered economic assets by their family of birth; therefore, males are given preference in educational decisions. (67)

(67) For information on urban women's economic contribution to their families of birth see--Chowdhury, R.H. 1976: 16-17.

In the final analysis, it would seem that educational decisions rest with whomever pays the school fees and other costs. In the majority of cases these are paid out of the man's income. It should also be pointed out that formal education, as it is presently available in Bangladesh, is not relevant for the majority of students who will probably continue as cultivators, day laborers or perform household tasks in the homes of cultivators or day laborers. Already, a certain segment of the educated rural population are disaffected with cultivation and manual labor and prefer to be unemployed. Educated women sometimes find it difficult to adjust to the demands of poorer households.

5. Do rural women in Bangladesh make contributions to their husband's farming decisions? Does the wife or husband articulate these decisions?

It appears that a rural woman's role in farming decisions is negligible. Men decide what land to buy, what land to sell, what to plant, where to plant it, what kind of input is needed and how much of their income can be allotted for purchase of their inputs. Even though women may not participate in these decisions, they are aware of them as pointed out by Abdullah and Zeidenstein.

Although some, especially younger women, could not say exactly where their husband's land is because they could not get out to see it, they know what crops were planted, when they were planted, what the yield was, and in the case of HYV rice, how much of each kind of input was needed and how much it cost. (68)

In those situations where women do articulate and contribute to their husband's farming decisions, their contributions must be considered minor when compared with those of African and Southeast Asian women.

6. Is wifely advice substantial on your rural scene?

Traditionally it has been assumed that wifely advice is not substantial. Within a patrilineal and patrilocal kinship system, a woman's role as an independent decision maker has been deemphasized and most of her decision making has been limited to administering and directing women's housework and productive activities. Within the joint and extended families, the centrality of wives is limited and regulated by the family structure. All decisions relating to the family are made by the senior-most woman often a grandmother or mother-in-law, whose decisions apply to all women in the household. A wife's position is therefore often insecure and dependent upon her ability to please her mother-in-law, her husband, and to produce sons. A wife rarely addresses her husband in the presence of others, never refers to him by his given name and out of respect addresses him in the formal mode of address. For example:

After marriage the young man may see his wife now and then working side by side with other young brides in the courtyard of the bitar bari or inner house. A man can speak to his wife only occasionally in the presence of others when the wife is young and has not produced any child. When she becomes the mother of a few children, the husband may speak to her more often, but even then direct address to her is forbidden by convention. (69)

Such social customs inhibit the extent to which meaningful husband-wife interactions can occur in these types of families.

On the other hand, the wife's centrality in a nuclear family is necessary in the course of day-to-day decisions about what needs to be purchased in the market, which child needs to see a doctor, or which animal is sick. If the household is extremely poor or there are no sons or kin with whom the husband can consult, then a wife might contribute to more general decisions.

7. Is the wife's influence usually negative or is she the deciding factor?

As mentioned earlier this question holds no relevance to agricultural decisions that are traditionally the prerogative of men, i.e. decisions regarding farm credit, farming in the field, marketing of cash crops, etc. With reference to agricultural activities dominated by women, these decisions are made exclusively and independently by women. Women are dominant in decisions relating to subsistence horticulture (household gardens for home consumption), subsistence animal husbandry (raising chickens and ducks for eggs, cows and goats for milk), food processing for home consumption (preparation of rice products, dried fish, home-made medicine, etc.), and manufacturing household items (quilts, pillows, fans, mats, sikkas, rope, brooms, etc.).

8. What role does the women have in deciding what crops to plant?

Except where a woman is the head of the household or managing it in her husband's absence, she has little to say about what crops to plant. On the other hand, as mentioned previously, she does decide what subsistence crops will be planted for household consumption. These kitchen gardens are grown near to or within the bari. They are composed primarily of vegetables but may also include fruit-bearing plants or trees.

Women often prepare or supervise the preparation of the soil for vegetables. They usually prepare the beds for the vegetables, and non-chemical fertilizer (animal rather than human waste is used), plant the seeds, train the creepers, water the plants, pick the vegetables when ripe, choose which ones to set aside for seed, and preserve the seed. "In some situations, it is a woman in a village rather than man who knows most about horticulture." (70)

9. Who makes the decisions as to modern inputs?

This may vary under special circumstances, but generally speaking this is not a woman's role.

10. Can women in Bangladesh have membership in a farm cooperative?

Yes, but women joining farmer cooperatives is still rare. Due to social factors, it is easier and more acceptable for women to be members

of women's cooperatives. Many of the women's cooperatives in existence are oriented to handicraft and cottage crafts rather than agriculture. A few of the existing cooperatives involved in agricultural development are under the following programs: Bangladesh Rural Advancement Committee, Integrated Rural Development Program, Gono Unnayan Prochesta (Human Development Program), and the Rangunia Thana Central Cooperative Association.

11. Is procuring credit a male prerogative or do women have access to credit?

Women have access to credit on the same basis as men. For the majority of rural women and men, credit is obtained through non-institutional sources where the rates of interest may vary from 50 to 200 percent. These non-institutional sources, which comprise an important source of short-term capital and consumption credit, include friends, relatives, professional moneylenders, tradesmen and marketing intermediaries. Non-institutional credit may be obtained quickly, on short notice, and with the minimum of formalities. Loans through these sources may also be obtained in small amounts. Although offering lower interest rates, usually between 5 percent and 15 percent, institutional credit requires credit-worthiness (usually title to land) on the part of the borrower and involves cumbersome loan application procedures which intimidate illiterate applicants and inhibit obtaining loans quickly or on short notice. In general, farmers with larger holdings have greater access to institutional credit. Agricultural

cooperatives are increasing the amount of institutional credit available to small farmers, and women's programs are trying to reduce the amount of red tape involved in women obtaining cooperative and individual loans.

12. In Bangladesh what is the rural women's role in decision making with reference to use of farm credit?

In general there are very few women in a position to obtain either institutional or non-institutional farm credit. A negligible number of women in special women's programs do have access to institutional credit. For example, about 4,000 women belonging to the women's cooperatives of the Integrated Rural Development Program have access to individual loans. Women in these programs have received about Tk. 148, 315 (US \$9,900) in loans. The amount of individual loans range from Tk. 100 to 300 based on the number of cooperative shares the borrower has. From a report on the use of loans by female cooperative members it was learned that individual women used their loans for buying paddy and processing it into rice, for purchasing livestock, for some kind of small business or non-agricultural activities, and a very small number used their loan to purchase commodities to be stored for selling in the future. (71)

(71) McCarthy, F.E. 1977: 7

13. Do rural women play a part in decisions and activities relating to marketing?

Women have a major role to play in the decisions that relate to the marketing of the products they produce, i.e. vegetables, eggs, milk, fruit, and handicrafts, but since the majority of the women remain physically within their homesteads, they are dependent on others to do the actual marketing of their goods. (72) These middlemen are usually husbands, sons, or other relatives of the women. A woman may inform her son or husband of the price she expects to get for her products, but since she almost never sells directly to the consumer she can be exploited. This problem is a well documented fact as noted in the following examples:

Whatever else might be said about purdah, it is a restraint against trade. It prevents women from entering the market-place, even to sell products traditionally defined as theirs, --chickens, ducks, eggs and vegetables. . . women are thus dependant on husbands and sons to supervise their economic estate. (73)

Only three women in the village are active in trading. Village women are indeed constrained by the strictures of purdah and the governing sense of propriety. Only the most desperately poor women engage in market activity of any type. One of the village women who earns income from trading is a widow with four unmarried daughters. She trades in rice by commissioning a man from her bari to purchase paddy from Bepari Bazar, which she then threshes and husks, and resells in the market via the same or another middleman. In this way she earns, on average Tk. 15 per week for her family. She loses a substantial

(72) Exceptions such as Hindu widows who sell fish in the bazar do exist. (Ellickson, J. 1975: 86)

(73) Lindenbaum, S. 1974: 28

margin of profit by dealing through middlemen, but does so in order to retain her respectability. (74)

A woman usually has more control over produce marketed on a regular basis within the village and less control over produce marketed in the local hats (village markets which are active one or two days a week). This is not just a rural problem as women's cooperatives and other women's organizations throughout the country are dependent upon a male dominated marketing system for the movement of local and national goods.

14. Do women play a part in decision making in sales of cash crops?

In general it may be stated that women do not participate in decision making in sales of cash crops. It is difficult to say what a woman's part is in relation to subsistence crops when there is a surplus or when economic need forces the family to sell what a woman might otherwise have seen as necessary for normal consumption needs of the family. Regarding the surplus arising from a woman's activities such as kitchen gardening and subsistence animal husbandry, a woman often makes her decisions independently and without the knowledge of her husband. It should be pointed out that the economic importance of kitchen gardens to the family finances is increasing. Since subsistence farmers need to sell an increasing amount of the rice harvest to pay off loans, the kitchen garden brings in an extra income that can help keep the family going during lean periods.

15. Does the rural woman have unquestioned control of the use of income accruing from her own efforts?

The answer is generally yes. If she can get her hands on it, she can use it. As mentioned earlier, a woman's dependence on a middleman severely handicaps her and reduces the potential amount of cash income that she could earn.

16. Are the rural women allowed to keep the proceeds from the sale of surplus crops?

If we interpret surplus crops to mean a surplus from a woman's kitchen garden, then the answer is a conditional yes depending on the method of marketing. If the surplus is marketed by the husband, she may or may not get the proceeds or may only get a portion of them. However, women do not usually receive proceeds from the sale of surplus grain crops.

17. What role do the rural women have in putting aside savings and how are their savings later used?

Women have an important role in putting aside savings. Due to the fact that their opportunities of cash earnings are limited, the savings that they put aside are not substantial and are rarely kept in institutionalized savings accounts. This is not to imply that women are hoarding their money for themselves or hiding it, rather they are attempting to save money to cover health and other emergencies. (75) In an interview, Dr. Zeidenstein

(75) Kabir, K. et. al., 1976: 11

stated that rural women often feel that men squander money. She also said that one of the main reasons women gave for joining a cooperative, in addition to the opportunity to get a loan, was that the cooperative offered them a place to keep their money where it was not accessible to their husbands or to the women themselves.

There is a little information on how women who have joined relief and cooperative programs use their income. Some of the programs insist on forced savings and qualify how the money may be spent. Other programs allow women to use their money as they like. For instance in the IRDP experience, it has been noted that women who open savings accounts will come now and then to withdraw all their money, keep it for a short time, and then redeposit it so they can feel secure that no one is going to keep their money or refuse to give it to them. Some information from the IRDP credit program dealing with how women in the program have used the profits from the loans received showed that women used their profits for the following unsupervised purposes:

1. Household affairs
2. Household necessities and savings
3. For education, health, clothing and general items for their children
4. Additional or other kinds of livestock
5. Investment in small business. (76)

These examples are probably very representative of the way in which most rural women use their own incomes. There is some evidence that women cooperatives under a Quaker service program, Gono Unnayan Prochesta, have used their cumulative savings to give low interest loans to the local landless laborers when they go to the Sylhet during the harvesting period. (77)

18. Is vocational training available to rural women?

The actual number of women currently enrolled in formal vocational training is not available. Informal training of women through various programs is available to rural women. A few examples of the types of programs available are as follows:

Department of Social Welfare Mothers Clubs - sewing, knitting, poultry raising and kitchen gardening, cane, bamboo, jute and earthen works, preparation and packing of spices, making fish net and sericulture.

Integrated Rural Development Program - horticulture, seed preservation, food processing, cottage crafts, animal husbandry, tailoring and paramedics.

Bangladesh Rural Advancement Committee - agricultural activities (improved methods of farming, weeding and transplanting activities), horticulture, composting, pisciculture duck and poultry farming, baking, food processing, handicrafts and carpentry.

Bangladesh Women's Rehabilitation & Welfare Foundation - cottage craft and handicrafts, electrical mechanics, electronics and engineering draftmanship, training on food, clothing and production of home-consumption items, training for midwives and paramedics.

Women's Career Training Institute - secretarial science, handicraft and jute products, doll making, tailoring and sewing.

It may also be pointed out that two additional projects have been proposed for providing vocational training to women. One is to be funded by USAID. This is the National Women's Development Academy which has been created to institutionalize vocational training with functional non-formal education for rural Bangladeshi women. The other, sponsored by Denmark, proposes to establish a Women's Polytechnic Institute in Dacca to teach diploma courses on electronic technology, electro-medical technology, instrumentation technology, and architecture and drafting technology.

19. What role do the rural women play in handicraft production?

Women play a dominant role in cottage craft production for both local and foreign markets. These include producing fish nets, baskets, mats, jute products, quilts, rope, fabric, some food products, etc. But in spite of the fact that handicraft production may be a full-time occupation of some women, they are dependent on men to supply the necessary raw material inputs and to market the products.

20. Is there a pattern of females involved in government sponsored work and self-help projects?

Some data on the economic implications of female participation in food-for-work projects are presently being collected under a grant from OXFAM. About one-third of the survey data have been collected and analyzed.

The completed study should be available in June 1977. These data indicate that the following factors may apply to women involved in self-help projects:

1. Lack of land and income are the most pressing determinants of participation. These landless women are the poorest of the poor who would probably drift and beg if they did not participate in such projects.
2. Age does not seem to be a determining factor. Females from the age of 10 upward participate in self-help projects.
3. Religion is not a determining factor; both Hindus and Muslims participate in self-help projects.
4. Marital status seems to indicate that these women are divorced, deserted or, if married, have husbands who are out of the labor force due to a weakened and diseased condition.
5. Nutritional status seems to be at the famine level--such projects offer a chance to continue to sustain life. Many of the women interviewed were unable to say what they had eaten the day before. (78)

Interviews of 203 women provided the following profile:

32.2 percent of the women interviewed were widowed; 20 percent were married; 22.7 percent were unmarried; 8.9 percent were divorced; and 7.9 percent were deserted. The women averaged 3.8 dependents each. 46.80 percent of the women depended on relations for their livelihood during the non-food for work season. This figure reflects in part the lack of employment opportunities for the women. Tentative findings indicate these women and their families represent a subgroup of the population undergoing a steady process of impoverishment. (79)

(78) Chen, M. Personal communication, April 1977

(79) Chen, M. and Ghuznavi, R. 1977:1

TABLE 1
Activity of Urban and Rural Females by Age
Bangladesh, 1974

Age Group	(Thousands)								Total
	Urban				Rural				
	Employed	Seeking Work	Inactive	House-wives	Employed	Seeking Work	Inactive	House-wives	
10-14	28	1	312	63	230	8	2,369	1,184	4,195
15-19	10	2	100	168	105	8	322	2,049	2,764
20-24	9	2	23	198	63	5	60	2,136	2,496
25-34	19	1	9	333	105	3	59	4,011	4,540
35-44	16	-	7	218	90	1	70	2,891	3,293
45-54	10	-	13	123	70	1	150	1,836	2,203
55-64	4	-	20	57	49	-	279	930	1,339
55 +	2	-	30	31	31	-	449	458	1,001
TOTAL *	99	5	514	1,191	742	26	3,758	15,496	21,831

* Totals may differ slightly due to rounding.

Source: Government of Bangladesh Statistical Yearbook 1975. 1976: 30

TABLE 2
Reported Average Number of Children Born
Alive to Ever Married Women by Educational
Level and Age Group

Education Level	Age Group	Number of Children Born Alive		
		All Areas	Urban	Rural
<u>No School</u>	Total	3.91	3.46	3.93
	< 25	1.24	1.24	1.24
	25-34	3.86	3.55	3.88
	35-44	5.55	4.98	5.59
	45 +	5.28	4.44	5.33
<u>Primary</u>	Total	3.38	3.75	3.33
	< 25	1.27	1.49	1.24
	25-34	4.08	4.12	4.07
	35-44	6.06	5.98	6.07
	45 +	6.11	5.65	6.20
<u>Secondary and above</u>	Total	2.58	2.89	2.37
	< 25	1.10	1.25	1.03
	25-34	3.50	3.45	3.56
	35-44	5.57	5.32	5.82
	45 +	5.65	5.34	5.93

Source: Rabbani, A.K.M.G. 1976: 22

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TABLE 3

Participation in Agricultural Activities
by Age and Sex
Bangladesh, 1974

Age Group	Number of Participants (Thousands)	
	Male	Female
10-14	1,613	171
15-19	1,474	81
20-24	1,237	46
25-34	2,663	78
35-44	2,527	67
45-54	1,861	51
55-64	1,223	37
65 +	919	24
TOTAL	13,517	555

Source: Government of Bangladesh. Statistical Yearbook 1975. 1976: 30

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TABLE 4
Marital Status by Age and Sex
Bangladesh, 1974

(Thousands)

Age Group	Never Married		Married		Widowed		Divorced	
	Male	Female	Male	Female	Male	Female	Male	Female
10-14	4,953	3,795	33	371	1	5	-	24
15-19	2,912	677	235	1,984	5	27	2	77
20-24	1,451	81	945	2,320	15	44	5	50
25-34	645	33	3,689	4,285	46	175	10	47
35-44	70	15	3,654	2,831	49	429	5	19
45-54	28	8	2,565	1,490	67	695	4	9
55-64	14	4	1,596	577	84	752	2	5
65 +	12	5	1,212	209	148	786	1	2
TOTAL *	10,085	4,618	13,928	14,067	415	2,913	29	233

* Totals may differ slightly due to rounding.

Source: Government of Bangladesh. Statistical Yearbook 1975. 1976: 28

TABLE 5
Literacy Rates by Sex and Residence
Bangladesh, 1974

Sex	Percent of Total Population Literate		
	Urban	Rural	Total
Male	45.3	25.7	27.6
Female	27.9	10.9	12.2
Both Sexes	37.7	18.5	20.2

Source: Rabbani, A.K.M.G. 1976:13

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TABLE 6
Participation in Rice Processing by Sex and Type of Activity

Type of Activity	Number of women involved				Men	Children	Women, Men, & Children	Women, Men	Family not Engaged	Total Families Interviewed
	1	2	3	4 +						
Threshing	4	5	4	-	58	-	38	-	1	110
Winnowing, Sieving	16	37	34	3	1	-	-	18	1	110
Parboiling	16	37	31	-	-	1	25	-	-	110
Drying	5	16	13	-	1	7	68	-	-	110
Storing	-	-	-	-	105	-	-	4	1	110
Husking with <u>dekhi</u>	4	14	37	11	21*	2	18	-	3	110
Milling	6	39	34	1	-	4	23	-	3	110

* Husking done in rice mill, transported by men.
Source: Von Harder, G.M. 1975: 79

APPENDIX

Statistics on Bangladeshi Women

1. Total population of Bangladesh	76.2 million
2. Female population of Bangladesh	37.4 million
3. Population 16-55 years of age	31.7 million
4. Female population 16-55 years of age	15.3 million
5. Married females	14.1 million
6. Population in labor force	20.5 million
7. Females in labor force	0.9 million
8. Total primary school graduates	7.8 million
9. Female primary school graduates	2.7 million
10. Total secondary school graduates	4.0 million
11. Female secondary school graduates	0.7 million
12. Total college graduates	0.7 million
13. Female college graduates	0.07 million
14. Average number of children per family	6
15. Females practicing family planning	0.8 million (4.7% of eligible couples)
16. Females currently holding ministerial rank in government	2
17. Females holding leadership positions in labor unions	3

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18. Number of males and females in professions	Male	Female	Total
a) Medical doctors (graduates)	4,131	916	5,047
b) Registered nurses	159	1,149	1,308
c) Lawyers	6,977	23	7,000
d) Judges	242	2	244
e) School teachers (excluding higher education)	208,175	11,272	219,447
f) Number holding graduate degrees	268,000	25,000	293,000

19. Number of males and females by economic sector (thousands)	Male	Female	Total
a) Agriculture	13,517.0	555.0	14,072.0
b) Commerce	760.0	10.0	770.0
c) Industry	849.0	32.0	881.0
d) Services	1,891.0	180.0	2,071.0
e) Utilities	7.0	-	7.0
f) Transportation	365.0	3.0	368.0

20. Male/female decision making patterns
(M or F = dominant role . m or f = subordinate role)
Participation in:

	Male	Female
a) Agricultural Production		
1) Planting & harvesting	M	f
2) Post-harvest processing	m	F
b) Use of modern inputs	M	f

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c) Cooperatives	M	f
d) Obtaining credit	M	f
e) Petty trading	M	f
f) Selling cash crops	M	f
g) Putting aside savings	M	F
h) Handicraft production	m	F
i) Marketing of handicrafts	M	f
j) Use of women's income	m	F
k) Family health care *	M	f
l) Family nutrition	m	F
m) Education of children *	M	f
n) Number of children **	M	F
o) Use of contraception	m	F
p) Home economics training	m	F

(* If decision involves money) .

(** This is not a joint decision, but both males and females have their own ways of coping with their individually-made decisions on the matter, e.g. males may not purchase contraceptives and females may decide to have abortions) .

Appendix

Sources: 1) Government of Bangladesh, Statistical Yearbook 1975. Dacca, 1976.

2) Rabbani, A.K.M.G., D'Souza, S. and Rahman, S. "1974 Census estimates of fertility levels in Bangladesh". Dacca, 1976.

3) World Health Organization - Country Health Programming, Bangladesh. "Country Health Profile: The Information Document." Dacca, April 1977.

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