

# Accountability to the World's Women

## Key Gender Issues in South Asia : A Resource Package



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Technical Papers Presented at the  
Fifth South Asia Regional Ministerial Conference  
Celebrating Beijing Plus Ten, 2005  
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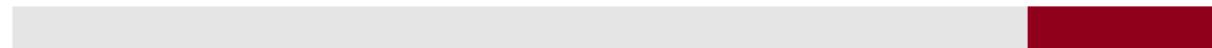


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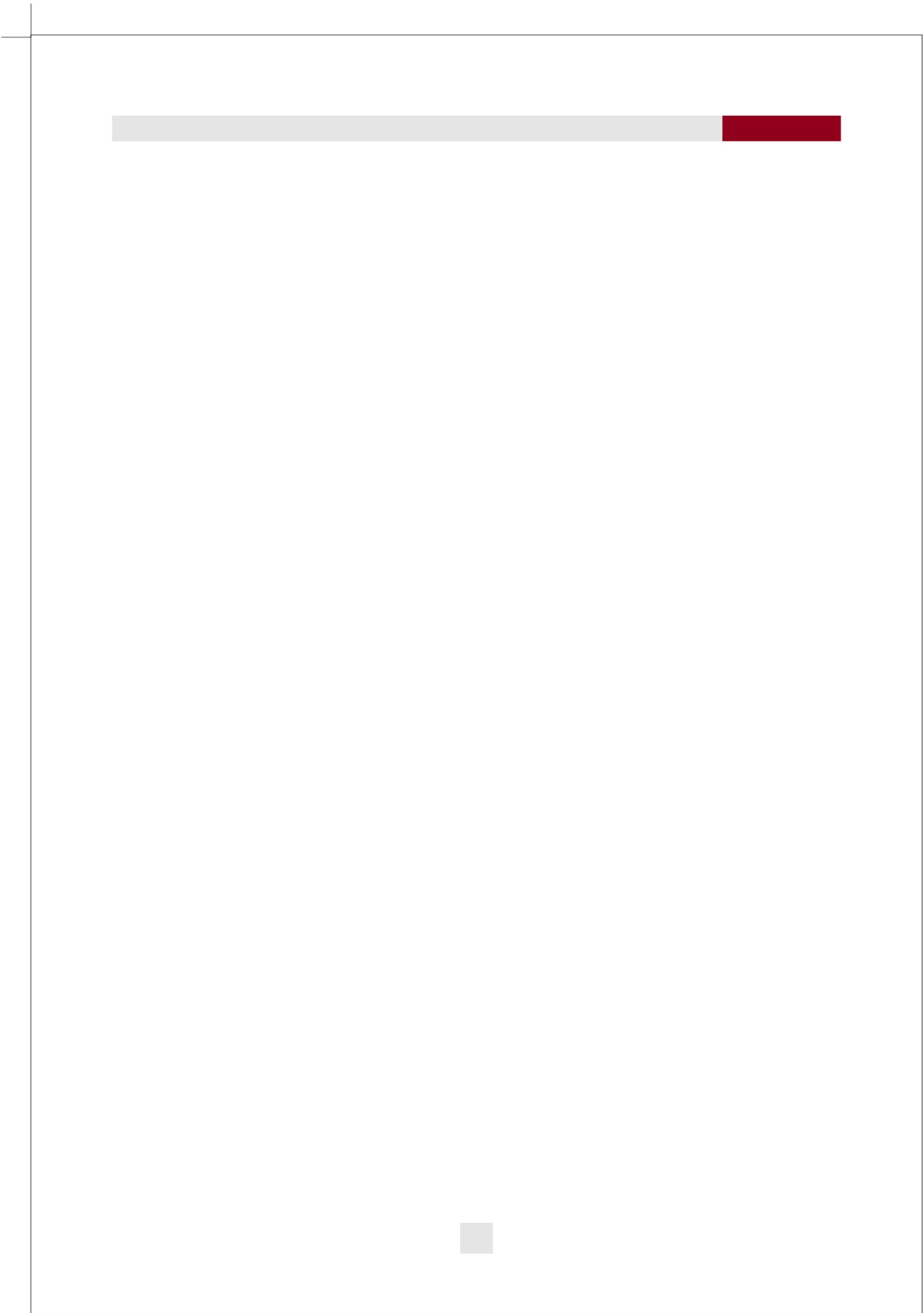




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# *1*

## THE VARIED CONTOURS OF VIOLENCE AGAINST WOMEN IN SOUTH ASIA

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By Radhika Coomaraswamy



## 1. International Standards

Violence against women is a universal reality but at the same time it is invisible. Reports<sup>1</sup> from all parts of the world point to the fact that violence against women is a “manifestation of the unequal power relationship”<sup>2</sup> between men and women and exists in all societies. Yet such violence is underreported if not “normalized” as acceptable social behaviour. South Asia has been classified as the worst region in terms of indicators with the highest rates of different forms of violence against women.<sup>3</sup>

Until the late 1980s and the 1990s, violence against women was a taboo subject of discussion even in international fora analyzing the question of women’s rights. There were in fact two phases with regard to the articulation of the international human rights of women. The first phase, which culminated in the drafting of the Convention on the Elimination of Discrimination Against Women, involved discussion of the issues relating to “discrimination” against women in political and civil life as well as in economic, social and cultural life. Except for the question of trafficking, issues relating to violence against women were not included in the Convention. With a focus on discrimination in the workplace, access to state services, and discrimination in family law, the Convention was a major landmark for the international articulation of the rights of women.

It was only in the 1980s that violence against women became a focal point of international mobilization. In 1991, the CEDAW Committee, responding to pressure from women’s groups formulated recommendation 19, that articulated violence against women as gender based discrimination covered by CEDAW. Women from the grassroots from all over the world came together and mounted an international campaign to make violence against women an important issue of human rights. These activities culminated at the United Nations World Conference on Human Rights that took place in 1993 in Vienna. At the conference women demanded that there be a

UN Declaration on the Elimination of Violence Against Women and secondly that the United Nations Human Rights Commission create the post of UN Special Rapporteur on Violence Against Women. Within six months the United Nations General Assembly passed the United Nations Declaration on the Elimination of Violence against Women and within a year the United Nations Human Rights Commission created the post of UN Special Rapporteur. The violence against women movement is perhaps the greatest success story of international mobilization around a specific human rights issue, leading to the articulation of international norms and standards and the formulation of international programmes and policies.<sup>4</sup>

The World Conference on Human Rights that highlighted the issue of violence against women as a human rights issue brought activists from around the world who were working on issues relating to violence against women. The first group of activists was those working with women victims of sexual violence during wartime and refugee women who were concerned with violence against women during armed conflict. The second group of women was from Asia and Europe working with women victims of trafficking and forced prostitution. The third group of women was from North and South America as well as Europe working on issues relating to domestic violence, rape, and sexual harassment. The fourth group of women from Asia and Africa were women fighting against cultural and religious practices that were violent toward women and harmful to their health. All these women united around the theme of violence against women as a human rights issue and managed to persuade nation states to accept their formulation. Thus the United Nations Declaration on the Elimination of Violence Against Women was passed unanimously and with a standing ovation by the United Nations General Assembly. After 1993, in Cairo at the International Conference on Population and Development (1994) and at Beijing at the Fourth World Conference on Women (1995) these principles were taken forward and elaborated on by state parties as well as NGOs.

<sup>1</sup> See WHO 2002 World Report on Violence and Health

<sup>2</sup> Declaration on the Elimination of Violence Against Women, (DEVAW) preamble para 4

<sup>3</sup> UNICEF 2001a A Reference Kit on Violence Against Women and Girls in South Asia, Kathmandu: UNICEF, ROSA

<sup>4</sup> Margaret E. Keck, Kathryn Sikkink, *Activists Beyond Borders: Advocacy Networks in International Politics*, Cornell University Press, 1998

The international standards set out in the international documents that were a result of the violence against women movement, call on states to act decisively on issues relating to violence against women. It calls on them to pass national legislation, to formulate national plans of action, to sensitise and train their criminal justice machinery, to collect data and to provide social services of support to women victims of violence. They also stated clearly that custom, religion and tradition should not be used to justify acts of violence against women.<sup>5</sup> The importance of government action and government sanctions must be emphasized. Researchers point out that the societies with the lowest levels of partner violence were those that had community sanctions against partner violence and where abused women had access to sanctuary and support.<sup>6</sup> The catalytic role played by international standards and programmes in generating awareness and policies at the national level, especially in the South Asian region, cannot be understated. The dynamic interaction between the international and the local have created space for imaginative intervention and a plethora of strategies to confront what is now accepted as an endemic problem of the region.

## 2. The Nature of the Problem in South Asia

South Asia continues to have the worst indicators with regard to violence against women in the world. In addition to the common problems of violence against women, South Asia has particular cultural and religious practices that also accentuate the problem of VAW in the region. The general low status of women in the region and the entrenched nature of discriminatory structures have led to what is seen as a lifecycle of VAW. Even before birth women suffer from sex selective abortion, at infancy they may face female infanticide, as young children they will have to put up with incest and son preference, as adolescents they may be sexually abused or trafficked, as young women they may suffer rape, sexual harassment, acid attacks as wives they

may experience domestic violence, dowry related violence, marital rape or honour killings, as widows they may be required to self immolate or be deprived of property and dignity. The vulnerability to violence at every stage of the life cycle makes VAW a terrible South Asian legacy that requires concerted regional, national and local level action.

### *Armed Conflict*

*Rani lives in the east coast of Sri Lanka. Rani is a Sri Lankan Tam. Rani's husband was taken away by the Sri Lankan army about fifteen years ago and she has not heard from him since. Her son, who was still a child of 12, was taken by the Liberation Tigers of Sri Lanka. She has lost touch with him and does not know whether he is dead or alive. Rani and her daughter eke out a living doing handicrafts with the help of a local NGO. They barely have enough to survive. Her daughter suffers from nightmares and depression since she was attached to both the father and the brother. Rani doesn't like to speak much- speech is dangerous in the east coast with so many young men with guns. Tears well in her eyes when she speaks. For solace she goes to the nearby oracle to find out about her husband and her son. The oracle tells her that they are alive so she lives in hope.<sup>7</sup>*

Armed conflict has been an important part of the post independence legacy of South Asia. Whether on the Afghan Border with Pakistan, in Kashmir, in the Chittagong Hill Tracts, among Maoist rebels or in the north and east of Sri Lanka, armed conflict is a terrible reality that many women in South Asia have to face. Women are affected by armed conflict in different ways. First, they are often the victims of direct violence especially sexual violence by armed soldiers or militants. Rape during wartime is one of the oldest war crimes and is now clearly prohibited by the Statute of the International Criminal Court.<sup>8</sup> However none of the countries

<sup>5</sup> See both DEVAW and Recommendation 19 of CEDAW

<sup>6</sup> Ruchira Tabassum Naved, *A Situational Analysis of Violence Against Women, in Violence Against Women in South Asia*, [http://www.unfpa.org/np/pub/vaw/VAW-REG\\_Analysis.pdf](http://www.unfpa.org/np/pub/vaw/VAW-REG_Analysis.pdf). p.15

<sup>7</sup> Interview with author, December 2003

<sup>8</sup> Article 7,8 of the ICC

of South Asia have become parties to the ICC. There have been some prosecutions for custodial violence in South Asia. In Sri Lanka in the famous case of Krishanthy Kumaraswamy, the court handed the death penalty to the perpetrators. However, in most of the cases there is no prosecution and the perpetrators are unpunished.<sup>9</sup> Sexual violence during war time continues in all parts of South Asia and there is a sense of impunity on the part of the perpetrators.

Another way in which women are affected during war time is as internally displaced persons. 80% of the IDPs are women and children. As IDPs they live in terrible circumstances. They are given meager rations, they live in large communal halls without any privacy often only separated by a sari. Women are often sexually harassed in these camps by officials and inmates and there are minimal sanitation facilities. They are also subject to restrictions on their freedom of movement. They often dream of returning home but are in these camps for a very long period of time. When the armed conflict is over, resettlement is an even longer process. They often find their lands and homes occupied or destroyed. They usually do not have the communal infrastructure to begin a new life and they are subject to a great deal of bureaucratic regulation. Women and children in these camps continue to have psycho social problems and long term adjustment problems.

Women are also affected by war in that they become war widows, often losing their husbands. In very patriarchal societies that oppress and discriminate against women, these young widows have special problems and concerns. They become among the poorest and most vulnerable communities in the country. They find survival a difficult problem and have to face constant harassment in the community. They are deprived of all social benefits as widows and live a life of isolation and restriction. Research suggests that they survive because of the future they envision for their children.<sup>10</sup>

In some wars women actually become combatants such as in Sri Lanka. Here the ambiguity of the Geneva Convention on the protection of women combatants raises a whole host of

issues. Moreover, in the post conflict situation, other parts of the world such as Colombia, point to obstacles in the reintegration of female cadres into civilian life especially in patriarchal societies. Women as warriors, though exciting because of the transgressing of gender roles, raise other issues relating to the realization of women's rights within the framework of military imperatives and war.

### **Trafficking**

*Chamoli was sixteen years old and living with her father and step mother. Her step mother did not like her very much and used to beat her often. One day a young man came from outside to the village. Chamoli fell in love with him and he promised to marry her. She eloped with him to India. He then took her to a big house and he saw money exchange between her new lover and the madam of the house. After that her lover disappeared and she found she was in a brothel. She was literally tortured into submission. She had to service about ten customers a day and was living in a cubicle the size of a bed. Finally Maiti Nepal a Nepalese NGO came to her brothel and "rescued her" She then spent seven months in an Indian "protection home" before she was sent back to Nepal. When she got there doctors as Maiti Nepal discovered that she was suffering from AIDS. Chamoli refuses to return to her family because of the shame and because of her fear of her step mother.*

Trafficking of women and girls, especially into the big cities of India, remains a serious problem in the South Asian region. Increasingly young girls between the ages of ten and fourteen are trafficked to different parts of India from within India as well as Nepal and Bangladesh. In other countries there are smaller trafficking enterprises taking place. It is estimated that about 200,000 young girls from Nepal in India of which 45,000 are in Bombay alone. Women are often trafficked by close friends and family.

Sometimes trafficking is linked to traditional contexts and practices. In Nepal, the exploitative experience of the Badi

<sup>9</sup> See the communication reports of the Special Rapporteur on Violence Against Women 1994-2003

<sup>10</sup> see Selvy Tiruchandran, *The Other Victims of War:- Emergence of Female headed Households in Eastern Sri Lanka*, VikaS, New Delhi, 1999 and also Sasanka Pereira, *Stories of Survivors:- Socio-Political Contexts of Female Headed Household in Post-Terror Southern Sri Lanka*, Vices, New Delhi, 1999

caste, who provided entertainment services to feudal elites and who now must respond to market forces has led to the trafficking of their daughters and wives who leave Nepal in search of a better future. Traditional temple dancers such as Devadasis, Jogin, Matammas and Deukis were once children pledged by their parents to the temple and who become sex workers associated with the temple. These women also become vulnerable to further trafficking once they become older.

Trafficking is also complicated by the legal regimes that are in place for the regulation of prostitution. Some countries in South Asia have "moralistic" legal regime that criminalize everything associated with prostitution- the sex worker, the client, the middlemen etc...This is true especially in Islamic countries of South Asia. Sri Lanka and India have the "Abolitionist Model" contained in the 1949 Convention, the women is seen as a victim and is not criminalized but those who exploit her prostitution are criminalised. Though on the books, it is rarely implemented. In both these frameworks the criminal justice system is an integral part of the regime and abuse and corruption in the system often ends up victimizes the trafficked women. This has led to many people in South Asia asking for more liberal legal regimes for prostitution to allow the sex worker a certain social legitimacy and more social and economic rights. This struggle for recognition of prostitution as sex work and prostitutes as sex workers with trade union rights is especially strong in Calcutta and Bombay.

However, trafficking is perhaps most complicated by its link to migration. Research clearly shows that most of the women who are trafficked have a strong desire to migrate and are thereby abused in the process. In the past women may have been kidnapped or abducted but today trafficking is really abuse of the desire to migrate. Women desire to migrate often because there is abuse in the home, in the community or because of dire poverty. To counter trafficking by preventing women's migration is to lock them into domestic systems of oppression. Measures taken to prevent women from migrating such as requiring permission of male members of the family or

government sanction may actually compound the problem. What is needed is an effective system that prevents women from being abused during the process of migration and this can only take place if the approach to trafficking is designed within a human rights framework.

The human rights framework would also require a different approach to the women survivor once she leaves sex work. Instead of the metaphor of "rescue", "rehabilitation" and "repatriation" which has conditioned the mainstream approach to trafficking, there is now an emphasis on consulting the women on what she really wants to do. Does she want to remain in sex work? Does she wish to return home? Does she wish to stay in her host country? Does she wish to go back to her parents? These approaches then require a partnership between the police, immigration officials and women's support groups who can counsel the women survivor. These approaches are not present in South Asia where the approach to trafficking is very much rescue, rehabilitation (or protection) and repatriation.

### **Domestic Violence**

*Asha Rani was a young bride. Her poor family gave her a small dowry but after marriage her in laws wanted another Rs.5,000 or an auto rickshaw. Her father who had seven daughters could not provide the amount. When he refused, the in laws beat his daughter in front of his eyes. A few weeks later Asha Rani was dead "burnt while making tea". According to her in laws, her synthetic sari caught fire on the stove. But the post mortem revealed otherwise. The Supreme Court finally ruled that she did not die of accident nor did she commit suicide. She was murdered.*<sup>11</sup>

Pages of the newspapers in South Asia are full of tales of domestic violence. In 2002, 450 honour killings were reported in Pakistan, 15,000 young brides are burnt to death every year in India, ten women a week are subject to acid attacks in Bangladesh.<sup>12</sup> Violence by intimate family members is one of South Asia's darkest legacies. 40% of all sexual abuse

<sup>11</sup> Mohammed Umar. P.119

<sup>12</sup> OXFAM study

cases in India are about incest. In a survey on violence against women in India, 94% of the cases involved an offender who was a member of the family.<sup>13</sup>

The violence against women in South Asia often begins before birth. It is estimated the 50 million women are missing in India either through sex selective abortions, female infanticide or female neglect. So much so that the sex ratio in certain states of India is very disturbing. There are 79.3 girls for every 100 males in the Punjab and 87.8 girls for every 100 males in Gujarat.<sup>14</sup>

Domestic violence rates in South Asia do vary from community to community and depends on the questions asked. A survey of 1842 women in Uttar Pradesh and Tamil Nadu in India presented a rate of 40% of women interviewed stating they were victims of wife beating. In Pakistan a survey of 1000 indicated that 55% in the urban areas and 35% in the rural areas stated that they were <sup>15</sup>victims of domestic violence, In Sri Lanka, one survey put the figure at 60%, another at 32%.

Research on indicators for domestic violence in the region highlight issues such as the fact that children who, themselves are abused or who have witnessed violence in the family are far more likely to beat their wives than other children, In South Asia there is alcohol and drug use that also accentuate domestic violence. Patriarchal societies where men control all decisions result in greater violence when women seem to question or go outside the framework of such decisions. If a society resolves conflict through the use of violence then violence in the home is also on the increase. The lack of economic independence on the part of women and their inability to move out of a violent situation and state inaction against perpetrators of violence perpetuate an ideological belief that violence may even be justified and if it is not, it is not a terrible matter that requires concerted action.<sup>16</sup>

The insensitivity of the criminal justice system has also been highlighted in many studies. Police stations rarely respond

though with the new police women desks this situation is marginally better. A survey of judges in the region pointed to the fact that 48% of judges agreed that it was justifiable for men to beat their wives. 74% endorsed the view that even in cases of violence the preservation of the family should be the primary concern

Response to domestic violence requires a concerted national effort. According to the UN standards it requires domestic violence legislation that combines civil and criminal remedies. This requires ensuring certain civil rights of the woman such as the right to live in the matrimonial home, the right to be protected from an abusive husband and live separately from him and the right to compensation and maintenance. In addition the law should provide for prosecution of punishment for cruelty, grievous hurt and wrongful confinement. In addition the legislation should provide for social support for women survivors while they negotiate their future. India's recent legislation on domestic violence, written in consultation with NGOs has many of these necessary provisions as does the Sri Lankan draft domestic violence Act.

The international standard also call on states to draft national plans of action, ensure a trained and sensitive criminal justice system, support systems for victims, sensitive health professionals and it requires data collection and analysis about the incidents of domestic violence. Some countries in South Asia have begun to respond to these standards in a progressive manner.

### **Rape and Sexual Harassment**

*Mathura was a young girl from the Dalit community. She ran away from home and married her boyfriend. Her family threatened her and her husband. When she went to the police station to make a complaint, she was gang raped by the policemen. Her case so scandalized India, that Parliament passed an amendment to the Penal Code making special*

<sup>13</sup> UNIFEM p. 10

<sup>14</sup> OXFAM

<sup>15</sup> UNIFEM p.11

<sup>16</sup> OXFAM

*provisions to protect the rights of victims who are subject to rape in state custodial institutions.*

Rape and sexual harassment continue to be important issues in the South Asian context. In 1998 the Human Rights Commission of Pakistan reported that one person is raped every 354 minutes in Pakistan. In India for the same period there were over 15,000 reported cases while so many go unreported. Such cases are often compounded in the rural areas of gang rape of Dalit women by upper caste men as an act of political violence. A CNN survey in New Delhi pointed to the fact that 50% of all working women claimed that they were sexually harassed in the workplace. In Pakistan, the Alliance Against Sexual Harassment in the Workplace claimed that 93% of women working in the public and private sector had experienced some form of harassment in the workplace. Marital rape and sexual violence as a means of initiation are also reported in some of these surveys, a factor that will influence the marriage relationship for years to come.<sup>17</sup> This is the case even though marital rape is not a crime in all the countries of South Asia.

The issue of rape was what first galvanised the women's movement in India and to some extent in the other South Asian countries. The rape of the Dalit girl Mathura in a custodial setting led to a national campaign for the reform of the Rape laws. The Law commission set up to look into this matter decided in cases of custodial rape the onus of proving consent would shift to the accused. In Sri Lanka penal reforms of 1995 gave more serious punishment for custodial violence but like its Indian counterpart called for mandatory enhanced punishments.

Feminists have been challenging the rape laws of their countries for over a generation now. The need to take away language like "against her will" that requires physical bruises, the need to define rape broadly as sexual assault and not only as penis penetration, the need to make sure that a woman's past history is not introduced into the evidence and the need to get rid of

evidentiary procedure that requires corroboration. The National Commission for Women in India presented a draft amendment to the Penal Code on the issues relating to rape is very much along these lines.

In the context of these crimes again there is need for effective legislation, a sensitive and trained criminal justice system, support services to the victims and trained health professionals. There is also the need for public campaigns and awareness rising. The countries of South Asia have responded in amending their legislation and in attempting to train their police and judges. However, the problem still persists and statistics do not indicate that the crimes are getting less or that there is a significant increase in the prosecution of offenders.

In this context, given the terrible nature of the crimes against women many young legal scholars are questioning whether the legal system can be effective in dealing with crimes against women and whether other alternatives to prosecution and punishment should be explored. Statistics for a given period in Bombay show that of the 504 cases that were registered, only 469 were charge sheeted, of which there were 13 convictions, and 10 acquittals, the vast majority were pending trial or never getting to trial.<sup>18</sup> Furthermore, feminists fear that the rape trial often becomes a "pornographic spectacle"<sup>19</sup> Even when judgments convict, the rape survivor emerges brutalized and sometimes scandalized in a very patriarchal society. For this reason most women continue to be silent when they are victims of sexual violence.

The inability of the legal systems to deliver justice in the case of women and the reliance on the prosecution arm of the state has created unease among some women's rights activists. They argue that reliance on the legal strategy alone is not enough and that a more broad based approach aimed at transforming attitudes and social structures is necessary.<sup>20</sup>

<sup>17</sup> UNIFEM

<sup>18</sup> Flavia Agnes, *Journey to Justice*, Bombay, Majlis, 1990 p.48

<sup>19</sup> Nivedita Menon "Embodying the Self:- Feminism Sexual Violence and the Law" *Permanent Black*, New Delhi, 20000 p.91

<sup>20</sup> See Ratna Kapur, Brenda Cossman, *Subversive sites:-Feminist Engagement with the Law in India*, Sage, New Delhi 1996

It must also be noted that none of the countries of South Asia criminalise marital rape. In Sri Lanka, marital rape is recognized only if the couples are judicially separated. The notion that the home is a private sphere and that the criminal law of the state should not interfere to prevent men from exercising their traditional rights is very strong in South Asia. In Sri Lanka during recent parliamentary debates on the Domestic Violence Bill, parliamentarian after parliamentarian argued that the law must be carefully crafted to prevent families from breaking up. The notion that the sanctity of the family must be upheld even if there is violence between husband and wife is still remains a strong perception in many South Asian countries,

### **Customary Practices**

*Samia was married to an abusive husband. One day she ran away from home stating that she wanted a divorce. There were rumours that she had found someone else. Finally her family said they were granting her wish. Her mother, her uncle and a stranger came to the lawyers chambers to discuss the case. Suddenly the stranger pulled a gun out and shot Samia and aimed over the head of the lawyer. The security in the office shot the stranger but the mother and the uncle escaped taking one of the members of the law firm as hostage. She was finally released. The police have not prosecuted the case since they felt it was an "honour" killing.*

The failure of the law is particularly relevant when it comes to customary practices in the region that are violent toward women. South Asia is perhaps the region with the largest number of customary practices that are violent toward women. In response to the international critique of our practices, we have had mixed local responses. One is to say that this is an internal issue and not a concern to the rest of the world; that some of the practices can be justified by the internal logic of our cultural systems and that any attempt to critique and eradicate such customs is part of the arrogant legacy of colonialism and westernization. However, women's groups within these societies have also taken up these issues and highlighted

them as evidence of the low status of women in South Asian societies. These customary practices are in conflict with the international obligations that South Asian states have voluntarily taken upon themselves. The charge of westernization is also disingenuous since many of these societies are rapidly globalizing and the question of culture seems primarily relevant only to the subordinate position of women. The duality between public and private has a special meaning in South Asia where scholars have claimed that the private is also seen as "eastern", "spiritual" and the domain of the women. To change customary practices would be a necessary transformation of the private and therefore threaten the "eastern" and "spiritual" nature of South Asian societies.<sup>21</sup> As a result, attempts to eradicate customary practices that are violent toward women meet with local level resistance and require both a political as well as a legal approach.

The South Asian customary practice that has received the most amount of international attention has been the practice of honor killings. The case of Samia Sarwar from Peshawar who was allegedly shot to death in her lawyer's office by a hired gunman with her father and mother's complicity for leaving her husband made international headlines. The refusal of the police and other authorities to pursue the case in its initial stages and the reluctance of the Pakistani parliament to pass legislation caused an international furor. In honor killings that take place in many parts of Asia, women are killed by their family members if they commit adultery, if they are the victims of rape, if they fall in love with the wrong person, in short if their sexual and emotional behaviour disturbs the male power hierarchy in the family. This acceptance of the male patriarch's right to kill the women in his family to protect the family honour is a deep rooted tradition which according to reports even has the full endorsement of women in the family. As a result it is a practice that still remains strong and police prosecution in these cases is weak.

Another customary practice that is associated with South Asia is the practice of bride burning. Bride burning reached its

<sup>21</sup> Partha Chatterjee, "The Nationalist Resolution of the Women's Question" in Kumkum Sangari et al ed. *Recasting Women*, New Delhi, Kali, 1989

height in the early 1990s. Dowry related deaths increased from 437 deaths in 1983 to 4,856 in 1991 and to 5,582 in 1993. These are the reported cases.<sup>22</sup> In Delhi, in the early 1980s, the frequency of unnatural deaths of housewives was one every twelve hours.<sup>23</sup> While dowry in certain communities was linked to land and immovable property, giving women some sense of security, it has in the modern world become a morbid symptom of a customary practice. Today a dowry consists of first, gifts to the bride in terms of clothes, jewelry and household gifts. Second dowry consists of luxury items for the husband clothes wristwatch, gold chain, thirdly it may include immovable property written in the husband's name and finally modern electronic items such as televisions, fridges, video cassette players etc...<sup>24</sup> Material gifts and cash are paid to the bridegroom, who if widowed and marries again gets the dowry a second time.

Women are burned as brides either because of dowry, incompatibility between husband and wife, the rigidity of the divorce laws, or a desire to have a son.. In recent times the Indian penal code was amended to deal specifically with dowry deaths. Since 1986 the law has provided for punishment not less than seven years and up to life imprisonment for a husband or family member if a woman's death occurs due to burns, injuries or other unnatural circumstances and she was subjected to cruelty or harassment in connection with dowry.<sup>25</sup> The number of dowry deaths has decreased in recent years due to the penal sanction but they do still occur in many parts of South Asia.

In some parts of South Asia, women are victims of acid attacks. This was prevalent in Bangladesh in the late 1990s and still occurs today. In 1998, there were over 200 cases of acid attacks.<sup>26</sup> Acid attacks are often directed at women who reject the advances of men or by family members in the protection of honour. These attacks have received recent attention in Bangladesh but still continue in certain parts. Linked to the

concept of honour it is difficult to eradicate as long as women's emotional and sexual behaviour are seen as reflecting on the honor of the men who are intimately connected to them.

Another South Asian practice that has received international attention is the practice of Sati or widow burning in certain parts of India. The case of Roop Kanwar, who in the late eighties committed Sati on her husband's pyre in a public spectacle created major national and international furor. Some scholars argue that Sati is an act of sacrifice of a wife for her husband and should not be decried since it is a form of heroic death. But scholars such as Kum Kum Sangari and others have argued that given the fact that women's lives are undervalued and restrained, Sati is often always committed under coercive circumstances and a tolerance of Sati will make many families urge their young widows to commit Sati to prevent having to take care of them. For this reason women's groups have not only argued against Sati as a practice but also the ideology of Sati. Luckily the Indian state responded firmly. Parliament enacted comprehensive anti-sati legislation outlawing Sati and its glorification. Since the law was passed, there have been few reported cases of Sati which points to the importance of criminal sanctions. However, Roop Kanwar's family was acquitted by the jury of their peers pointing to the fact that communities will rarely punish individuals for customary forms of violence against women.<sup>27</sup>

The practice of Sati reminds us that violence and discrimination against widows is a common cultural practice in South Asia. Besides Sati, this often manifests itself in witch killings. In Bihar an average of 200 women are killed every year as witches. In many of these cases there is some dispute over land with her husband's family. The lack of economic independence and security for a widow makes her particularly vulnerable. Supposed to be inauspicious, she is socially

<sup>22</sup> Mohd. Umar, *Bride Burning in India*, New Delhi, Nangi, 1998 p1-2

<sup>23</sup> *ibid.*, 2

<sup>24</sup> *ibid.*, p.67

<sup>25</sup> Section 304B Indian Penal Code. See *Lawyers Collective Domestic Violence*, Kali, 1992

<sup>26</sup> UNIFEM

<sup>27</sup> For general discussion on this issue see J.S. Hawley ed. *Sati: the Blessing and the Curse*, Oxford, Oxford University Press, 1994

secluded and discriminated against. If her presence drains the family of its resources, in some cases there is a cultural form of killing or exclusion that allows families to deal with unwanted widows. Against the criminal justice system rarely prosecutes families for killing their widows.

Another type of violation that takes place in South Asia is around customary practices of marriage. In some South Asian communities, it is expected that a man pursue a young girl, rape her and then marry her. The Veddas community in Sri Lanka and some tribal groups such as the Bhils in India claim that this is their traditional practice. The Attorney General of Sri Lanka made a statement that he would not be prosecuting a young Veddas for rape even though the young girl had complained. The marriage via rape creates an ideology that one who sexually initiates a woman has the duty to marry her. This is present in mainstream society in situations of rape where pressure is brought on the boy and the girl to marry. International standards and national constitutions require that such customary practices that go to the heart of a woman's dignity and rights have to be reigned in and that the normal criminal process take its course. The criminal sanction in cases such as these does work in certain contexts and may act as a catalyst to transform behaviour.

Another customary practice of marriage in South Asia that is violence toward women is the practice of child marriage. In Nepal 40% of marriages involve girls under the age of fifteen.<sup>28</sup> In Pakistan the Watta Satta marriage is another form of marriage that violates the rights of women. Women become part of barter between men. A woman is given in marriage to a man in return for another woman. The case of 12 year old Reshma who was given in a watta satta marriage but the marriage took place after a terrible dispute between the two families. On her wedding night her husband shot her dead claiming she had committed adultery.<sup>29</sup> These traditional forms of marriage held together by the concept of honour and

community deeply oppress women but are so firmly embedded in South Asia that unless there is concerted action with the State taking the lead, such practices will never change.

At the root of much of the violence against women in customary practices relate to son preference in South Asian societies. Amartya Sen has chronicled how with regard to food, hospitals and schooling there is terrible discrimination against the girl child. Young girls are taken to hospital if they are very ill, young girls are more malnourished than young boys and in schooling- only 15% of girls in rural primary schools go beyond the fifth grade. The gender gap in school enrolment is 14% in India, 19% in Nepal and 24% in Pakistan<sup>30</sup>This son preference and the discrimination against the girl child lasts a lifetime leading to a lifecycle of violence and discrimination.

Customary practices such as those outlined above require the state to create a normative framework that frowns on such practices and criminalises those who engage in such practices. However, for the most part, because of the political unpopularity, states shy away from insisting on international standards on the protection of women from violence. As a result, there is a sense that the violence is "normal", or "usual" and that severe action should not be taken against the perpetrators. This normalization of violence shows the interlinkage between ideology and violence against women, In Bangladesh in a recent survey the majority of men argued that violence against their wives was alright in certain circumstances as corrective punishment.<sup>31</sup> The normalization of violence against women is one of the darker elements in South Asian societies. This normalization prevents men from seeing the violence as wrong, prevents women from asserting that the violence is wrong and paralyses the criminal justice system in trying to attain justice.

Another linkage that is often made is that women's lack of economic independence and empowerment has a great deal to do with the levels of violence in South Asian societies. Women's

<sup>28</sup> UNIFEM

<sup>29</sup> OXFAM p.8

<sup>30</sup> UNIFEM

<sup>31</sup> UNIFEM

lack of economic security forces them to put up with extreme acts of violence for the sake of survival. Inheritance laws and practices, the lack of access to land, the lack of education and the denial of mobility contribute to keeping women locked into situations from which there is no escape. David Levinson in an eighty country study found that the lack of economic independence is one of the main reasons for violence against women.

Models of masculinity in the South Asian region also contribute to violence against women. In certain communities, violence is closely linked to honour and the assertion of masculine status. Women who act in a manner that challenges patriarchal rules and expectations are therefore subject to violence. If violence is closely linked to "being a man", then violence against women is also normalized and seen as part of the customs and practices of the society. If being a man means controlling and domesticating your wife, then behaviour patterns emerge accordingly. Given the deeply held values and time honored "masculine" traditions, changing these models and expectations may only take place over generations. For this, there have to be other masculine non-violent traditions that capture the imagination of young men. In modern times, some of these traditions are merging in South Asia but they are in a nascent phase.<sup>32</sup>

Linked to notions of masculinity is also a belief in the proper emotional and sexual behaviour of women. A great part of violence against women has to deal with female sexuality. Rape is about sexual violence, trafficking is often about sex work, sexual harassment is about discrimination in the workplace, domestic violence is often about a woman's refusal to have sex with her husband and many so called customary practices such as honor killings or female genital mutilation are linked to the control of female sexuality. For this reason many believe that the protection of women from violence must be accompanied by the recognition of the reproductive rights and freedoms of women. This linkage is extremely important if we are to create conditions for women to be free from the fear of violence.

Violence against women is also an aspect of the global phenomenon of HIV AIDS. South Asia accounts for 4.2 million of the total number of people living with HIV worldwide. India has the second largest population of those who are infected by HIV.<sup>33</sup> According to the statistics prepared by UNAIDS there are 3.86 million people living with HIV Aids infection in India, 74,000 in Pakistan, 7500 in Sri Lanka, 34,000 in Nepal, 13,000 in Bangladesh.

Women are vulnerable to AIDS infection in the Asian region for a variety of reasons. Widespread poverty forces young women and even boys into sex work as there are large sex markets in the cities and many clients refuse to use condoms. Because of poverty millions of girls are forced into child labour and are often subject to sexual abuse and exploitation. Lack of development forces many young men to migrate to the cities and live in urban slums without their families. This loneliness drives them into seeking comfort in unsafe sex. Lack of clean sanitary facilities allows for the easy transmission of diseases including STD and HIV. Because of the lack of access to health care, people are unable to detect and treat STDs as they cannot get the proper tests and treatment. Large numbers of people are unaware of the disease and do not have access to information on STD and HIV aids. Wives and partners of men with HIV Aids do not have the power to refuse unsafe sex and are often victimized as a result. Without sex education and a frank environment for the discussion of sexuality and sex related diseases, unsafe sex continues as a way of life for many young people. In urban areas with high drug use, HIV is spread through the use of contaminated needles.<sup>34</sup>

Women are also subject to discrimination and violence once they are diagnosed as HIV positive. Discrimination occurs because of ignorance about HIV/AIDS. Individuals are subject to extreme quarantine procedures and are discriminated against in their workplace and other public places. There is also very limited understanding of the rights of HIV positive women and the problem of mother child

<sup>32</sup> See Radhika Chopra et. al, *South Asian Masculinities*, New Delhi, Women Unlimited, 2004

<sup>33</sup> Center for Reproductive Rights, *Women of the World, Laws and Policies Affecting Their Reproductive Lives*, 2004p.21

<sup>34</sup> Kamla Bhasin, Bindia Thapar, *Turning Dangers into Opportunities:- Young People and HIV AIDS in South Asia*, Jagori, New Delhi, 2003

transmissions.<sup>35</sup> Though there is little legislation covering people with HIV in the South Asian region, the Indian Supreme Court has made a few decisions protecting the rights of the HIV infected people from discrimination. Some of the governments have also developed national level policies to deal with AIDS such as the Indian government's National AIDS Prevention and Control Policy. However, except for India which has a large HIV infected population, the other countries of South Asia have not really developed national legislation or comprehensive programmes.

The WHO in a recent study outlined the enormous costs of violence against women to a society. These include hospital and other costs related to the treatment of injury and the rehabilitation of the victim. It also includes long term costs such as the effect on children for research shows that children who witness violence in the home are more likely to be perpetrators than those who come from a homes where there is no violence. Perhaps the most important cost for women is "fear". Women are relegated to the home because of the fear of violence and as a result they cannot fully participate in the development goals of the society or in public life. This chilling aspect of violence at the psychological level is one of the factors that has led to women being treated as second class citizens in need of protection and without empowerment.

### 3. 1995-2005-the Response of Governments

All the governments of the SAARC region have responded positively to the challenges posed by violence against women in their region. In the last decades, there has been a great deal of advances, especially in the area of standard setting and the enactment of policies and programmes. Though a great deal may not have changed at the local level, the policy framework has been developed in most of the countries of the region

Bangladesh has responded to the challenges posed by violence against women in the region by declaring openly in its National strategy for Economic Growth, Poverty Reduction and Social

Development that it plans to substantially reduce or eliminate violence against women and children by 2015. In 2000, Bangladesh adopted the Prevention of Oppression Against Women and Children Act which deals comprehensively with crimes of violence against women. In the cases of rape for example, though it did not change the archaic definition of rape, The POAWC Act prescribes severe punishment for perpetrators. Though the standard case of rape carries life imprisonment and a fine, in some aggravated cases, it carries the death penalty. Attempted rape also carries a punishment of 5-10 years imprisonment. Those arrested for crimes under the Act are not eligible for bail during an initial investigation period of 90 days. The Act also provides for compensation for the victim.

Bangladesh does not have specific legislation on domestic violence. However under the POAWC Act a husband or any relative or person acting on behalf of the husband who causes or attempts to cause his wife's death in connection with a demand for dowry is subject to life imprisonment and a fine. The POAWC Act also prescribes punishments for the "sexual oppression of women", defined as touching the sexual organs of a woman without consent or the sexual organs of a child or indecent gestures. Such acts carry a punishment of two years imprisonment as a minimum and ten years imprisonment as a maximum.

Bangladesh continues to have the abolitionist approach to the regulation of sex work. In 2000, over a hundred sex workers brought an action against the police for closing down the brothels. The High Court ruled that sex work is not illegal provided that sex workers obtain a license. One condition for obtaining such a license is that they prove that they have no other means of earning a livelihood.<sup>36</sup> However, POAWC contains a strong prohibition against trafficking. The punishment for trafficking is ten years minimum imprisonment and the maximum punishment is the death penalty.

Bangladesh has also taken action against the customary practice of Acid throwing. POAWC prescribes capital punishment or life

<sup>35</sup> *ibid.*, p.21-22

<sup>36</sup> *BBC News March 14<sup>th</sup> 2000*

imprisonment for causing or attempting to cause death to a woman or child by means of a corrosive or similar substance. Though these strong laws have been enacted, the number of cases prosecuted under the Act remains small and conviction rates even lower. However, Bangladesh does have a large number of NGOs working in this field providing awareness raising programmes, legal aid, safe shelters, counseling and health care services and special programmes for women victims to develop skills and to reintegrate with the rest of society.

Bangladesh has also set up a National Advisory Council for the Prevention of Violence Against Women with committees to prevent VAW in every district. There are also four investigative cells in police station and a multisectoral programme which was adopted in 2000 that tries to combine the efforts of the health services, the police, access to justice and public awareness.

India too has taken positive measures with regard to violence against women. With regard to sex selective abortions, in 1994, India adopted the Pre-Conception and Pre-Natal Diagnostic Techniques Act and this has been amended twice as recently as 2003. The Act prohibits the use of prenatal diagnostic tests for the purpose of sex selection. Certain conditions have been placed for taking of such tests. In addition, the Act prohibits disclosing the sex of a fetus to a pregnant mother or her relatives. The Act also prohibits advertisement for sex selection testing. Violating the Act can result in imprisonment and a fine. In 2003, the Supreme Court of India also called on the national and state governments to enforce the ban as part of the protection of the girl child from discrimination.<sup>37</sup>

India is still in the process of finalizing domestic violence legislation that is quite comprehensive. The law was drafted in partnership with women's NGOs especially the Lawyers Collective. It contains many provisions combining civil and criminal remedies and providing support for women survivors of violence. The law defines domestic violence comprehensively, provides for protection orders and special provisions for the economic security of the woman concerned. It was scheduled

to be debated just before the last parliament was dissolved. It is now again being introduced for debate in the next parliament.

India is also in the process of adopting other legislation with relevance for fighting violence against women. Though the 1983 amendments to the Penal Code brought in important provisions with regard to the prosecution of rape, in 2003, the Ministry of Law and Justice put forward Sexual Offences (Special Courts) Bill which aims at the speedy disposal of cases relating to rape and sexual offenses. This Bill was challenged by human rights activists as a dangerous precedent. The law seeks to establish special courts throughout the country to try these offenses and the evidence ordinance and the Code of Criminal Procedure was also to be amended before these courts.

In 2004, another bill Sexual Harassment of Women in the Workplace (Prevention) Bill was also put forward by the government. The Bill is an attempt to give parliamentary sanction to the decision by the Indian Supreme Court in *Visakha vs. State of Rajasthan*,<sup>38</sup> that the lack of sexual harassment legislation violates the equality provisions of the Constitution. Quoting CEDAW extensively, the Court defined sexual harassment and stated that both public and private employers have a duty to include the prohibition against sexual harassment in their service rules and that a permanent committee should be set up to deal with these complaints and that the committee must have a majority of women.

The government is also considering the possibility of introducing legislation on trafficking. At the moment the main legislation to tackle the problem of trafficking is Immoral Traffic (Prevention) Act. Though the Act does not criminalize sex work, it criminalizes related activities including soliciting, procuring, maintaining a brothel, etc.. The National Commission for Women has been entrusted with the task of formulating legal reform in this area. The Government has introduced a range of policies to combat trafficking. A Plan

<sup>37</sup> *Center for Reproductive Rights, p.81*

<sup>38</sup> *1997 SOL Case No 177*

of Action to Combat Trafficking and Commercial Sexual Exploitation of Women and Children has been formulated

In Nepal in the last decade, a great deal has been done in the area of trafficking, The Ministry of Women, Children and Social Welfare has proposed a new bill to replace the Traffic in Human Beings (Control) Act. The bill broadens the definition of trafficking and has strong provisions with regard to punishment and evidentiary procedure. In the late nineties, the Ministry also adopted a national anti-trafficking policy, and a rehabilitation home for victims of trafficking. The Human Rights Commission of Nepal also created a National Rapporteur on Trafficking. There is also a Task Force for anti trafficking activities with task forces at the district and village levels. There is also a special cell in the police to work on issues of women and child trafficking. As in other countries NGOs have worked closely with government on issues relating to trafficking.

In Pakistan, though many crimes of violence against women are dealt with under the Offence of Zina (Enforcement of Hudood) Ordinance, which has difficult evidentiary provisions with regard to the women victim, The National commission on the Status of Women has been requested to review all laws, rules and regulations affecting the status of women. The Commission also set up a Committee of Experts to review the Hudood and Zina Ordinances. In 2004, the Parliament adopted legislation criminalizing honour killings with strong punishments for the perpetrators. The law treats honor killings as an aggravated form of murder. The Pakistan Supreme Court has also stated that honor killings are murder and violate a woman's fundamental right. Crisis centres have been established for women in distress in Islamabad, Vehari, Lahore and Sahiwal.

In Sri Lanka, the decade witnessed the drafting of the Penal Code Amendments in 1995 which was a major step forward with regard to meeting the challenge of violence against women. Rape is defined without the limiting words "against her will" and special provisions exist for judicially separated couples and statutory rape. There is enhanced punishment for

custodial rape, rape of a pregnant woman, rape of someone under 18, rape of a mentally disabled person and gang rape. There are also provisions for mandatory sentencing. In Sri Lanka a draft law on domestic violence is also pending. The draft law defines domestic violence broadly and provides for a broad range of remedies including interim and permanent protection orders, emergency monetary relief and compensation. The law was recently debated with conservative MPs voicing opposition to the bill stating that it calls into question the sanctity of the family. The debate is due to continue in a few weeks time. After Beijing, Sri Lanka did adopt a national plan of action but there was no follow up on its implementation.

The countries of South Asia have all ratified CEDAW though some of them have done so with reservations. The countries of South Asia have also signed the SAARC Convention on Preventing and Combating the Trafficking in Women and Children for prostitution. The Trafficking Convention defines trafficking narrowly and it is not in conformity with the international definition. It provides for co-operation among member states, repatriation and rehabilitation of women survivors, and has certain measures to ensure prevention<sup>39</sup>

The CEDAW indicators for the region point to the fact that all the countries of South Asia recognize gender equality in their constitutions, though the Indian supreme court has been particularly active in protecting the rights of women under the constitution. With regard to law reform and violence against women, many of the countries of South Asia have taken anti-trafficking initiatives and have begun to reform their rape laws to ensure stricter punishment. The countries have yet to adopt domestic violence legislation with some countries showing resistance to change. The countries have national policies, projects and programmes on violence against women such as training of the police forces and the setting up of support services for victims. However, the real initiatives in the area of violence against women still comes from non-state groupings who continue to be active in promoting measures to prevent

<sup>39</sup> The reference material for the section on "The Response of States" was taken from the Report of the Special Rapporteur on Violence Against Women, its Causes and Consequences, International, Regional, and National developments in the Area of Violence Against Women 1994-2003 Addendum 1, E/CN.4/2003/75/Add.1

violence against women. However, there is a fear that much of the activity on violence against women is donor driven and that much of the society has been unaffected by the need for change and reform.

#### 4. Conclusion

The above survey points to the fact that all the states in the South Asian region have responded to some of the challenges posed by violence against women in the region. Many have passed laws or are entertaining draft laws to deal with some of the important questions. Ten years after Beijing, it is still a concern that except for India none of the countries of the region have adopted domestic violence legislation or made the necessary changes to anti –trafficking legislation. However programmes and policies are in place and a great deal of activity has been conducted by women's ministries, national commissions and individual government departments. There have been many training programmes also for senior level policy officers and other members of the criminal justice system.

The changes in South Asia have also made possible by the activism of civil society and the foresight of many women's NGOs. They have conducted research, suggested legal reform and put in place constructive programmes that actually assist women victims of violence. They have trained police men, they have lobbied politicians and judges and they have put together shelters and crisis centres. They have taken cases to court, demonstrated for women's rights and in some countries mobilized people at the risk to their own lives. They have counseled and cared for many victims of violence breaking their silence and allowing them to regain their dignity.

Research from around the world point to the fact that violence against women can only be combated if there is a healthy partnership between women's groups and the state apparatus.

While women's groups must protect their independence, on certain issues they have to work effectively with the criminal justice system, joining forces to protect the rights of women victims. However, this also poses a major dilemma. The decade ends with the triumph of a certain "law and order feminism" which aims at punishing the perpetrator, using draconian provisions in the law. Whether in trafficking, rape or sexual harassment, there is a punishment rhetoric that belies a complex reality. South Asia is particularly receptive to this excess of law enforcement. Provisions in trafficking legislation, in sexual offenses legislation, in preventing women from migrating procedures, are so draconian that they raise questions about the human rights of the perpetrators and an over reliance on the criminal justice system to solve complex social questions. Though they provide an immediate sense of something being done, in the long run they pose serious dilemmas. In the end judges and juries just do not convict if they feel that the law is too harsh or unreasonable. Fighting violence against women will only succeed if it is done through the lens of human rights, protecting the rights and dignity of the woman survivor while ensuring a fair trial for the perpetrator. Any other course of action will not stand the test of time and important legislation will fall into disuse. Fairness must be a central concern for women even when they are dealing with abusers. Moreover, law is an important tool but it is one of the many strategies available to us. While fighting for justice through the legal system, we should also try and put in place education policies, health strategies and community level programmes that promote equality between men and women and teach non violent methods of resolving conflict. A multipronged approach to violence against women will result in far reaching changes, transforming attitudes and practices so that men and women can live in equality and dignity.

# 3

## WOMEN'S REPRESENTATION, EFFECTIVENESS AND LEADERSHIP IN SOUTH ASIA

By Khawar Mumtaz

## 1. Introduction

South Asia stands out for its dynamic women leaders who reached highest political offices in a region where women as a whole are downtrodden, shackled by illiteracy and customary practices, and denied mobility, inheritance and voice in decision making. Sri Lanka was the first in the region to elect a female Prime Minister, Sirimavo Bandranaike as far back as 1960. Since then a string of distinguished women leaders have followed in India, Pakistan, Sri Lanka and Bangladesh.

That the elevation of women to the helm of national affairs has not translated into greater participation of women in politics or other avenues of decision making is also widely recognized. Over the years several initiatives have been taken to induct women into the political mainstream, however with mixed results. Currently women's reserved seats are provided for in the legislatures of Pakistan and Nepal, those in Bangladesh having lapsed in 2001, and at the local government

level in India, Pakistan, BD and Nepal<sup>1</sup>. Sri Lanka has no special provision for women's representation in any tier. Generally speaking female participation in South Asian parliaments is steadily but slowly improving, as the five year comparison in Tables 1.1 and 1.2 below indicate:

A comparison of the two tables, however, reveals a decline in women's legislative representation in Bangladesh, and Sri Lanka in recent years, a matter that needs further examination. The overall regional figures show an increase but that has been due to the rise in the level of women's representation in the lower houses of Bhutan, Pakistan and marginally in Nepal. The substantial improvement in Pakistan's case is attributed to the quantum leap made in the 2002 general elections as a result of reservation of 17 percent seats in the national legislature (60 seats) for women. In addition 14 women were returned on directly contested seats, partly because of the condition of a graduate degree for all parliamentary contestants that excluded a number of male politicians.

**Table 3.1 : Women in Parliament (% 1999)**

Country	Single/Lower House	Upper House/Senate	Total (Both Houses)
Pakistan	2.8	2.3	2.6
India	8.8	8.5	8.7
Bangladesh	12.4	n/a	12.4
Sri Lanka	4.9	n/a	4.9
Nepal	5.4	15	7.5
Bhutan	2.0	n/a	2.0
Maldives	6.3	n/a	6.3
S.A. Total (unweighted)	7.4	7.5	7.3

Source: Mahbub ul Haq Human Development Centre, *Human Development in South Asia 2000 - The Gender Question*. Oxford University Press, Karachi. 2000. p.137

<sup>1</sup> The Constitution in Nepal was suspended by King Gyanendra on 1 February 2005 for a period of 3 years. The parliaments had been dissolved in October 2002 following the massacre in the royal palace that led to the death of King Birendra. Nepal is discussed with reference to the suspended Constitution in this paper.

Table 3.2 : Representation of Women in Parliament (2004)

Country	Total Seats in Lower Chamber	Seats held by Women	% of Seats held by Women
Pakistan	342	74	21.64
India	543	48	8.84
Bangladesh	300	6	2.0
Sri Lanka	225	10	4.44
Nepal	205	12	5.85
Bhutan	150	14	9.33
Maldives	150	3	6.0
S.A. Total	1982	167	8.43

Source: PILDAT, *Women Representation in Parliament's Pakistan (Background Paper)*. PILDAT, Lahore. 2004. p.12

Perhaps the greatest impact of women's induction into politics has been the creation of critical space for them at the local government level – in India through the 73<sup>rd</sup> amendment to the constitution (1993), the Devolution Plan Ordinance in Pakistan (2000), the Local Self-Governance Act (1999) in Nepal and the Act Number 20 of 1997 in BD. Notwithstanding the progress made by some individual states, in South Asia as a region, the average membership rate of women in parliaments is one of the lowest in the world - lower even than that of East Asia and Sub-Saharan Africa.

Given that South Asian states are signatories to CEDAW (Annex 1) and that gender equality and women's empowerment are key to overcoming poverty and hunger under both the Beijing Platform of Action (Annex 2) and the Millennium Development Goals (Annex 3), it is important that after 10 years of Beijing we take stock of progress made in this area. This paper therefore sets out to review women's political participation and its effectiveness in the region. It will attempt to examine:

- the context of women's political participation,
- the factors promoting women's participation and the facilitation of women's entry in the electoral process,
- the role of different institutions, non-government actors including men as enabling agents and the efficacy of tools and processes developed by them.

- the impact of women's reserved seats on gender sensitive governance and their agency,
- the challenges to women's participation, and
- the way forward.

## 2. The Context

The context that defines women's political participation is the endemic nature of patriarchal structures and the resultant gender inequality and gender discrimination in the region. Gender relations are rooted in the ideology of relationship whereby women are seen as subordinate to men. Women are consistently denied inheritance rights, adequate food, freedom of expression and mobility, participation in community activities and say in personal choices and preferences (from education, to spouse, number of children, to profession, etc.) They are thus denied a meaningful role in decision-making, and are not in a position to access educational and health care facilities, or political and financial institutions nor own assets and resources. Women's place in the family hierarchy and relationships within the home combine with the socially prescribed gendered division of roles to determine their levels of exclusion in both the private (household) and public spheres. Class, caste, religion, ethnicity and location are additional factors that mediate gendered social relations across South Asia in varying degrees.

This is manifest in the gender gap in education, economic activity and employment, the subordination of women, and in the "most distorted sex ratios in the world -... only 940 females for every 1000 males."<sup>2</sup> As may be seen in the Table 2.1 below, female labour force participation in South Asia between 1995-2001 was 33.5 percent as compared to 42 percent in Sub-Saharan Africa and 44.5 percent in East Asia and Pacific. Similarly the gender gap in literacy over the same period in South Asia as a whole is 33 percent (Table 2.2). At the individual country level Sri Lanka is exceptional with female literacy at 94 percent of male literacy.

Social indicators for women in most of the countries of the region are poor with the exception perhaps of Sri Lanka and

Maldives as is evident from Table 2.3 below. Over the years the trend is not necessarily towards improvement in all countries. For instance

India, Sri Lanka and Pakistan have shown a decline in HDI rankings between 1998 and 2000. In this period Pakistan's ranking dropped from 135 to 142 placing it in the category of least developed countries (see Table 2.3). The gender empowerment measure (GEM) reflecting the extent of women's involvement in economic and political activities is also generally poor with the exception of Pakistan (0.414 %) that improved its position with the reservation of women's seats at different representative tiers in 2002.

**Table 3.3 : Some indicators of female participation in economic activity and employment in South Asia and selected regions of the world, 1995-2001**

	Female economic activity rate	Female % of labour force	Female % of total employment
India	43.5	32.4	26.8
Pakistan	15.4	29.0	14.0
Bangladesh	57.2	42.5	37.5
Nepal	85.0	40.5	50.0
Sri Lanka	41.6	36.8	35.2
Bhutan	59.6	32.0	...
Maldives	28.6	22.0	33.5
South Asia	42.7	33.5	27.0
Sub Saharan Africa	62.3	42.0	...
East-Asia & Pacific	68.9	44.5	...

Source: Human Development in South Asia 2003.

Note: Data sources for South Asian countries and regions are different; Nepal LFPR has been derived from international source; For Bhutan and Maldives the figures in second column are of 1994.

<sup>2</sup> Mahbub ul Haq Development Centre, Human Development in South Asia 2000. Karachi, Oxford University Press. 2000. p.2

p1. The Gender Development Index (GDI) adjusts to the HDI for gender equality in life expectancy, educational attainment and income.

\* Human Development Index (HDI) has three components: life expectancy at birth; educational attainment, (comprising adult literacy with two thirds weight and a combined primary secondary and tertiary enrolment ratio, with one third weight); and income.

\*\* Gender Development Index (GDI) adjusts to the HDI for gender equality in life expectancy, educational attainment and income.

\*\*\* Gender Empowerment Measure

\*\*\*\* Human Poverty Index

Table 3.4 : Female-male gaps in education in South Asia, 2000-01

	Female literacy as % of male literacy	Average years of schooling		Female to male enrolments in primary and secondary school %
		Male	Female	
India	67	6.3	3.7	78
Pakistan	50	5.1	2.5	61
Bangladesh	62	3.3	1.8	103
Nepal	41	3.4	1.5	82
Sri Lanka	94	7.2	6.6	102
South Asia	67	5.8	3.4	81
Sub-Saharan Africa	57	...	...	82
East Asia & Pacific	87	7.3	5.2	97

Source: *Human Development in South Asia 2003*.

Where indices are relatively better, as in the case of Maldives (see Table 2.3) and Sri Lanka, these have not translated into any substantive improvement in women's political representation; pushing through the glass ceiling continues to be difficult in the two countries. Similarly while there have been achievements e.g. in life expectancy in all the countries, reduced infant mortality and increasing rates of female participation in education, health and labour force, the gender gap continues to persist.

Women's subordination in the region is acknowledged to be structural. As the *Human Development in South Asia 2003* report succinctly puts it, it is owed to "the embedded system of patriarchy in South Asia<sup>3</sup>" with the result that "discrimination against women in South Asia is far worse than in most other developing countries." Women, especially those belonging to the powerless groups find themselves doubly disadvantaged and vulnerable. Hence the sad reality in South Asia that even where the *condition* of women may have improved their social *position* has remained largely unchanged.

The political context reflects the social framework. Since political action is viewed as public in nature it is defined in terms of masculinity as opposed to private space, which is considered feminine and secluded.<sup>4</sup> Political participation, from casting votes to contesting elections is thus fairly prohibitive (with some exceptions like that of Maldives where the voter turn out of women in the 1999 general elections was higher at 84% than that of men at 71%).<sup>5</sup> By and large political parties tend to keep women on the periphery delegated to women's wings where their major task is to mobilize female voters. They are not inclined to give tickets to women as candidates and those not part of the political elite do not have the necessary resources to contest elections. Women who have broken out of the mould belong largely to the elite where some of the barriers, of education and mobility for instance, have been removed and kinship considerations have taken precedence over the party. Given the dynastic nature of politics in the region, it is not surprising that all women heads of government and state and most women in

<sup>3</sup> Mahbub ul Haq Human Development Centre, *Human Development in South Asia 2003*. Karachi, Oxford University Press. 2004. p.80.

<sup>4</sup> For further information see Yasmin Tambiah (ed.), *Women & Governance in South Asia: Re-imagining the State*. Colombo, ICES. 2002. p.7 -.

<sup>5</sup> Usha Sharma, *Women in South Asia; Employment Empowerment and Human Development*. Delhi, 2003. p.248

Table 3.5 : Broad Development Indicators on the Status of South Asian Women

Country	Human Development Index (HDI)* Value			HDI Rank			Gender related Development Index (GDI)** Value			GDI Rank			Gender Empowerment Measure (GEM)*** Value			GEM Rank			Human Poverty Index (HPI)**** Value			HPI Rank		
	1998	2000	2002	1998	2000	2002	1998	2000	2002	1998	2000	2002	1998	2000	2002	1998	2000	2002	1998	2000	2002	1998	2000	2002
Bangladesh		0.478	0.509	146	145	138	0.441	0.468	0.499	121	121	110	0.305	0.223	0.218	67	66	76	43.6	42.4	42.2	70	72	72
Bhutan		0.494	0.536	142	140	134	-	-	0.572	-	-	..	-	-	...	-	-	..	-	-	..	..		..
India		0.577	0.595	128	124	127	0.545	0.560	0.713	108	105	103		-	0.313		-	..	34.6	33.1	31.4	58	55	48
Maldives		0.743	0.752	89	84	84	0.720	0.739	...	72	68	...		0.361	...		62	84	25.4	15.8	11.4	43	25	17
Nepal		0.490	0.504	144	142	140	0.449	0.470	0.484	119	119	116		-	...		-	..	51.3	43.4	41.2	80	76	69
Pakistan		0.499	0.497	135	138	142	0.489	0.468	0.471	115	120	120		-	0.416		-	64	40.1	41.0	41.9	68	68	71
Sri Lanka		0.741	0.740	84	89	96	0.727	0.737	0.738	68	70	73	0.309	0.274	0.276	66	64	74	20.3	17.6	18.2	35	31	36

Source: Human Development Report 2000, 2002 and 2004

political leadership are from political families (as indeed most male leaders).

### 3. Determinants of women's political participation

Women's political participation in South Asia has been promoted and facilitated by a complex set of forces. The process to date has neither been smooth nor rapid, has been impacted by internal and external developments, has suffered setbacks, and the goal of women's substantial and equal participation is still not fully achieved. Women's entry into representative politics has been shaped by:

- the experience of colonialism,
- the independence struggles,
- the different courses and routes that political development has taken in each country and the nature of the state within them,
- women's own agency for pushing for social and political rights,
- the foundational principle of equality of all citizens adopted by each state in the region regardless of their form of governance, and
- the external pressure generated by the UN Conventions like the Universal Declaration of Human Rights and subsequently other instruments (CEDAW) and declarations (Cairo, Beijing) that the countries signed up on.

#### 3.1. Historical perspective

The involvement of women, albeit of the elite castes and classes, in the social reform movement in India and Pakistan at the turn of the 20<sup>th</sup> century, especially for ending harmful customary practices (*sati*: age of marriage, widow remarriage, polygamy, etc.) and promoting education established the base for women's entry into the public and political mainstream. The subsequent nationalist struggle gave further impetus to women's participation in the public as well as in the political

domain.<sup>6</sup> It needs to be noted that the women's struggle for social reforms and political participation which in some instances were initiated and in others supported by progressive males was opposed by the religious orthodoxy, both Muslim and Hindu.<sup>7</sup> This situation still persists especially in Pakistan and Bangladesh and the religious revivalism in India since the 1980s has had adverse repercussions on women.

Women were drawn into political activism as the nationalist struggle gained momentum and necessitated their mobilisation for the early exit of the colonial masters. This was also true of Nepal where the Indian struggle against the British inspired the anti-Rana movement in which women are said to have contributed through writing and teaching.<sup>8</sup> The first step towards women's participation in politics in India was with the demand for franchise that a delegation of Indian women made to Secretary of State Edwin Montagu in 1917.<sup>9</sup> The ensuing mobilization of women won propertied women the right to vote between 1920 and 1930 though they continued to be disqualified for membership in legislatures. However following lobbying by the Women's Indian Association the Governor General in Council allowed admitting women to legislatures in 1930.<sup>10</sup> This opened the way for women to be nominated to legislatures, the first woman being Muthulakshmi Reddi.

Women's reserved seats, however, were a contested issue among women in the sub continent from pre-independence times. Begum Jahanara Shah Nawaz and Mrs. Radhabai Subbarayan, active members of women's organizations who were nominated to the Round Table Conference in 1930, recommended five percent seats to be reserved for women. The move was opposed by women's organizations in India who reiterated the demand

for universal adult franchise emphasizing their rejection of "privileges" and "favour" for women.<sup>11</sup> The debate continued through the colonial period with greater consensus emerging on universal adult franchise but divisions on communal versus non communal reservations (with Muslim women arguing for and Hindu women against communal reservation) and the modality of election to the Federal Assembly — to be direct or indirect.<sup>12</sup>

The 1935 Government of India Act provided for the formal induction of women in the political process through a broadened franchise and contesting elections on both reserved and general seats. The elections under the Act returned 41 women in reserved constituencies, 10 on general seats and 5 through nominations (56 in all out of 1500 seats) in various provincial legislatures.<sup>13</sup> Additionally 30 women were elected to the Central Assembly including Begum Jahanara Shah Nawaz.

The turmoil that accompanied independence, especially in the case of India and Pakistan (including what is now Bangladesh) also opened spaces for women and legitimized their participation at the public level. For ordinary Muslim women, participation in the Pakistan Movement was the singular large scale and unprecedented politicizing experience. As a logical continuation women's participation in representative bodies became a central demand of Pakistan Movement activists in the post independence period. The Bangladesh liberation struggle and the subsequent anti-autocracy movement of 1990, ending in General Ershad's ouster in 1990 and restoration of democracy, similarly led to the large scale political mobilization of women.

<sup>6</sup> For a discussion on the subject of nationalism and its impact on women's mobilization in India see Kumari Jayawardene, *Feminism and Nationalism in the Third World*. The Hague, ISS. 1982. pp.77-102

<sup>7</sup> *Ibid.* See also, Khawar Mumtaz and Farida Shaheed, *Women of Pakistan: Two Steps Forward One Step Back?* London, Zed Books. 1987. Lahore, Vanguard Books. 1987

<sup>8</sup> Prativa Subedi, *Nepali Women Rising*. (2<sup>nd</sup> ed.) Kathmandu, Prativa Subedi. 1997. p.129

<sup>9</sup> Geraldine Forbes, "Women of Character, Grit and Courage: The Reservation Debate in Historical Perspective" in Lotika Sarkar, Kumud Sharma, Leela Kasturi (eds), *Between Tradition, Counter Tradition and Heresy*. Delhi, Rainbow Publishers. 2002. p. 224

<sup>10</sup> *Ibid.* p.226

<sup>11</sup> *Ibid.* p. 228

<sup>12</sup> *Ibid.* p. 230-231

<sup>13</sup> *Ibid.* p. 232

### 3.2. The nature of the state

The different courses and routes political development took in each of the countries have determined the nature of each of the South Asian states. In Pakistan civilian dispensation has been interspersed with extended military rule resulting in what Hamza Alavi calls the overdeveloped state with a centralised state structure and an increasingly militarized civil society. Islam has become the legitimizing ideology and feudal mind set and social relations continue to be entrenched. India and Sri Lanka have institutionalized democratic systems, however, with aberrations of emergency rule in both countries. Sri Lanka stands out as being the closest to a social welfare state in the region but its ethnic conflict has had differentiated impact on women's lives. Bangladesh has moved from parliamentary to military rule to the presidential system and sought integration into the regional and global economy. Notwithstanding the fact that Nepal was not colonized it has had an equally troubled history of state formation with the monarchy now challenged by the Maoist insurgency, the constitution suspended and its economic dependence on India.

The state in each of the cases however is seen as the agent for socio-political transformation. Given that privileged classes and groups inherited political power any opportunities that women got were through the benevolence of the state. It is therefore not unusual for the same government to, proverbially speaking, give with one hand and take away from the other as far as women are concerned. A point best illustrated by the example of Pakistan's President, General Ayub Khan (1958-1969) who on the one hand promulgated the Family Laws Ordinance, 1961 that for the first time codified personal laws and provided women a measure of protection. On the other, hand *fatwas* (edicts) were issued by religious clerics against women seeking the office of head of state, because a woman (Mohtarma Fatima Jinnah) was a strong rival candidate in the presidential election (1966).<sup>14</sup>

<sup>14</sup> See for detailed discussion, *Mumtaz and Shaheed. Opcit.*

<sup>15</sup> *Shtrii Shakti in Tambiah (ed), Opcit. p. 42-43*

<sup>16</sup> *Shirkat Gah in Tambiah (ed), Ibid. p.183*

Similarly, the contradiction between Nepal as a Hindu state that endorses the discriminatory ethos of Hinduism but at the same time has expanded services for women as it embarked on its modernization process in the mid-twentieth century.<sup>15</sup> Or, the phenomenon of reserving seats for women in parliament but electing them indirectly, which in effect isolates them from their constituencies and potential source of power as in Pakistan and Bangladesh. Essentially the states of the region are patriarchal, sometimes benevolent and sometimes restrictive and discriminatory being in a sense compelled by the needs of modernization and integration into the global system to bring women into the public sphere but continuing to subordinate them at the same time.<sup>16</sup>

That the impact of political processes is mediated by class and other socio-economic factors is evident from the catapulting into positions of power of women like Sirimavo Bandarnaike, Indira Gandhi, Benazir Bhutto, Sheikh Hasina, Khalida Zia and Chandrika Kumaratunga.

### 3.3. Women's agency

Women's own agency for pushing for social and political rights has been an important factor in enhancing women's participation in politics. The experience in each of the countries demonstrates that women's activism gained them the space that they now have and in many instances have also to defend and protect.

The debates around women's seats carried into the post independence period in both India and Pakistan. In India women members of the 1949 Constituent Assembly opposed special concessions for women and hence reserved seats were not considered in the constitution. Similarly, the Committee on the Status of Women in India rejected the idea of women's reserved seats in 1975 (there was a dissenting note on the issue by two members, activist/academics Vina Mazumdar and Lotika Sarkar who saw reservations as a necessary affirmative

action for women). However, the Committee did make a strong recommendation for institutionalization of women's participation in local government through special quotas.

In Pakistan, women in the Constituent Assembly of Pakistan pushed for reservation of seats for women. Here the two women legislators connected with women outside the parliament to create pressure for women's seats through street demonstrations. The debate in Pakistan also focused on the election modality, should women be directly elected or indirectly? Should the direct election be in specially defined women's constituencies? Should women alone vote for candidates on reserved seats?<sup>17</sup> The first Constitution of Pakistan (1956) finally provided for 3 percent reserved seats for women in the national and provincial legislatures, to be directly elected by special women's constituencies.

### 3.4. Other factors

Among other factors, an important one is the foundational principle of equality of all citizens adopted by each of the states in the region regardless of their form of governance — parliamentary democracy, the presidential system or monarchy. The Indian Constitution enshrined the principle; Pakistan's various constitutions beginning with the first one of 1956; and in the case of Nepal the suspended Constitution of 1990. The Indian and Pakistan constitutions included provisions for affirmative action for the marginalized and underprivileged. That all the regional states also became party to UN Conventions like the Universal Declaration of Human Rights and subsequently other instruments (CEDAW) and declarations (Cairo, Beijing) have exerted pressure for greater inclusion of women in public decision making.

### 4. Women's representation: the current situation

Women's representation in the South Asia region is at two levels, in national and provincial/state legislatures and in local governments. In the former they can play a role as law and

policy makers and in the latter in development related implementation. The experience of respective states reveals that collectively the number of women in legislatures has been lower than 9 percent over the last five years. This despite Beijing Platform for Action's goal of adequate representation of women in all decision making bodies and the recommendation of creating a "critical mass" and "gender balance" in political decision making.

In the case of Pakistan the time bound affirmative action of reserved seats lapsed after the election of 1988 and women were reduced to four and six respectively in the elections of 1993 and 1997. In Nepal eight women were returned in the general elections of 1991 and seven in the 1994 mid-term elections in a house of 205 (less than 4%). In Bangladesh there were six women in parliament in 2004 after the lapse of women's reserved seats in 2001. In India women's political representation at the legislative level has declined from 49 in 1999 to 44 in 2004 in the directly elected Lower House (*Lok Sabha*) whereas in the Upper House (*Rajya Sabha*) it increased from 20 in 1999 to 28 in 2004 — the cumulative rate still hovering at less than 9 percent.

The above picture reflects the dismal situation where women given their disadvantaged position in society are unable to enter or compete in the political arena. The expectation that they would overcome their constraints in a specified period proved to be misplaced (as evident in the case of Pakistan and Bangladesh). It is obvious that women's political participation does not occur in a vacuum but is determined by their status and position in society and the way their roles are viewed.

On the other hand, rather dramatically, South Asia has experienced the opening of space for the entry of large numbers of women in public decision making through local government institutions in India, Pakistan, Bangladesh and Nepal. That this space is threatened and faced with hurdles and obstacles emanating from the deep rooted patriarchal

<sup>17</sup> See for details on discussion in legislatures on the issue, Khawar Mumtaz, "Political Participation: Women in National Legislatures in Pakistan", in Farida Shaheed et al, *Shaping Women's Lives: Laws, Practices & Strategies in Pakistan*. Lahore, Shirkat Gah. 1998. pp. 319-370

structures can also not be denied. Nevertheless it is a window of opportunity to be grabbed for further mobilization of women.

Reviewed below is the country wise situation of women's representation.

#### 4.1. India

India's bi-cameral legislature consists of a 545 strong lower house (Lok Sabha) and a 250 member upper house (Rajya Sabha). Women in the two houses largely belong to the relatively privileged middle class, are educated and in professions. Some women enter through the caste quotas. Despite the constant low number of women having returned as legislators (though they doubled in the first fifty years) some have reached positions of power in mainstream political parties and in governance like Sonia Gandhi, president of the ruling Congress party, Jayalalitha, Chief Minister (CM) of Tamil Nadu and Mayawati, the former CM of Uttar Pradesh who also happened to be a *dalit*. Religious extremist party, VHP too has a few militant and activist women among its leadership. Notwithstanding their standing these women have failed to push for gender balance in the decision making bodies within their parties.<sup>18</sup>

Women's representation in State Assemblies at an average of four percent is even more dismal. Analysis and studies of women's effectiveness in legislatures reveal that their presence has hardly made any difference despite the fact that women moved private members bills and resolutions relevant to women and managed support from other women members regardless of party lines. Most of these it turns out did not come up for discussions and lapsed.<sup>19</sup> The studies also point to the fact that not many women took up women's issues per se.

Women have increasingly become active in informal politics. According to the NGO draft report on Beijing + 5, "women have become visible on a large scale, particularly in mass movements and rallies against crime, violence, environmental degradation ... for wage increase and political empowerment, and social development."<sup>20</sup> They have thus succeeded in bringing women's issues on to the agenda of social and political discourse and also made substantial gains (e.g. the rights of self employed women, the tabling of Women's Reservation Bill in 1996, ruling against sexual harassment, etc.)

The historic opening for women in India came in 1993 with the enactment of the 73<sup>rd</sup> amendment (*Panchayati Raj*) and 74<sup>th</sup> amendment (the Municipalities Act for urban local government) to the Constitution of India. These amendments came against the backdrop of the campaigns of the women's movement in India that gained momentum in the eighties — defining its movement's identity, finding a base in "issues being articulated by poor women at the grassroots" and their absorption into the "movement's range of concerns."<sup>21</sup> Earlier in 1975 the Committee on the Status of Women had recommended the establishment of statutory women's *panchayats* at the local level but the recommendations had been shelved.

The amendments provided for not less than one third membership (33 percent) to women in the three tier system of local self government (*Panchayati Raj*) in rural areas. This consists of the village (*gram*), block (*taluka*), and district (*zilla*) levels. One-third of the prescribed women's seats are for women of Scheduled Castes and Scheduled Tribes. At least one-third of the office bearers are also reserved for women. The term of the *panchayats*, their re-election and the conditions for their suspension were also laid out in the amendments.

<sup>18</sup> See for detailed discussion, *Advancement of Women in India 1995-1999: A Draft Report from the Women's Movement*. August 1999. (mimeo). Pp. 140-141

<sup>19</sup> Ekatra in, Tambiah (ed), *Op cit.* p. 295

<sup>20</sup> *Draft Report from the Women's Movement*. *Op cit.* p. 131

<sup>21</sup> Vina Mazumdar & Indu Agnihotri, "The Women's Movement in India, Emergence of a New Perspective," Bharati Ray, Aparna Basu (ed), *From Independence Towards Freedom*. New Delhi: OUP. 1999. p. 229

These were followed by states enacting conformity legislations by 1996, with some variations in details.<sup>22</sup> For instance, the Orissa government made it mandatory for the vice-chairperson to be a woman if the chairperson is a man. Rajasthan, Haryana and Orissa debarred candidates with two children to contest elections and some have special provisions for conflict resolution at all levels (See Annex 4 for further details).

The *Panchayati Raj* brought more than one million women as members and chairpersons of local bodies. However the performance and election of women in different states varies: Madhya Pradesh and Himachal Pradesh elected 38 percent women in the elections of 1996, Punjab 29.6 percent and Karnataka a little over 43 percent.<sup>23</sup> Bidyut Mohanty summed up the profile of the elected women on the basis of various case studies as, being younger, less exposed to public life and less educated than their male counterparts with high caste members predominant at the higher posts (*sarpanch*, office bearers at district level).<sup>24</sup>

While the Acts per se do not provide for all-women *panchayats*, their subsequent emergence has been an interesting development. It needs to be pointed out that as early as 1989 nine villages in the western state of Maharashtra had elected all-women *gram panchayats* reportedly an outcome of the campaign of an independent farmers' organization, Shetkari Sanghatana. West Bengal got its all women *gram panchayat* in May 1993 under the Left Front Government.<sup>25</sup> The unanimous decision for all-women *panchayats* was reportedly because men did not want controversy or expose women to contests.<sup>26</sup> Earlier, an all woman *panchayat* was elected in Andhra Pradesh in the seventies and another in the eighties.<sup>27</sup> One other reason for

all women *panchayats* was that higher caste men did not want to work under a lower caste woman.

The participation of women under the PRI by all accounts has generally been positive. The main obstacles to women's fuller participation have been those of inexperience, inadequate information and knowledge about the system and their role in it, of class, caste and religion, and of lack of resources. That many came in as proxy candidates place their legitimacy into question. Resistance has come from women's families, political parties, male colleagues who see women quotas as a hurdle in their political aspirations, and male officials. The use of no-confidence motions against *sarpanches* (often to also dislodge male *sarpanches* belonging to backward castes and tribes) is also widespread. Some states have tried to curtail the practice through legislation. According to one analysis the rotation of women's reserved seats fails to advance women's right to political office as the next election shifts the quota to another area rendering theirs as general seats, it also opens women to manipulation and control by male politicians who use them as their proxies.<sup>28</sup>

Women's groups in India have come forward to provide the necessary support and capacity building of women representatives in local government. Several NGO programmes are underway to train women and many women representatives turn to the support bases of women's movement and NGOs. One successful example is that of COVA, a network of 750 organisations in Hyderabad, India. COVA works for communal harmony through community empowerment. It began its intervention with the objective of establishing the legitimacy of women political representatives to address the concern

<sup>22</sup> Reservation for women in local bodies had been made earlier in Karnataka when in 1983 it restructured its *panchayats* and reserved 25 % seats for women. First elections under this provision were held in 1988. Chetna Gala, "Empowering Women in Villages; All Women Village Councils in Maharashtra", Seminar Report on "Decentralisation and Devolution of Powers in Panchayati Raj System in India, 22-23 March 1996." New Delhi: Centre for Development Studies & Action and FES. 1996 (mimeo.)

<sup>23</sup> Bidyut Mohanty, "Panchayat Raj Institutions and Women," Bharati Ray, Aparna Basu. *Opcit.* p. 23

<sup>24</sup> *Ibid.* p. 27

<sup>25</sup> Seminar Report. *Opcit.*

<sup>26</sup> Ekatra in Tambiah, *Opcit.* p.305

<sup>27</sup> Susheela Kaushik, *Panchayat Raj and Women: A Profile.* New Delhi, Centre for Development Studies and Action. 2000. p. 16

<sup>28</sup> Maitrayee Mukhopadhyay and Shamim Meer, *Creating Voice and Carving Space,* Amsterdam: KIT. 2004. p. 93

that women's reserved seats had been captured by male politicians who in fact performed the duties of elected women.

#### 4.2. Pakistan

The history of women's representation in legislative bodies and in local government is a checkered one. As stated earlier women's representation in the legislature was inherited from the colonial times but not always continued. From 1962 to 1988 women sat in national and provincial legislatures, when they existed, on reserved seats. The 1973 Constitution

provided for 10 reserved seats for women in the National Assembly (lower house) for a period of ten years or two general elections with no reservation for the upper house (Senate.) This number was doubled to 20 out of a house of 237 in 1985 by General Zia ul Haq. The National Assembly of 1988–1990 saw the largest number of women up to that point in the country's legislative history i.e. 24, four having come through direct election. 1990 onward the provision for reserved seats having lapsed the number of women parliamentarians dropped dramatically. The years from 1990-

#### Box 3.1 : Overcoming barriers — the COVA experience in India

Context	Women's representation in political bodies	Strategies and tools	Gains
<ul style="list-style-type: none"> <li>Parliamentary multi-party democracy since 1947.</li> <li>Quotas for marginalized groups since first elections.</li> <li>1993 constitutional amendment and introduction of 33 percent quota for women in local government elections.</li> </ul>	<p><b>Local political representation.</b></p> <ul style="list-style-type: none"> <li>8-10 percent in National parliament and state assemblies (no quota);</li> <li>33 percent in local government institutions after 1993 (quotas).</li> <li>BUT 1 woman Prime Minister,</li> <li>Several women Chief Ministers of state assemblies.</li> </ul>	<ul style="list-style-type: none"> <li>Capacity development of women representatives.</li> <li>Network for support.</li> <li>Gender training for male members of council and male relatives of elected women.</li> <li>Linking elected women to constituencies government officials, and political parties.</li> <li>Follow up and monitoring of elected women.</li> <li>Research to provide information to council. Formation of and support to women's groups in communities.</li> <li>Media coverage.</li> </ul>	<p>Women elected on quotas assume their responsibilities:- Start attending council meetings;</p> <ul style="list-style-type: none"> <li>Form cross party alliances in councils;</li> <li>Intervene in debates;</li> <li>Get development projects for their constituencies;</li> <li>Meet with members of constituency;</li> <li>Negotiate with government officials;</li> <li>Some take up gender specific issues such as violence against women;</li> <li>Discernible change in self-image and political aspirations.</li> </ul>

Source: Adapted from, Madhopadyay and Meer, *Opcit.* p. 42

1999 may be termed “barren” from the point of view of women’s representation in the assemblies (See Table 6.) Needless to say, almost all directly elected women belonged to entrenched political and /or feudal families.

Important to note is that since the 1988 elections the number of women receiving tickets from political parties for national and provincial assemblies increased. The number after decreasing in 1990 (from 9 to 4) experienced a major rise (to 10 in 1993 and 24 in 1997).<sup>29</sup> Equally important to

remember is that women contesting general elections have been more successful at the national level (in Balochistan not a single woman had ever been elected directly till 1997) than at the provincial level, and women with party tickets had greater success than those standing as independents.<sup>30</sup>

The experience of women in Pakistan’s national legislatures shows that women, even when first time entrants in politics, not only participated fully in debates but their quality of interventions was in some instances higher than that of their

**Table 3.6 : Women in Pakistan’s National Assembly**

Year (Tenure of Assembly)	NUMBER OF WOMEN LEGISLATORS		
	RESERVED SEATS	GENERAL SEATS	TOTAL
1955-58			
1956			
1962-1965			
1965-69			
1972			
March 1977 - July 1977			
1985-88			
1988-90			
1990-93			
1993-96			
1997 – 99			
2002 – to date			

♣ Article 44(2) (i) of 1956 constitution provided 10 reserved seats for women members for the period of 10 years. 5 from East Pakistan, 5 from West Pakistan. Women’s territorial constituencies were delimited for this, giving a double vote to women in these constituencies - one for a general seat candidate and one for the women’s seats. However, no elections were held under this Constitution.

\* 8 women sat in the assembly, one expired and was replaced by another in East Pakistan.

† Including 1 woman, elected on reserved seats for non-Muslims

Source: Adapted from: Farida Shaheed, Asma Zia and Sohail Waraich, *Women in Politics*. *Opcit.*

<sup>29</sup> Shahla Zia and Farzana Bari, *Women’s Participation in Political and Public Life in Pakistan*. Islamabad: Aurat Foundation. 1999. p.39

<sup>30</sup> *Ibid.*

male colleagues. They undoubtedly felt constrained and beholden because of the indirect manner of their election. But that did not prevent them from articulating opinions on issues of concern to them as women as well as other national matters. The impact of women legislators was reduced primarily due to their limited numbers and the intransigence of their male colleagues.<sup>31</sup>

The issue of critical mass was resolved to a point by the restoration of reserved seats by the Government of Pakistan in 2000. The quota was raised to 60 women (17.5 percent) out of an enhanced 342-member National Assembly and similar quota (17.5 percent) for the provincial assemblies. The seats are allocated to political parties according to the proportion of their general seats in the assemblies. The quota while lower than women advocacy groups' demand of 33 percent was still three times the number of the previous (lapsed) one. More problematic from the women's organisations' point of view was the indirect mode of election which translated in majority of reserved seats being given to close relatives (wives, daughters, sisters, etc.) of political leaders/powerful persons, many of whom were disqualified due to the educational requirement (BA degree) for legislative contestants.

The religious parties, though opposed to women's representation, did not forego their share of the quota and followed the practice of nominating women relatives of leaders. Significantly, the election of 2002 showed a greater level of success for women standing on general seats. In all 14 women came in directly, raising the number of women in the National Assembly to 74. (For a consolidated historical overview of the Constitutional Provisions and women's representation in national and provincial legislatures in Pakistan, see Annex 5).

For the first time seats were also reserved for women in the Senate in the same proportion as the assemblies. Thus 17 seats are allocated for women in the 100 member body (an additional woman was returned on the technocrat seat). Each

provincial assembly nominates four women and the Federal Capital Territory one. While a detailed analysis of the performance of the women in assemblies may be outside the scope of this paper it would be sufficient to say that some of the women have become active both in their constituencies and the parliament. A fair number have crossed political boundaries to come together on women's issues. A recent example was the amendment to the honor killing legislation tabled by a woman member belonging to the ruling party. She also had the support of women across party lines.

Impediments for women are not only in contesting. While independents find themselves at a disadvantage because of the volume of resources required and the absence of a network of political workers for canvassing and support, those given party tickets are handicapped by the award of tickets to weak and losing seats. Not surprising that except women leaders and one or two with financial resources are the ones that have been returned to assemblies on direct elections like Benazir Bhutto and her mother, Nusrat Bhutto; head of Awami National Party Nasim Wali Khan; Abida Hussain and Tehmina Daultana of leading feudal families of Punjab.

The experience of local governments in Pakistan reveals a fractured picture with the law undergoing change in the provinces from time to time following the dismantling of the local bodies system introduced in 1959 (which did not have reservation for women). Local governments, although a provincial subject, were directed to reserve seats for women in 1979, ironically by a military government, which was responsible for introducing legislation that is discriminatory to women.<sup>32</sup> Thus all provinces provided for two indirectly elected women's seats in union councils and ten percent of the seats of district councils, except in NWFP where there was no reservation at all for union councils. That this did not have great impact on women's political participation goes without saying. In 1992, the last time that the local bodies elections

<sup>31</sup> Khawar Mumtaz, "Women in National Legislatures in Pakistan" in Farida Shaheed et al(eds), *Shaping women's Lives*.1998.pp319-369

<sup>32</sup> General Zia ul Haq, after gaining power through a military coup in 1977 introduced a series of so-called Islamic laws that have had far reaching consequences for women. These include the Hudood Ordinances, 1979, and the laws of Qisas and Diyat, Evidence, etc.

were held across the country (till the ones in 2000) female members constituted 10.4 percent of the total number of membership.<sup>33</sup>

The major turn around for local government came like that for legislatures in 2000. The Local Government Ordinance, 2000 provides for the reservation of 33 percent seats for women in all tiers of local government. At the lowest tier, i.e. the union council, the provision is for the direct election of women by all registered voters, while at the other two tiers (*tehsil* and *zilla*) the election is to be indirect. Out of a total of 40,049 seats collectively in union, *tehsil*, town (for urban areas) and district (*zilla*) councils a total of 36,049 were elected (90 percent) belying the fear expressed from many quarters that enough women would not be found to contest elections.

Always approached in the past for their vote women were now being pursued as possible candidates as local alliances began to be forged. They were also being encouraged by family and friends to contest. Many reportedly contested on their own initiative. Eleven women were returned as union council *nazims/naib nazims* (chair/vice-chair) and two women in Sindh were elected as district *nazims*. The latter category is where political parties participated fully and the *nazims* have party affiliations despite the elections being non-party based. Both women *nazims* belong to the opposition Pakistan Peoples Party.

Operationally also women have been confronted with barriers. Like in India these span lack of public experience, information and knowledge of the various governance structures, male attitudes, and family restrictions. In Pakistan these were compounded by the initial confusion over the relationship and coordination between the new governance structure and the administrative system. From the women's perspective the most disturbing was the attitude of male councilors including *nazims*

towards them. Men, reportedly have been condescending and dismissive, women are not always consulted in decisions, relegated to the back seats, not given the opportunity to speak, not provided agenda of the meeting and copies of budgets, not appointed to union committees and denied funds. There was also the feeling that women should deal only with women's issues and there were instances of male family members attending meetings instead of the elected councilor.<sup>34</sup> Despite this, women councilors have remained enthusiastic and have protested against their marginalisation.

The women's movement and women's organisations see the opening of space in representative bodies as an outcome of their relentless campaigning. The creation of Women's Action Forum in 1981 marked the beginning of women's renewed effort to resist discriminatory laws and get women's issues on the national agenda. It had demanded increased seats for women (20 percent) with a double vote for women as part of its charter of demands (1983)<sup>35</sup> but the lapsing of reserved seats in 1988 gave urgency to the issue. Women's and human rights organizations initiated a debate to arrive at a consensual position regarding the number and modality. It was agreed that there should be 33 percent reserved seats for women at all level through direct constituency based elections by a joint electorate of men and women. This was reflected in WAF's position in its statement for the Beijing Conference.<sup>36</sup>

Women's and other NGOs were also instrumental in mobilising women, including in the conservative province of NWFP and Balochistan, for contesting local government elections. They facilitated the process of registration in electoral rolls, helped in filing papers, carried out voter education and initiated debate and discourse at the local level on a wide range of

<sup>33</sup> *Ibid.* p. 47

<sup>34</sup> ADB, *Opcit.* p.23

<sup>35</sup> 20 percent reserved seats for women to be elected by women voters, and mandatory for political parties to give 10 percent tickets to women in the first stage; abolition of women's seats but 20 percent tickets by political parties to women and increased by 10 percent at each elections till equality is reached; reservation of 10 percent of seats for women in the Senate; reservation of 1/3 seats in local bodies for women to be elected directly by female electorate. Farida Shaheed, Sohail Waraich and Asma Zia, *Women in Politics*. Lahore: Shirkat Gah, 1998. Appendix IV

<sup>36</sup> *Ibid.*

### Box 3.2 : A successful campaign

A sustained decade long campaign formed the back drop to the reservation of women's seats in Pakistan. With Aurat Foundation a women's NGO, taking the lead and joined by leading women's and human rights groups it reached a wide ranging spectrum of political persons, community based organizations, trade unions, professional organizations and concerned citizens. Relevant information was communicated through specially developed material, seminars, conferences, media, and active lobbying and advocacy. Various strategies ("quiet" and "public") were devised and used to lobby with key members of parliament and others in sensitive and/or public positions. Thousands including representatives of nineteen political parties, professional organizations and professionals, public representatives including two Speakers, endorsed the principle through a massive signature campaign. Between 1998 and 1999 all four provincial assemblies had passed unanimous resolutions for the restoration of reserved seats and enhanced quotas. Balochistan, legislated an increased quota for women (26 percent) for local government in 1999, and in the partially held local government elections in Punjab in 1998, 12.5 percent seats were reserved for women. The Senate appointed Commission of Inquiry reaffirmed the women's demand for directly elected reserved seats for women as urgent affirmative action by the government in its report of 1997.<sup>37</sup>

local and national issues across the country. The massive mobilization of women was in large measure due to their effort especially in the absence of political parties' involvement in elections at the grassroots level (the parties in fact had actively prevented women from both contesting and voting in the elections). It is therefore not surprising that a sizable number of women from community based organizations were successfully elected. After elections NGOs continued their involvement with elected women representatives through various capacity building programmes. A number of networks of women councilors have also emerged facilitated by these organisations.

As the first term of local government ends and the next elections approach the provision of women's seats has received a set back. The overall size of the union council has been reduced from 21 to 13 and with it the number of women's seats has been halved though the percentage remains the same (from 8 to 4 women in each union council).

### 4.3 Bangladesh

Bangladesh's unicameral legislature consists of a parliament (*Jaityo Songhsod*) with 300 members. The constitution provided

for 15 reserved seats for women (Clause 65), these were doubled to 30 in the second national assembly (1979-1982). The seats lapsed in 2001. A recent proposal, yet to be passed, is for restoration of reserved seats and increase in the quota to 45 seats. The women are indirectly elected by the members of the house. The quota, as in Pakistan, does not prevent women from contesting on general seats. Currently there are 6 directly elected women in parliament. Unusual in the case of Bangladesh is that both, the head of government and leader of opposition are women.

Women's reserved seats have been critiqued by women activists as a ploy to increase the number of the majority party in parliament. The numbers are also not seen as adequate to give women a strong voice and the indirect mode of election making them no more than "30 ornaments". The obstacles in participation in formal politics are the familiar ones of family, perception of women's role as being in the domestic sphere, lack of resources because of inherent inequalities of law (inheritance, marriage, divorce and related laws),

and the fact that for mainstream parties the woman question does not have a priority.<sup>38</sup>The religious parties in fact oppose women's participation.

<sup>37</sup> Shahla Zia, "Women's Movement: Strategies for Success" in Farida Shaheed, et al, *Shaping Women's Lives. Opcit. pp. 392-395.*

<sup>38</sup> *Ain O Salish Kendra in Yasmin Tambiah (ed), Opcit. pp. 138-140*

Since independence in 1971, local government system has been central to policy makers concerns and five major reforms have been undertaken in the area. The Local Government (*Union Parishad*) Ordinance, 1983 was altered in 1997 to institute the current structure (Local Government Act Number 20). Under it there are four tiers of governance: the top tier is the district council (*zilla parishad*); followed by the *upazilla parishad* which is the lowest level of operation for the bureaucracy and line ministries; the third tier is the union council (*union parishad*); and the fourth, village level *gram sarker* that is not active everywhere. The directly elected union council has for the first time the provision of 33 percent quota for directly elected women.

Each union council is made up of nine wards that elect a general member from each ward. The union council is made up of thirteen members including the Chairman and three women. Each woman however represents three wards and is elected by the combined voters of these wards thus serving three times the number of constituents than her male counterparts. The Chairman is elected by the entire union council. Various functions of the union council are executed through 13 standing committees and women are to head one third of them with the mandate to head the committees on women's children's welfare, culture and sports, however in reality women are often excluded from committees. Women's seats are reserved in the urban local government institutions (city corporations and municipalities) too. Approximately 12 000 women have been elected under the local government system.<sup>39</sup>

Getting the right to participate in governance through reserved seats is the proverbial first step for women in Bangladesh as for those in India and Pakistan. Once elected, women in *upazilla parishads* do not automatically find themselves as equal decision makers. There are a number of constraining factors as indicated by an ADB study of 451 women councilors,<sup>40</sup> including the fact that the majority at that level had come from the poorest socio-economic strata and hence illiterate or with limited education, lacked knowledge of the workings of the *parishad*, didn't have

the skills to perform their roles, e.g. of conflict resolution, were unaware of government resources and programmes, and had no experience of interacting with government offices or institutions. As a result they were dependent on male colleagues in decision-making. The male colleagues were not found to be inclusive or encouraging ("the men meet without us and have a quorum"). The women often did not get notices of meetings, they complained of being ignored ("even the watchman ignores us;" "we have no fixed place to sit") and were "treated like dolls," often expected to sign on resolutions without knowing the content. Moreover, women's domestic chores prevented their full participation especially in the absence of cooperation from men in the family or from members of the council.

In Bangladesh the impact of mass movements is seen as a critical factor in making women visible. In the contemporary context the liberation movement and the subsequent mass uprising that overthrew the sitting government in 1990 contributed to women's participation in politics as well as coalition building on issues of gender equity—so integral to meaningful participation in political activities. Regarding women's fuller participation in local bodies a number of donor supported programmes were initiated by NGOs for training courses for union council members and women councilors. Through one such programme supported by ADB, BRAC and Sushilan were responsible for capacity building in 16 *upazilas*, 141 *union parishads* and one municipality. The training spanned roles and responsibilities of the councils and their members, to skills for running meetings, leadership and negotiations, information on government programmes, budget making and planning, implementation and monitoring. The impact was palpable: participation in meetings doubled to 80 percent, 90 percent of the women were involved in committees as opposed to 10 percent before the training and as members of the conflict resolution committees (*shaleesh*) participated in the resolution of innumerable disputes.<sup>41</sup>

<sup>39</sup> ADB, *Gender and Governance Issues in Local Government*. *Opcit.* pp. 19-20

<sup>40</sup> *Ibid.*

<sup>41</sup> *Ibid.* p. 41

An important initiative under the above mentioned programme was the formation of forums at the ward level in the 141 union *parishads* that held regular monthly meetings chaired by an elected woman member. The meetings invited line agencies and the poor women of the ward with the objective of identifying needs of the poor and linking them with line agencies and government resources. Another successful programme was the one initiated by BMP (see Box).

#### 4.4. Nepal

Women in Nepal received equal status with men on promulgation of the Interim Constitution of 1951. However with the authoritarian party less *panchayat* system ushered in following the royal coup in December 1960 and lasting till 1990 women's participation in formal politics was minimal. The restoration of democracy in 1990 changed the political structure of Nepal to that of a constitutional monarchy with a bicameral legislature, a cabinet responsible to the parliament,

multi-party political system and an independent judiciary. It also guaranteed fundamental rights and equal application of the law to all citizens regardless of ethnicity, caste, sex or religion.

Under the law 5 percent seats were reserved for women in the 60 member National Assembly and making it mandatory for each political party to put up 5 percent women out of its total candidates for parliamentary elections.<sup>42</sup> Women returned however were less than the stipulated 5 percent in the first two elections held under this Constitution – the general election of 1991 and the mid-term election of 1994 (see Table 8). Subsequently, the picture improved to 7.9 percent women in parliament in the year 2002 (5.9 percent of the total in the lower house and 15 percent in the upper.)<sup>43</sup> The change may be attributed in part to the announcement in 1997 by leading political parties to reserve 11 percent seats for women at all levels of the party committees.

#### Box 3: Overcoming barriers through training – Bangladesh

Bangladesh Mahila Parishad (BMP), a mass-based organization with over 94,000 members was established in 1970. Committed to a society based on gender equality, democracy and peace it has played a key role in promoting women's formal political participation and has worked on training programmes for women political representatives. Identifying the latter's main problem as isolation and hostility and disregard from male colleagues, BMP decided to intervene in three constituencies to address these problems. The BMP strategy was of developing support groups for three women representatives – one from an urban council and two from union *parishad*. Each support group was made up of 15 women from the representative's constituency and included BMP members. The members were trained by BMP to enable them to provide support to the elected representatives. They organized constituency meetings, built alliances with influential political leaders and linked the representatives with government officials. They also built the capacity of elected women and organized joint training for women and men elected members of councils. The result was that elected women attended council meetings and questioned procedures thus developing transparency; became more active and succeeded in getting development projects for their areas; took up gender specific issues; and set up autonomous women's cells. BMP followed up and monitored the performance of elected women.

Source: Maitrayee Mukhopadhyay and Shamim Meer, *Creating Voice and Carving Space*. Pp. 94-98

<sup>42</sup> *Shtrii Shakti in Tambiah*. *Opcit.* pp 88-89

<sup>43</sup> UNIFEM, *Progress of South Asian Women*. *Opcit.* pp33-34

Table 3.7 : Women's Candidacy and Representation in the House of Representatives

Parties	1991 General Elections				1994 mid-term election			
	Candidates		Elected		Candidates		Elected	
	Total	Women	Total	Women	Total	Women	Total	Women
NC	204	11 5.39%	110	5 4.54%	205	11 5.37%	83	4 4.81%
CPN-UML	177	9 5.08%	69	3 4.34%	196	11 5.81%	88	3 3.40%
RPP	318	17 5.34%	4	-	202	13 6.44%	20	-
Other parties (Independents)	646	42 6.50%	22	-	839	51 6.07%	14	-
<b>Total</b>	<b>1,345</b>	<b>79 5.87%</b>	<b>205</b>	<b>8 3.90%</b>	<b>1,442</b>	<b>86 5.96%</b>	<b>205</b>	<b>7 3.41%</b>

Source: Election Commission, Kathmandu, 1995. Quoted in Tambiah. *Op cit.* P. 79.

NC: Nepali Congress; CPN-UML: Communist Party Nepal- United Marxist Leninist; RPP:Rastriya Prajatantra Party

At the local government the passage of the Local Self-Governance Act provided for women's representation both by election and nomination. Under the Act a two tier system of local government was established, one at the district level and the other at the level of the villages and municipalities. A village had three local bodies: ward committees, a village development committee (VDC) and a village council (VC). Every village has nine five-member wards with one seat reserved for a woman. Thus at the village level there are 9 women representing 20 percent of all wards. All members are elected by adult franchise. One seat for women is reserved at VDC and VC form among the nominated members to these bodies.<sup>44</sup>

The last local bodies elections were held in 1997 when 36 000 women were elected amongst them 289 who were elected ward chairs. The deteriorating political situation precluded elections

after 1997 and the King's coup earlier this year has suspended the formal political process altogether.

The women's movement and women's activism has followed the vicissitudes of political development in Nepal. Restoration of democracy in 1990 marks an upsurge in women's activism and acknowledgement of women's issues as national ones. NGOs, in particular are seen as having contributed to the inclusion of women's perspectives in government policy and plans and mobilization of women. Nevertheless, the interaction between NGOs and political parties was negligible. The women's movement and women's pressure groups are regarded as being more effective towards women's empowerment. A case in point is that of legal action on women's right of inheritance that succeeded in mobilizing widespread support from women including women's wings of the leading political

<sup>44</sup> ADB report. *Op cit.* p.21

parties and ultimately forcing the government to present a Bill to amend the civil code (which remained pending however). In the case of abortion rights too the women's movement connected with members of parliament to have those recognized under the law.

#### 4.5. Sri Lanka

Sri Lanka is the only South Asian country that does not have a quota for women in representative bodies (national or local), although it has had two strong women presidents. Despite functioning democratic institutions and processes and women's right to vote since 1931 has not resulted in greater representation of women in formal political institutions. Recent years have seen an increase in the number of women running for elections but that has not translated in their being elected.

In 2004, there are 10 women members of Parliament, 90 percent of whom are in place by virtue of a kinship tie to a father, brother, or husband—often an assassinated one. Sri Lanka perhaps has perhaps the most entrenched dynastic politics in the region. The realities of power distribution along ethnic lines are reflected in women's political participation. Most of those elected belong to the dominant Sinhala community (approximately 74 percent of the total population). Muslim (8 percent) and Tamil (18 percent) women are minimally represented in political bodies. Women in local government too were around 2.1 percent in 1997.

Like in other states of the region patriarchal structures and attitudes continue to dog women even when the physical quality of life of Sri Lankan women is better than that of their regional counterparts. The gendered division of labor has been exacerbated due to the conflict that add to the burden of women as they are rendered household heads due to the conflict in the country. Indeed one of the most critical obstacles to women's political participation has been the prolonged civil conflict in the country (since the 1980s) resulting in a culture of violence that excludes women. Those who have braved the

dangers and won elections have put their life on line. Sarojni Yogeswaran who was elected to Jaffna Municipal Council and became mayor was assassinated by LTTE in 1997.<sup>45</sup>

Women's lack of representation does not mean that women are not active in informal political action and are unable to influence policy makers. On the one hand are the highly politicized Tamil women involved in the ethnic strife and on the other is the Mothers Front of the North seeking information about their sons, fathers and husbands who had disappeared due to government/army action in 1984 and that of the South of those who disappeared in the wake of the JVP insurgency in 1990. The Front by 1992 had 25,000 women members. Similarly the Women's Coalition for peace formed in 1997 strives for ending the conflict in the country.

In recent years (2001-2002) there has been a concerted effort by the International Centre for Ethnic Studies (ICES), a leading civil society organisation to galvanise support for women's quota in representative bodies. Working in collaboration with women activists and researchers a national advocacy campaign was launched for women's increased participation in assemblies. The key demand that emerged through a series of consultations was for 30 percent quota for women at all levels. In the process government institutions and officials were also met, however the response from political parties was not encouraging.<sup>46</sup>

#### 4.6. Maldives

Maldives is one of the regional countries that has negligible sex-based discrimination. Major indices do not reflect striking male-female disparities with female life expectancy, contrary to the situation in the rest of South Asia is marginally higher than that of males. In education too the figures are slightly better for girls except at the post-secondary level where it drops for girls. This is attributed to younger age of marriage for mothers, hence early motherhood and lack of opportunity for girls' schooling due to the geography of the country. The

<sup>45</sup> ICES in Tambiah, *Opcit.* pp. 433-436

<sup>46</sup> Mukhopadhyay and Meer, *Opcit.* p.82

better indices and absence of overt sex-based discrimination however has not meant greater representation in political institutions although voter turnout in the 1999 elections was higher for women than men (84.3 percent vs. 71.2 percent).<sup>47</sup>

At the political level women of Maldives got the right to vote in 1932, a year later than Sri Lanka and under the Constitution they have the right to contest public office except that of president and vice-president of the country. In 2004 there were 3 women elected to the parliament (6 percent). Women can also be nominated by the President and after the 1999 elections two women were elected and three were nominated.<sup>48</sup> According to available information the first political party in Maldives was set up in 1950s and women made up only one-third of its membership.

## 6. Challenges to women's participation

The above review has revealed that despite differences in the mode and extent of women's political representation there are a number of common factors that underlie and determine women's participation:

- Without affirmative action women's representation in legislatures and local government remains negligible. In the case of Pakistan and Bangladesh when quotas lapsed, women's representation dropped drastically. In Sri Lanka and Maldives where reservation does not exist women's representation is minimal, confined to the "widows, wives and daughters," in the case of the former.
- Once inside representative bodies, women are confronted with the intransigence of male colleagues including the *nazim*, *sarpanch*, or chairman, who deny them the space to speak out, are reluctant to include them in decision making, do not share information nor take them seriously or acknowledge them as equal in the forum. This is compounded by inadequate knowledge of administrative systems and requisite skills for participation in the business of the institution.

- The regional experience shows that numbers matter. Token presence from the instances discussed above had no impact even where women were raising valid problems and presenting solid arguments (in Pakistan's National Assembly, for instance, or in India before the local bodies quotas). Critical mass is essential to enable fuller participation.
- Gender, caste, class and religion all operate in conjunction to bring women in or keep them out of representative institutions. Lack of resources and assets become a barrier as much as lower caste and class expose the poor to intimidation and harassment to prevent them from contesting (e.g. women in some areas of NWFP prevented from voting and standing).
- Women's social subordination is a reality in the region regardless of good health or education indicators as in Sri Lanka or of minimal discrimination as in Maldives. The deeply held biases question the legitimacy of women's entry into politics. Considered subordinate and dependent with responsibility for the domestic sphere alone they are not seen as capable for the public arena. Women are therefore mobilized for casting the vote but not given position in parties. The resistance to reserved parliamentary seats in India and at all levels in Sri Lanka; the indirect mode of election for women on reserved seats in Bangladesh and Pakistan reinforcing politics of patronage; lack of cooperation and support from male family members especially at the local government level in all countries; reflect this thinking.
- The laws that enable women's access to political institutions often suffer from internal weaknesses. For instance, the indirect election on reserved seats opens the door for proxy representation, and dynastic politics besides giving the dominant political party the opportunity to inflate its majority (e.g. Pakistan in the past, and Bangladesh). Women having to represent three

<sup>47</sup> Sharma, *Women in South Asia. Opcit. p.248*

<sup>48</sup> *Ibid. p. 249*

times the size of constituency than men in union *parishads*, or their absence not affecting the quorum of meetings leaves room for their deliberate exclusion and marginalisation in Bangladesh.

- Women when given the opportunity and skills have proven their ability to interact with communities, identify and implement programmes, resolve conflicts (*shaleesh* in Bangladesh), manage funds, and run all women councils (in India). Training and establishing of networks and forums of elected representatives and links with women's groups are successful mechanisms for building the elected women's confidence and meaningful participation.
- Women despite the obstacles to participation have by and large seen the experience as being positive, raising their status in society with the potential of opening new horizons.
- The women's movement and platforms in respective countries played a significant role in giving visibility to women's issues and have relentlessly lobbied and advocated women's representation. Women's groups and activists received impetus from UN instruments and initiatives like CEDAW, ICPD, Beijing Conference and now the MDGs, even if the latter have watered down the commitments of the 1990's UN Conferences. It is not surprising that most of the initiatives reviewed above were introduced in the decade of the nineties.

The challenges to women's political participation and representation thus are multidimensional and multi-layered woven into the very fabric of South Asian societies. Starting from the social, cultural and economic barriers (that keep women isolated, uninformed, subordinate, unskilled and psychologically as well as physically dependent), to violation of rights (that the constitutions give them), to physical insecurity or threats to it, that are manifested in constraints to women's political participation.

Thus women find themselves not included in the decision making processes of political parties. Women's wings of parties are used largely for mobilizing women for demonstrations and protests or as voters. Potential women voters are not on electoral lists because of the barriers mentioned above. Laws introduced are not necessarily implemented and discriminatory laws remain on the statute books. The will is missing both in political parties and government to mainstream women in the political process. The resources required for inducting women into formal structures (and not just elite women) are not forthcoming.

## 7. The way forward

Recognising that affirmative actions where taken have opened unprecedented spaces for women, these are the essential first steps needing follow up for removal of distortions and ensuring fuller participation of women across class, caste, religion, and national/ethnic divides. For achieving the goal of Beijing Platform for Action's goal of adequate representation of women in all decision making bodies for South Asia will require the following steps to go forward:<sup>49</sup>

1. Introduction of affirmative action in the countries where it does not exist to reserve seats for women to ensure a "critical mass" (33 percent) at different tiers of representative bodies to be elected directly from their constituencies, with provisions for the inclusion of marginalised women. And implementation of affirmative action in letter and spirit where they already exist. These must have the provision of operating till women's equal participation in the political process is achieved.
2. Removal of distortions in the reserved seats system to create an even playing field by instituting direct constituency based elections. Mandating women's presence in committees and bodies to prevent their exclusion from decision-making. Removing any other

<sup>49</sup> This section represents an amalgam of thinking and recommendations contained in various reports, documents and discussions by NGOs, academics and official committees most of which have been quoted and referred to in the main body of this report..

- anomalies that place a burden on women compared with women.
3. Making equal participation of women in political process an official policy to be ensured through: introduction of a mandatory 20 percent women's membership in political parties as a qualification for participation in elections; commitment by political parties (through manifestos) to inclusion of programmes for women in nation building activities; institution of a special fund for female candidates, irrespective of political affiliations, to contest elections at all levels..
  4. Developing and running training programmes for women in local government to equip them for fulfilling their responsibilities effectively. Provide them with information on their duties and powers; give them skills of identifying, planning and implementing development programmes; of conflict resolution and of women's agency.
  5. Special allocation within budgets, at different tiers, to women members for implementing programmes and ensuring that they are not marginalized or by-passed. Making women's membership of committees/sub-committees, arbitration councils, etc. mandatory both in local government and legislatures.
  6. Training for male members of local government for sensitivity towards women members and the imperative of their inclusion in the business of the elected body. Introducing special measures for relieving elected women of the household burden for playing a fuller role.
  7. Facilitation of NGOs to play a more coordinated role in linking elected women, catalysing platforms and networks of solidarity and support: by creating an enabling environment, providing security against physical threats, violence and harassment and provision of resources.
  8. Closure of gap between the women's movement and elected representatives to foster collaboration and cooperation of women at all levels through the initiation of dialogue by women's groups with elected women.
  9. Sensitisation by women's and human rights groups of the media to the issues of elected women and the potential of their role in the political process; sensitization and mobilization of women voters to vote for female candidates.
  10. Above all, the removal of all barriers to women's participation in political processes particularly of discriminatory legislations and structural barriers that entrench inequality between classes and gender.

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## ABOUT THE CONTRIBUTORS

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## About the Contributors

**Dr. Radhika Coomaraswamy** was the former United Nations Special rapporteur on violence against women for the period 1994-2003 and is the director, the International Centre for Ethnic Studies in Colombo, Sri Lanka. As Director of the Centre, she oversees projects and programmes on multiculturalism, federalism and constitutional reform as well as education policy, and judicial approaches to pluralism. She has published widely on violence in the family, in the community, violence against women during armed conflict and the problem of international trafficking. She is also the author of two books on constitutional law. Radhika is a working committee member of the Civil Rights Movement in Sri Lanka, a member of the Board of Minority Rights Group and The International Human Rights Policy Group

**Dr. Govind Kelkar** is currently the coordinator of IFAD-UNIFEM Gender Mainstreaming Programme in Asia, New Delhi, and the founding Editor of the journal *Gender, Technology and Development*. She has previously taught at Delhi University, the Indian Institute of Technology, Mumbai, and the Asian Institute of Technology (AIT) where she also founded the graduate program in Gender Development Studies. Dr.Kelkar has previously co-authored *Gender and Tribe* (1991), and co-edited *Feminist Challenges in the Information Age* (2002). She has also contributed numerous articles to scholarly journals with a focus on gender relations in Asia. Dr.Kelkar is a frequent consultant to IFAD, Rome, UNIFEM, New Delhi, and other UN organizations on mainstreaming gender in development, and has been a keynote speaker at several women's conferences.

**Ms. Khawar Mumtaz** is a renowned Pakistani development activist and writer on Gender and Reproductive Health issues. She is currently the senior coordinator of Shirkat Gah, Women's Resource Centre, Lahore dedicated to women's rights which combines advocacy and capacity-building. She has recently co-authored the Pakistan Poverty Assessment National Report and won the PM's Award for her co-authored book *Women in Pakistan: Two Steps Forward One Step Back?* She has also helped shape national and international policy in the area of women's employment, reproductive health and the environment, through reports to the UNDP, FAO, IUCN and UNICEF.



# ANNEXES

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## Annex 1

## CEDAW Ratification Reservation and Declaration

	Signed <sup>50</sup>	Ratified <sup>51</sup>	Reservations/Declaration <sup>52</sup>
<b>Afghanistan</b>	1980	2003	
<b>Bangladesh</b>	-	1984	Article 2, 16-1 (C)
<b>Bhutan</b>	1980	1981	None
<b>India</b>	1980	1993	Article 29 (1) and Declaration on Article 5(a), 16(1), 16(2)
<b>Maldives</b>	-	1993	Article 7(a), 16
<b>Nepal</b>	1991	1991	None
<b>Pakistan</b>	1995	1996	Article 29(1)
<b>Sri Lanka</b>	1980	1981	None

Source: [www.un.org/womenwatch/daw/cedaw.html](http://www.un.org/womenwatch/daw/cedaw.html); United Nations Rights Website – Treaty Bodies Database; UN Treaty Collection website as quoted in *Progress of South Asian Women 2003*. UNIFEM. P. 41

## Articles relevant to women's participation in public and political life

## Article 4:

1. Adoption by State Parties of temporary special measures aimed at accelerating de facto equality between men and women shall not be considered discrimination as defined in the present Convention, but shall in no way entail as a consequence the maintenance of unequal or separate standards; these measures shall be discontinued when the objectives of equality of opportunity and treatment have been achieved.
2. Adoption by States Parties of special measures, including those measures contained in the present convention, aimed at protecting maternity shall not be considered discriminatory.

## Article 7:

States Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right:

- a. To vote in all elections and public referenda and to be eligible for election to all publicly elected bodies;

<sup>50</sup> Signing a convention / Covenant/Declaration commits the State in principle with the convention, but is not legally bound by

<sup>51</sup> A reservation is a statement that a State Party makes at the time of ratification, which either puts limit on a right or cuts out a right altogether. A declaration explains what is understood a word or sentence in the treaty to mean. The state's intention in a declaration is to exclude or modify a treaty standard, while the state's intent in a declaration is to explain what it understands that standard to be.

<sup>52</sup> United Nations Human rights Website

– Treaty Bodies database

– Concluding Observations of the Committee on the Elimination of Discrimination Against Women: Bangladesh

- b. To participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government;
- c. To participate in non-governmental organizations and associations concerned with the public and political life of the country.

**Article 8:**

States Parties shall take all appropriate measures to ensure to women, on equal terms with men and without any discrimination, the opportunity to represent their governments at the international level and to participate in the work of international organizations.

**Detailed Guidelines: General Recommendations 23 & 25**

The CEDAW Committee's General Recommendations elaborate on the provisions of the treaty for all states parties. General Recommendations 23, on articles 7 and 8, calls on states to provide details on restrictions on women's rights as well as statistical data disaggregated by gender, and notes:

"States parties should ensure that their constitutions and legislation comply with the principles of the convention, and in particular with article 7 & 8".

"States parties are under an obligation to take all appropriate measures, including the enactment of appropriate legislation that complies with their Constitution, to ensure that organizations such as political parties and trade unions, which may not be subject directly to obligations under the Convention, do not discriminate against women and respect the principles contained in articles 7 and 8".

"States parties should identify and implement temporary special measures to ensure the equal representation of women in all fields covered by article 7 and 8".

"States parties should explain the reason for, and effect of, any reservations to articles 7 or 8 and indicate where the reservations reflect traditional, customary or stereotyped attitudes towards women's roles in society, as well as the steps being taken by the States parties to change those attitudes. States parties should keep the necessity for such reservation under close review and in their reports include a timetable for their removal".

General Recommendation 25, on article 4, asks states parties to explain their reasons for choosing a given temporary measure, or while they have failed to enact these measures. It also says:

"States parties should analyse the context of women's situation in all spheres of life, as well as in the specific, targeted area, when applying temporary special measures to accelerate achievement of women's de facto or substantive equality. They should evaluate the potential impact to temporary special measures with regard to a particular goal within their national context and adopt those temporary special measures which they consider to be the most appropriate in order to accelerate the achievement of de facto or substantive equality for women".

"States parties should include, in their constitutions or in their national legislation, provisions that allow for the adoption of temporary special measures... The Committee draws the attention of States parties to the fact that temporary special measures may also be based on decrees, policy directives and/or administrative guidelines formulated and adopted by national, regional or local executive branches of government to cover the public employment and education sectors. Such temporary special measures may include the civil service, the political sphere and the private education and employment sectors. The Committee further draws the attention of States parties to the fact that such measures may also be negotiated between social partners of the public or private employment sector or be applied on a voluntary basis by public or private enterprises, organizations, institutions and political parties".

**Annex 2****Beijing Platform for Action - Strategic Objectives of the 12 Areas of Concern****A Women and Poverty**

- A1** Review, adopt and maintain macroeconomic policies and development strategies that address the needs and efforts of women in poverty
- A2** Revise laws and administrative practices to ensure women's equal rights and access to economic resources
- A3** Provide women with access to savings and credit mechanisms and institutions
- A4** Develop gender-based methodologies and conduct research to address the feminization of poverty

**B Education and Training of Women**

- B1** Ensure equal access to education
- B2** Eradicate illiteracy among women
- B3** Improve women's access to vocational training, science and technology, and continuing education
- B4** Develop non-discriminatory education and training
- B5** Allocate sufficient resources for and monitor the implementation of educational reforms
- B6** Promote life-long education and training for girls and women

**C Women and Health**

- C1** Increase women's access throughout the life cycle to appropriate, affordable and quality health care, information and related services
- C2** Strengthen preventive programmes that promote women's health
- C3** Undertake gender-sensitive initiatives that address sexually transmitted diseases, HIV/AIDS, and sexual and reproductive health issues
- C4** Promote research and disseminate information on women's health
- C5** Increase resources and monitor follow-up for women's health

**D Violence Against Women**

- D1** Take integrated measures to prevent and eliminate violence against women
- D2** Study the causes and consequences of violence against women and the effectiveness of preventive measures
- D3** Eliminate trafficking in women and assist victims of violence due to prostitution and trafficking

**E Women and Armed Conflict**

- E1** Increase the participation of women in conflict resolution at decision-making levels and protect women living in situations of armed and other conflicts or under foreign occupation

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- E 2** Reduce excessive military expenditures and control the availability of armaments
- E 3** Promote non-violent forms of conflict resolution and reduce the incidence of human rights abuse in conflict situations
- E 4** Promote women's contribution to fostering a culture of peace
- E 5** Provide protection, assistance and training to refugee women, other displaced women in need of international protection and internally displaced women
- E 6** Provide assistance to the women of the colonies and non-self-governing territories
- F** **Women and the Economy**
- F 1** Promote women's economic rights and independence, including access to employment, appropriate working conditions and control over economic resources
- F 2** Facilitate women's equal access to resources, employment, markets and trade
- F 3** Provide business services, training and access to markets, information and technology, particularly to low-income women
- F 4** Strengthen women's economic capacity and commercial networks
- F 5** Eliminate occupational segregation and all forms of employment discrimination
- F 6** Promote harmonization of work and family responsibilities for women and men
- G** **Women in Power and Decision Making**
- G 1** Take measures to ensure women's equal access to and full participation in power structures and decision-making
- G 2** Increase women's capacity to participate in decision-making and leadership
- H** **Institutional Mechanisms for the Advancement of Women**
- H 1** Create or strengthen national machineries and other governmental bodies
- H 2** Integrate gender perspectives in legislation, public policies, programmes and projects
- H 3** Generate and disseminate gender-disaggregated data and information for planning and evaluation
- I** **Human Rights of Women**
- I 1** Promote and protect the human rights of women, through the full implementation of all human rights instruments, especially the Convention on the Elimination of All Forms of Discrimination against Women
- I 2** Ensure equality and non-discrimination under the law and in practice
- I 3** Achieve legal literacy
- J** **Women and the Media**
- J 1** Increase the participation and access of women to expression and decision-making in and through the media and new technologies of communication
- J 2** Promote a balanced and non-stereotyped portrayal of women in the media



**K Women and the Environment**

- K1** Involve women actively in environmental decision- making at all levels
- K2** Integrate gender concerns and perspectives in policies and programmes for sustainable development
- K3** Strengthen or establish mechanisms at the national, regional and international levels to assess the impact of development and environmental policies on women

**L The Girl Child**

- L1** Eliminate all forms of discrimination against the girl child
- L2** Eliminate negative cultural attitudes and practices against girls
- L3** Promote and protect the rights of the girl child and increase awareness of her needs and potential
- L4** Eliminate discrimination against girls in education, skills development and training
- L5** Eliminate discrimination against girls in health and nutrition
- L6** Eliminate the economic exploitation of child labour and protect young girls at work
- L7** Eradicate violence against the girl child
- L8** Promote the girl child's awareness of and participation in social, economic and political life
- L9** Strengthen the role of the family in improving the status of the girl child

### Millennium Development Goals & Targets (2000)

<b>Goal 1</b>	<b>Eradicate Extreme Poverty &amp; Hunger</b>
Target 1	Halve, between 1990 and 2015, the proportion of people whose income is less than one dollar a day
Target 2	Halve, between 1990 and 2015, the proportion of people who suffer from hunger
<b>Goal 2</b>	<b>Achieve Universal Primary Education</b>
Target 3	Ensure that, by 2015, children everywhere, boys and girls alike, will be able to complete a full course of primary schooling
<b>Goal 3</b>	<b>Promote Gender Equality And Empower Women</b>
Target 4	Eliminate gender disparity in primary and secondary education, preferably by 2005, and at all levels of education no later than 2015
<b>Goal 4</b>	<b>Reduce Child Mortality</b>
Target 5	Reduce by two thirds, between 1990 and 2015, the under five mortality rate
<b>Goal 5</b>	<b>Improve Maternal Health</b>
Target 6	Reduce by three quarters, between 1990 and 2015, the maternal mortality ratio
<b>Goal 6</b>	<b>Combat HIV/AIDS, Malaria And Other Diseases</b>
Target 7	Have halted by 2015 and begun to reverse the spread of HIV/AIDS
Target 8	Have halted by 2015 and begun to reverse the incidence of malaria and other major diseases
<b>Goal 7</b>	<b>Ensure Environmental Sustainability</b>
Target 9	Integrate the principles of sustainable development into country policies and programmes and reverse the loss of environmental resources
Target 10	Halve by 2015 the proportion of people without sustainable access to safe drinking water
Target 11	By 2020 to have achieved a significant improvement in the lives of at least 100 million slum dwellers
<b>Goal 8</b>	<b>Develop A Global Partnership For Development</b>
Target 12	Develop further an open, rule-based, predictable, non-discriminatory trading and financial system
Target 13	Address the special needs of the least developed countries
Target 14	Address the special needs of landlocked countries and small island developing States (through the Programme of Action for the Sustainable Development of Small Island Developing States and the outcome of the twenty-second special session of the General Assembly)



- Target 15 Deal comprehensively with the debt problems of developing countries through national and international measures in order to make debt sustainable in the long term
- Target 16 In cooperation with developing countries, develop and implement strategies for decent and productive work for youth
- Target 17 In cooperation with pharmaceutical companies, provide access to affordable essential drugs in developing countries
- Target 18 In cooperation with the private sector, make available the benefits of new technologies, especially information and communications

### Women and Panchayati Raj in India: 73<sup>rd</sup> Amendment Act

The Panchayati Raj (Constitution's Seventy-Third Amendment) Act provides for certain far reaching steps. It provides for direct election to all the seats of the Panchayats, for the Gram Panchayats at the village, to the body at the intermediary (Bloc Samiti) and Zilla levels. It provides for a fixed tenure of 5 years, next elections to be held within a period of six months in the event of supersession of any Panchayats or at the expiry of its period. The Act also provides for a compulsory 3 tier-system in all the states, except where the population does not exceed 20 lakhs. In the latter case, the states can have the option not to have the bloc samiti.

The elections to the Chairpersons of the Block Samiti and Zilla Parishad will be indirect, while that of the Gram Panchayat chairperson was left to the states to decide. (This was a concession to criticism, and a modification from the original bill, which provided for direct election).

However, the Act is most significant for the reservation for women, SC and STs. If utilized fully, as many as over 7.95 lakh women, including those belonging to SCs and STs can become panches and sarpanches (members and chairpersons).

These provisions may be recaptured:

- Not less than one-third of the seats will be reserved for women (including that of SC and ST) and these may be allotted by rotation to different wards (constituencies) of a Panchayat.
- In proportion of the total population of SC and ST to the population of the area, seats will be reserved for SC and ST. There would be reservation for women in these seats allotted to Scheduled Castes and Scheduled Tribes. Not less than one third of the SC and ST seats may be reserved for women.
- Not less than one-third of the total number of seats for the offices of the chairpersons at each level would be reserved for women. This would be rotated among different Panchayats at each level.
- In addition, reservation for membership or chairperson to citizens of backward classes, could be provided by the states, if they chose to do.
- The Panchayats are authorized to levy, collect and appropriate such taxes, duties, tolls and fees. They would also receive grants in aid from the Consolidated Fund of the State.
- The provision for the appointment of a Finance commission by the Governor to review the financial position.

In addition under the 74<sup>th</sup> Amendment for the Urban Local Government called the Municipalities Act, there is a provision for District Planning Committee. This is a combined Planning Committee for Panchayat and municipal areas. Every DPC will prepare a draft development plan for the district and forward it to the Government of the State. The state legislature has the power to make laws for the manner of composition and filling up of the seats in such committees, functions and the procedure of election of the chairperson etc. Not less than 4/5 of the total number of members of such committees are elected from amongst the elected members of Panchayats and municipalities in the district by the members themselves in proportion to the ratio between the population of the rural and the urban areas in the district. However, some of the states have not yet formulated their planning committees while Gujarat, M.P. have not even provided for them.



While all the State Panchayat Acts incorporated the five mandatory provisions, many added on other significant features, such as functions and powers of Gram Sabha, the method of elections of chairpersons to the bloc and district level bodies, reservation of additional posts and percentage for women, reservation for OBC, constitution of nyay panchayats, financial procedures, and formation of committees, procedures for no-confidence motion etc. this has lent a variety of practices among the states. These features have much relevance for the effective functioning of women in the panchayats as well as some of the challenges they face in the course of their functioning.

(Extracted from Susheela Kaushik, *Panchayati Raj and Women: A Profile*. Pp. 2-4).

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