The Dhaka University Studies, Part-F Vol. XV (2) : 23—58, December 2004

IN SEARCH OF THE '*RIGHT*' QUESTIONS : DOING GENDER SENSITIVE LEGAL RESEARCH IN BANGLADESH

Dr. Farmin Islam

The demand for women's emancipation had been raised in Bengal as early as eighteenth century during British rule in India. Philanthropists like Raja Ram Mohan Roy and early Muslim feminists such as Begum Rokeya Sakhawat Hossain informed society about the ills of women's disadvantaged position compared to men through their writings. However, these efforts were few and far between. In reality interest in women's issues was raised considerably by development scientists, who perceived women's emancipation as a necessary precondition to the economic development of Bangladesh. The U.N. Decade for Women (1975 – 1985), which laid down the foundations for global efforts in freeing women worldwide from all kinds of discriminatory practices and putting them in equal footing with men in every sphere of life, put renewed energy into the 'woman question' within policy circles in Bangladesh. This led to the creation of the first generation of researchers who brought to light the social and economic disadvantages faced by Bangladeshi women and stressed the need to find necessary solutions. Moreover, the women's movement in Bangladesh, as in other parts of the world used the 'rights discourse' to draw attention to women's problems and also to help secure better social and economic conditions for women. Therefore, women's rights under the Constitution of Bangladesh, the various personal laws, criminal and employment laws, all of which have a direct bearing on women's position in society became an increasingly debated subject.

Law and legal rules contain formal declarations of people's rights and entitlements as envisaged by state power and aimed at regulating human interaction. Law is therefore a set of rules through which an individual is granted rights as well as protected against the violation of those rights. Law reflects a particular

society's sense of justice towards its members.[1] The idea that legal rights have some intrinsic value is widespread and a 'rights claim' can define the boundaries of state power and the entitlement to do something, and, by extension, provide an affirmative vision of human society.[2] The language of 'rights' has been used in social and political movements to represent and claim entitlements contained within the statutes and beyond. Similarly, the rights based strategy has been central to women's movement for social, economic and political empowerment. Although the rights discourse has its limitations, it can help to affirm human values, enhance political growth, and assist in the development of collective identity.[3]

Social science developed numerous tools and methods of studying human nature and the problems of society in general. Growing concern among legal scholars as to society's responses to the different legal provisions that regulate their lives, and to the degree in which these measures reflect the changing patterns and requirements of social behaviour led to the use of social science methods in legal research. Legal research and law school curriculums are now enriched with the introduction of social science techniques. The interaction of law and social science is indeed a remarkable development.[4] The successful integration of social science methods in legal research in the form of empirical legal research explores the wider implications of law in people's lives. Empirical legal theory therefore analyses the social, economic and political context of legal doctrine. This focus enables an

---

1. Kamal, Sultana: 'Feminist Legal Research', in Guhathakurta, Meghna (ed.): *Contemporary Feminist Perspectives*, University Press Limited, Dhaka, 1997, p. 48.
2. Schneider, Elizabeth M.: 'The Dialectic of Rights and Politics: Perspectives from the Women's Movement (1986)', in Bartlett, Katherine T. and Kennedy, Rosanne (eds.): *Feminist Legal Theory: Readings in Law and Gender*, Westview Press, Boulder, 1991, p. 318.
3. Ibid, p. 320.
4. Saraf, D.N.: 'Relevance and Utility of Empirical Research in Law', *Journal of the Indian Law Institute*, Vol. 24,1982, p.611.

understanding of law as an institution of society inter-linked with all other institutions. Empirical legal theory can therefore better explain legal change and the links between social and legal changes.[5]

With respect to research on social and legal issues relating to women a gender sensitive approach is necessary in order to present the realities of women's lives. It has been suggested that gender must become a fundamental category of legal analysis, not only for feminists but all legal scholars.[6] The majority of legal researches on women in Bangladesh tend to overlook the fact that women are active agents in society and that they try to solve both legal and non-legal problems in myriad ways. All too often Bangladeshi women are portrayed as 'victims' only of the triple forces of poverty, purdah and patriarchy. While these are important concepts for the analysis of gender relations and their effects in South Asian countries including Bangladesh, these tend to produce the image of helplessness that deny the fundamental and intrinsic human qualities of the women.

This article firstly delineates the tendencies and characteristics of the literature on issues relating to women, law and rights of both colonial and post-colonial origin. By exploring the boundaries of the 'dominant discourse' produced on women's legal issues the article further examines how this discourse can be problematic for researchers in formulating a workable methodology for the study of women and their rights in Bangladesh. Tracing the tradition of the research produced on legal issues of Bangladeshi women and by reviewing some of the more prevalent notions on women and their rights eventually helps to locate the dilemmas in this field of research. The issues of 'rights' and 'access to law' are multifaceted concepts. The majority of literature on women's rights in Bangladesh tends to overlook the multi-dimensional ways in which women try to achieve their rights and which may not always

---

5. Dhanda, Amita and Parashar, Archana (eds.): Introduction to *Engendering Law: Essays in Honour of Lotika Sarkar*, Eastern Book Company, Lucknow, 1999, p.4.

6. Ibid, p.7.

be in terms of conventional uses of the law. Therefore the article highlights how by introducing women's 'agency' as an analytical concept, without losing sight of the constraints that women do face, opens up a more meaningful approach to researching women's legal issues. The article therefore examines the widely discussed issue of women's 'rights' in a different light and delineates the significance of rethinking the strategies generally used when researching women and their legal rights. The following discussion combines theoretical discussion as well as personal experience from research findings to raise and elaborate on the subjects mentioned above.

The article draws upon research findings prepared for a doctoral dissertation that explored issues of women workers' perception of law and legal rules that govern their working conditions under the labour laws of Bangladesh.[7] Additionally the thesis also examined the use of legal remedies by women workers to achieve their legal entitlements. The initial hypothesis envisaged that women had little or no access to the law and were generally unwilling and unable to assert their rights due to socio-economic factors as perceived by the vast majority of studies carried out on them. Seeking to take up from where those studies had left off, the research intended to ascertain which problems were attached maximum importance by the women themselves, the manner in which they perceived them and the means whereby they attempt to resolve them.

However, after completion of preliminary fieldwork of the research particular findings reshaped the original format of the study to include women's 'agency' as an analytical concept along with necessary methodological implications. This became a turning point of the approach that was initially used and brought forth a new dimension to the issue of women and their rights. Apart from having to rework the actual questions that were to be put forward to the women respondents of the study it became crucial to

---

7. Islam, Farmin: *Law as a Site of Resistance: Recourse to the Law by 'Garments Women' in Bangladesh*, Ph.D. Thesis, University of East London, London, July 1997.

examine the strategies they undertake to alleviate their problems and resist workplace oppression. The latter aim was supported by initial fieldwork findings that clearly indicated that the women were infinitely resourceful in trying to better their own situation and even willing to use law as tool to resist the unfair treatment at work. The findings of the research therefore created a new dimension to the notion of women's use of law and the legal system in Bangladesh.

CONSTRUCTED IMAGES : WOMEN AS VICTIMS

In Bangladesh socio-cultural and economic conditions tend to put women in a less favourable position to men in almost every aspect of their lives. Even at this age and time girl children suffer the worst kinds of discrimination with respect to such basic human entitlements such as intra household distribution of food, access to education and healthcare. Most importantly these discriminatory practices impinge on their capacity to perform on equal terms with men in different levels of work and employment. Their capacity to pursue their own goals, decision-making and economic gain is greatly circumscribed and this reinforces their dependence on men. Dependence is further exacerbated by the fact that often the work they perform often has little or no direct economic value, thereby causing an undervaluation of their actual contributions. All this creates a vicious cycle of exploitation and infringement of the basic human rights of Bangladeshi women.

However, for more than a decade now the scenario, although still far from perfect, is changing fast. Women in Bangladesh are indeed taking wide steps towards social and economic emancipation and they are themselves responsible for a lot of these achievements. Although the resilience and progress achieved by Bangladeshi women is now domestically and internationally well documented, for a very long time the physical and mental 'weakness' of these women and their dependence on men was highlighted more often than their strengths. Society's perception of women as reflected in various types of literature produced on women reinforced that image of dependence and has itself created a barrier towards a genuine understanding of women's issues.

Early literature and journals by women produced by Bengali bh*odromohilas* on the role of women in society reflected traditional Victorian ideals and urged women to become 'good mothers' and 'wives', and stressing the need to remain submissive to the demands of society. However the society envisaged by many of them was patriarchal and only few early feminist writers explored the reasons behind women's inferior status. Philanthropic and social welfare organisations dealing with under privileged women also remained trapped in tradition bound norms and ideals. This was a general trend in all of South Asia where the cultural construct of female dependence was strong and continues to be so in many ways.

The South Asian woman has in general been 'portrayed as a silent shadow, given in marriage by one patrilineal group to another, veiled and mute before affinal kinsmen, and unquestioningly accepting a single discourse that ratifies her subordination and a negative view of femaleness and sexuality'.[8] Such a unitary representation of feminine passivity has its roots deep within the social and political structure of the region, traces of which can be found in colonial discourses. For example, colonial reports on the practice of sati often stressed women's submissiveness and presented them as passive bearers of a rigidly circumscribed tradition. Such colonial documents also tended to infantisize women, in speaking of the widow as a 'tender' child, even when most satis were undertaken by women who were well past the age of forty.[9] These representations of female passivity played a role in British efforts to construct a moral justification for colonial rule in South Asia by rendering the people as primitive and incapable of self-rule. Homi Bhaba elaborates on this point that :

---

8. Raheja, Gloria Goodwin and Gold, Ann Grodzins: *Listen to the Heron's Words: Reimagining Gender and Kinship in Northern India*, University of California Press, Berkley, 1994, p.4.

9. Mani, Lata: 'Contentious Traditions: The Debate on Sati in Colonial India', in Sangari, Kumkum and Vaid, Sudesh (eds.): *Recasting Women: Essays in Indian Colonial History*, Rutgers University Press, New Brunswick, New Jersey, 1990, p.97-98.

> The objective of colonial discourse is to construe the colonised as a population of degenerate types on the basis of racial origin, in order to justify conquest and to establish systems of administration and instruction. Despite the play of power within colonial discourse and the shifting positionalities of its subjects (for example, effects of class, gender, ideology, different social formations, varied systems of colonization and so on), I am referring to a varied form of governmentality that in marking out a 'subjective nation', appropriates, directs and dominates its various spheres of activity.[10]

Nationalism against British rule again positioned women as the guardians and preservers of tradition and thus subjected them to a new patriarchy.[11] It has also been highlighted that there are no women's voices in many of these representations[12] and that they were not primarily about women but rather political commentaries on the authenticity and moral worth of a tradition.[13] Chatterjee described the discourse on women thus: "It....assigns to women a place, a sign, an objectified value; women here are not subjects with a will and a consciousness".[14] Although the participation of Bangladeshi women in social, economic and political arenas alongside men was always significant, neither freedom from the British or from Pakistani rule at a alter date changed society's vision of women as passive and accepting of the conditions that surround them.

As mentioned earlier, women's issues did not emerge as an independent field of study until the declaration of the U.N. Decade for Women in 1975. Then emerged the new group of researchers. A plethora of studies on women from developing nations appeared during this period, which coincided with the 'targeting' of women as the perceived agents of development by the Women in

---

10. Bhaba, Homi: *The Location of Culture*, Routledge, London, 1994, p.70.
11. Chatterjee, Partha: 'Colonialism, Nationalism, and Colonised Women: The Contest in India', *American Ethnologist*, Vol. 16, No.4, 1989, p.622.
12. Spivak, Gayatri Chakravorty: 'Can the Subaltern Speak? Speculations on Widow Sacrifice', Wedge 7/8, 1985, p.122.
13. Mani, Lata: supra note 9, p.90.
14. Chatterjee, supra note 11, p.632.

Development policymakers. The means for incorporating them into the development bandwagon became the central issue among government policymakers, development scientists, and the aid agencies who were to support these policies financially. Different organisations working with and on behalf of women, as well as aid funded researchers gained first hand experience in the field, some of which was to justify the aims and objectives of their development projects, particularly in the areas of poverty alleviation and family planning.

Identified by the aid agencies and international development experts as the vital agents for economic development, a shared attribute with women from other developing nations, Bangladeshi women were in the process of being 'discovered'. Studies on women were initiated by a handful of expatriate researchers, sponsored by different aid agencies and their local counterparts. These generated a wide range of information aimed at filling gaps of knowledge on Bangladeshi women and included research on the social, economic and legal status of women. However, given the fact that Bangladesh is heavily dependent on foreign aid, so much so that a substantial majority of its development budget is comprised of aid funds, it is not unexpected that much of the discourse on women and development is donor oriented.[15] White argues that the public discourse concerning gender in Bangladesh is heavily influenced by the national context of aid dependence and that 'women' have a symbolic significance both for international aid agencies and for the various groups that compete for power within the nation state.[16] In many ways the 'aid discourse', which dominated research on Bangladeshi women for more than a decade replicated the western discourse on South Asian women. Mohanty has written of the tendency within western writing, even that which belongs to the feminist category, to define women of

---

15. Guhathakurta, Meghna: 'The Aid Discourse and the Politics of Gender: A Perspective from Bangladesh', *The Journal of Social Studies*, No. 65, 1994, p.65.

16. White, Sarrah: *Arguing with the Crocodile: Gender and Class in Bangladesh*, Zed Books, London, 1992, p.4.

the 'third world' as victims of male control and of unchanging traditions, as unresisting objects in relation to ahistorical and uncontextualised images of 'the veiled woman', 'the obedient wife', and so forth. Such representations, she argues, define and maintain postcolonial relations between the first and third worlds by positioning, implicitly or explicitly, the moral superiority of the West and the moral degradation of the 'patriarchal' third world.[17]

Thus the aid discourse continued to toe the line of the western discourse. Alam and Matin described it as such :

> The dominant view of Bangladeshi women to emerge out of the works of western authors stresses the primacy of rural women who are projected as skilled, hardworking, contributory but ultimately weak, and pitiable. If they work hard they do so as robots and ants do - without volition, understanding or vision. They function as assembly-line workers who need to be managed from above. They are, in short, inherently incapable of solving critical problems. Contributing to their helplessness is the fact that they occupy an irrational world where poverty somehow strikes out of the blue and oppression is 'just there'. These women hardly inspire awe or solidarity. They are not full-blooded protagonists caught in the vice of patriarchal and class conflict, but anemic 'patients' needing professional medical help. They are in fact very similar to the cow-like breeding machines premised by population control.[18]

Moreover, given the protégé role assumed by Bangladeshi participants and researchers, it is no surprise that they should closely follow the themes and stances that their mentors originate. Therefore, the utilitarian attitude towards women, the tendency to ignore the large picture of women's oppression in favour of the smaller and the one dimensional canvas upon which the 'women's

---

17. Mohanty, Chandra Talpade: 'Under Western Eyes: Feminist Scholarship and Colonial Discourses', in Russo, Ann and Torres, Lourdes (eds.): *Third World Women and the Politics of Feminism*, Indiana University Press, Bloomington and Indianapolis, 1991, p.52.

18. Alam, Sultana and Matin, Nilufar: 'Limiting the Women's Issue in Bangladesh: The Western and Bangladesh Legacy', *South Asia Bulletin*, USAID, 1984, p.5-6.

problem' is placed, are repeated by Bangladeshi authors.[19] The donors looking through the lens of their totalizing discourse, which seeks stability and control in a world where local conflicts are increasingly looked at as global risks, ultimately stress *peaceful change*. The 'donor discourse' has essentially excluded elements of conflict, struggle and resistance that are often deeply embedded in the history of societies.[20]

In recent years some academic literature, and other relatively 'independent' research on women in Bangladesh, has to a certain degree diverged from the former 'aid discourse' on women.[21] Even though this work covers a range of different issues and belongs to different epistemological fields of the social sciences, new research has somewhat modified the picture drawn by earlier researchers.

Coming to the specific literature on women workers in Bangladesh, which was relevant to the main focus of my research, there are basically two streams of writing. The first deals with the work of village women and belongs to some extent to the development discourse. It tends to stress women's role in the village economy and documents the various directly income earning or income substituting occupations of women. The second stream of writing is mainly on newer urban opportunities for women's work and includes studies by various N.G.O's or researchers connected with them. The latter category of writing, particularly that centers on the industrial employment of women, diverges to some extent from the dominant discourse. Nevertheless the majority of researchers in this category have also failed to break out of certain stereotypical perceptions.

---

19. Ibid, p.6.
20. Guhathakurta, supra note 15, p.65.
21. White, Sarrah: supra note 17, Rosario, Santi: *Purity and Communal Boundaries: Women and Social Cxhange in a Bangladeshi Village*, Zed Books, London, 1992; Kotalova, Jitka: *Belonging to Others: Cultural Constructions of Womanhood Among Muslims in a Village in Bangladesh*, Uppsala Studies in Cultural Anthropology 19, Uppsala University, Uppsala, 1993.

Most early research on women workers focussed essentially on the problems of women industrial workers, including those in the export oriented garments industry and took a cautionary approach towards this nature of employment.[22] The focus of some other work, particularly those on garments' women, has somewhat shifted from previous studies and tends to highlight some of their socio-economic gains from such employment along with their problems. They generally regard women workers in the garments industry as having gained a certain edge within their families and the society as a result of their independent earnings.[23] Nevertheless, the majority are still disinclined to perceive women as agents in their own right and failed to take into account the question of autonomy, particularly in the area of defending their own interests; which is either overlooked or altogether negated as non-existent. One speculates whether the aid discourse on women in Bangladesh is so entrenched within scholarly circles that researchers have had difficulty in overcoming the cliché.

In delineating their helplessness these researchers almost universally contend that women workers have little access to law

---

22. Hossain, Hameeda et al: *No Better Option? Industrial Women Workers in Bangladesh*, University Press Limited, Dhaka, 1990; Gain, Philip: *Bangladesher Poshak Shilpe Nari Sromik*, Bangladesh Manobadhikar Samannaya Parishad, Dhaka, 1990; Badrudduza, A.K.M: 'Poshak Shilpa Karkhanay Niyojito Sromik O Sromo Ain', Seminar Papers, *Institute of Law and Development*, 1990.

23. Kabeer, Naila: 'Women's Labour in the Bangladesh Garment Industry: Choice and Constraints' in El-Solh, Camilla Fawzi et al (ed): *Muslim Women's Choices: Religious Beliefs and Social Reality*, BERG, 1994; see also by the same author 'Necessary, Sufficient or Irrelevant? Women's Wages and Inter-Household Power Relations in Urban Bangladesh', *IDS Working Paper 25*, 1995; Paul-Majumder, Protima and Zohir, Salam Chaudhri: 'The Conditions of Garment Workers in Bangladesh: An Apprisal', *Bangladesh Institute of Development Studies*, 1991; see also by the same authors, *Bangladesher Poshak Shilpe Niyojito Nari Sromiker Artho Shamajik Abostha*, Ekota Publications, 1994, Dhaka, and 'Empowering Women: Wage Employment in the Garment Industry', *Empowerment: A Journal of Women for Women*, Vol. 2, 1995.

or the legal system.[24] Consequently, the 'paper rights' provided under various legal provisions are seen as having little relevance to them. The following comment in Hossain et al's[25] research on industrial women workers in Bangladesh illustrates the point :

> One may ask if a female worker recognises the social and political causes of her exploitation in the work-place. Given the low level of literacy, the constraints on her time and mobility, the absence of a supportive network and organisation, it is not unusual that few of them express dissatisfaction with their work situation....Rather than satisfaction the common mood may be termed as apathetic acceptance; quite a few respondents in fact demonstrated that they were *resigned to realities.*

Elsewhere they state: 'A woman therefore joins work feeling insecure, and is from the first day cowed into demonstrating that she does not need any special privileges'.[26] The focus of the above study was limited to the immediate issues faced by women workers: their industrial conditions, the quality of their lives and the social and hierarchical parameters that determine their mobility in the family unit and the community. Although the study also provides substantial information about the rights of women workers that are infringed upon, mainly relating to the working environment in the factories there is little indication whether or how women try to address these problems. Moreover their findings suggest that women are unwilling to assert their rights simply because they have no option other than seeking jobs in these factories however bad their conditions of work may be. That for a large number of them being able to earn money is a matter of profound relief and asking something more is not an immediate priority.[27]

The tone of some of the above passages immediately puts women workers on the receiving end of the benevolence of others, such

---

24. Hossain et al: supra note 22, p.93-97; Badrudduza, A.K.M.: supra note 22, p. 13; Gain, Philip: supra note 22, p.5.
25. Hossain et al, supra note 22,p.104-105.
26. Ibid, p. 95.
27. Ibid, p.107.

as the researchers themselves. Depicted as 'slaves in the sweatshops in the guise of garments industries',[28] on the question of law enforcement the *weakness* of the women workers in asserting their rights is identified as the main reason behind the careless attitude of the management. Moreover, this lack of assertiveness is seen to be the result of women's second-class position in society.[29] Paul Majumder and Zohir's study on garment workers found that there is a general lack of knowledge about rights, particularly about union activity among the garment workers. They comment that: "It is often reported by the management that labour laws are not implemented by the factories as the workers do not ask for it".[30] One cannot help wondering that if women did ask for their legal entitlements would the employers readily comply? Similarly, a study on the role of women in Bangladesh's textile and clothing industry, which differentiated between textile workers and garments workers by the extent of their awareness of legal rights, commented that: 'Workers in the garments industries only experienced suppression (*sic*). They are the newly emerging labour force, mainly women who had a distressing past. The question of displacement worries them a lot and they do not see the possibility of joining the labour movement'[31], and further that this newly emerging labour force who have left behind an oppressing past, is unlikely to be conscious of their rights.[32]

Other research confirms the above findings and stresses that, compared to women workers in other industries, the garment workers are the least aware of their right to join unions.[33] Finally,

---

28. Gain, Philip: supra note 22, p. 5.
29. Ibid p. 17; see also Paul Majumder and Zohir: supra note 23, 1991, p.141.
30. Paul Majumder and Zohir: supra note 23, 1991, p. 136.
31. UBINIG: 'Bangladesh's Textile and Clothing Industry: The Role of Women', *Working Paper, United Nations Industrial Development Organisation (UNIDO)*, 1991, p. 66.
32. Ibid, p.71.
33. UBINIG: 'Women Workers in Glass, Telephone and Electronics and Garment Industries in Bangladesh', *Regional Study on the Impact of Industrial Restructuring on the Conditions of Women Workers in Six Asian Countries*, Committee for Asian Women, 1994, p.46.

one of the most extensive works on women workers in the garments industry in Bangladesh by Paul-Majumder and Zohir summed up the pathetic scenario in real numbers and percentages:

> They are least aware of their rights as workers. From the present survey it is clear that whereas 56% of the men workers are aware of their rights as workers only 5% of the women workers are aware of the same. Another 20% of the women said that they know a few things about the rights of workers. Nearly 74% are totally unaware of any such legal rights.[34]

Paul-Majumder and Zohir make an interesting argument on the relevance of law for the garments workers on the event that they do eventually become conscious of their legal rights :

> There is no guarantee that even if the women workers are aware of their rights under the law that they will be in a position to assert these rights. The existing social structure in which women are brought up from their childhood and the manner in which she is imparted knowledge and education (the very nature of such education and knowledge teaches her to be subservient to men from her childhood) make it highly unlikely that the women would be able to assert their rights.[35]

All the above mentioned studies provide helpful insights into the issue of legal rights of women industrial workers, and contain vital information on the status of women and women workers in Bangladesh. They succeeded in drawing attention to the indiscriminate violation of their rights, and in identifying the range of problems faced by them. They also indicate some of the factors that contribute to the under achievement of their legal rights, such as low status in society, lack of education, poverty and so on. Although there is no denying that women face extensive discrimination in every aspect of their lives, these research findings on women paint the picture of a country where patriarchy is all pervading and the least bit negotiable, where women were surely

---

34. Paul-Majumder and Zohir:supra note 23, 1994, p.79; this quote and the next one have been translated from the original in Bengali.

35. Ibid.

deprived of all rights. This description tends to be much too generalised and is only a partial view of the realities of women's multifaceted lives. It is important to note that these studies comment on the level of '*awareness of legal rights*' of women workers, although most were sociological or socio-economic in nature.[36] Most importantly this view censures women for their 'inability to assert their rights', as if that by itself could be the logical solution to all their problems. The inability to assert rights by women workers is identified as a major obstacle to achieve their rights at the workplace by a number of studies. Therefore, women remain the victims of a cycle of exploitation both within and beyond the factory but no close scrutiny was made to locate how women deal with particular situations of unfairness and violation of their rights, which is indeed a basic human nature.

The majority of the research works discussed above tend to conceptualise women as victims only because these are positioned primarily upon structuralist concepts such as purdah, poverty and patriarchy. While these were indeed important concepts for the analysis of gender relations and the limitations set by these on women's lives and their access to law and justice, and although elements of this view may be valid, it is only a partial view that denies women's a*gency*. Reassessment of the prevalent and dominant views on women and rethinking of the strategies of researching women and their rights can achieve a more complete picture of the realities of women's lives. Such a strategy must include the views of women of their own rights and the ways in which they try to achieve them.

Finally, the global dimensions and implications of factory employment for women in the export oriented garments industry in Bangladesh also meant that there were many writers, mostly from the west who regarded this nature of employment as exploitative and that women had very little to gain from this nature of work. Described as the 'cheap labour' and 'cultural dopes' with

36. Only Hossain et al's (1991) study dealt specifically with the aspect of women workers' position under the labour laws, and the issue of substantive rights.

'nimble fingers' toiling away in the urban sweatshops with little hope of a better life, this description seemed to rebuke women for their own condition. Moreover, their portrayal as mindless and helpless beings often served to legitimise demands by workers in the Western and developed countries of the globe to seek greater protection from unfair competition. Elson's comments illustrates this point:

> The term 'cheap labour' carries with it a condemnation of the workers themselves. There is something of an implication that workers who are cheap labour must be lacking self-respect...Frequently, it also has racist implications when applied to non-white people – the implication that people of colour are 'cheap labour' because they are culturally backward. When used to describe women in the Third world sexism and racism are often combined - as in the myth of the submissive Oriental girl.[37]

A serious consideration of Said's advice on being vigilant against the 'guild tradition of *Orientalism*,'[38] and White's[39] careful analysis of research on Bangladeshi women helped me to re-think some of the methods that had so far been used to research women and their rights. Particularly White's views on 'resistance' helped me to formulate my own questions on women workers and their use of law in ways that seek to penetrate their traditional portrayal. Learning from prior research, at the same time trying to distance oneself from them and break new ground is probably what every researcher on any given subject aspires to do. However no amount of prior reading can prepare a researcher for the realities of fieldwork or the findings that may be revealed.

---

37. Elson, Diane: 'Nimble Fingers and Other Fables', in Enloe, W. and Chapkis, C. (eds.): *Of Common Cloth: Women in the Global Textile Industry*, Transnational Institute, Amsterdam, 1983, p.10.
38. Said, Edward: *Orientalism: Western Conceptions of the Orient*, Penguin Books, reprinted 1995, p.326.
39. White, Sarrah: supra note 17, p.15-25.

CHARTING A NEW PATH

The general assumption of the majority of studies on the rights on women in Bangladesh, particularly those on women workers, seemed to be that if women workers had knowledge of law the situation would be better for them. A lot of attention was given to the fact that they did not in fact '*know the law*' or that the actual legal provisions are unknown to them. While not denying that such knowledge could indeed help them in certain situations, this approach can have the effect of censuring the women for their own condition. It is an approach that is essentially flawed. Other factors, such as lack of compliance or enforcement by those responsible, seem almost secondary from this point of view. Presuming that women workers are given intensive courses in labour law, would we see a sudden crop of law abiding garment factories? Although gaining consciousness of their rights as workers is a first step towards achieving their rights, it is nevertheless dependent on many other factors that need equal attention. Furthermore, almost none of the studies actually questioned whether women workers *resist* unfair treatment at work or were willing to claim their rights at all whatever they may understand these to be, whether or not in the actual language of the law.

Part of the problem in imagining women's ability to '*claim their rights*', as conceptualised by some of the above studies, lies in correlating women's capacity to act towards that end with the existence of trade unions and other forms of organisation. Consequently, the absence of unionism and organisation among women workers lead some of the researchers to believe that the women are not in a position to take up their concerns legally or act on their own behalf. '*Lack of awareness*' a rather wide and problematic phrase, is repeatedly used to describe women's consciousness, almost as if it is inherent to women in general. I was at a loss to comprehend the exact meaning of the phrase as used by different writers. Although a majority of researchers use it quite frequently, and it is most often used to mean lack of awareness of legal provisions in literal terms, this is an overly simplistic approach and its practicality in the case of Bangladeshi

women is limited. Law, or what it may contain, is not always learned by formal means. Informal communications are important for dissemination of knowledge, which may include notions as to the minimum standards at work. Therefore asking straightforward questions like 'do you know the law?' may be problematic. Researchers too often tend not to ask '*what women do*', or whether they use any alternative remedies formal or otherwise to solve their problems at work.

Above all, most of these studies lacked the perspective of the women themselves. Their problems are presented, yet there is no information on whether they ever attempt to solve some of them. Rather than being seen as capable of taking responsibility for their own lives, and able to assert themselves, they are often seen as sacrificial lambs. Representing their lives through numbers and statistics somehow reinforces the image of muteness and helplessness. This image, although not directly evident from their studies, is nevertheless advanced by the conspicuous absence of the views of women workers themselves and their coping mechanisms in everyday situations. As argued by Raheja and Gold:[43]

> [I]f we fail to hear.. ..women's self affirming voices or to appreciate their own sense of what constitutes a good life or to see how they skillfully negotiate their chance for such a life, we perpetuate the mistaken assumption that these women have completely internalised the dominant conventions of female subordination and fragmented identity.

It became apparent to me that it was essential that this image of passivity be given a serious reconsideration in order to let women 'voice' their own views on rights and wrongs. Exploring their views helps to overcome the earlier images of passivity and present them as actors in their own right. So rather than asking whether they *know the law or not* one needs to find out how they normally deal with problems at work and elsewhere and what place does law actually have in finding the solutions to these problems in their lives.

---

43. supra note 8, p. xxxiv.

Majority of previous studies on women's access to law tends to overstress the idea of actual knowledge of legislative measures per se without trying to determine the ways and means by which they do acquire knowledge of their rights and entitlements. The decision to frame questions slightly differently from straightforward ones like 'do you know the law?' to 'what do you do when if there is a problem regarding your wages? or 'what happens when a woman is about to have a baby?' was made on the basis of initial findings from the field. Whenever women were asked straightforward questions on their knowledge of law they tended to shy away from answering and insisted that they were ignorant of legislative measures. Many of my respondents repeatedly said they knew little of the law, however in the course of conversation they frequently provided detailed information on issues such as 'paid leaves', 'timely wages' and so on. They certainly know nothing of the law that we find in statute books, but in fact they had had pretty accurate perception of legal provisions from their own experience, at least on particular issues that are of greater significance to them.

Remarkably, that women are 'agents in their own right', actively involved in trying to change their life and destiny and capable of resisting workplace oppression - are indeed facts that emerged both during the initial stage of pilot work as well as during the actual fieldwork. It became clear through the different phases of the research that women were certainly not the weak and helpless victims of situations beyond their control. Although women continue to face discrimination in almost every aspect of their lives they do not remain acquiescent and submissive to the injustices but strive to improve on their situation in myriad ways, using whatever resources are available to them. The following paragraphs demonstrate this aspect of women's response to their own situation.

EVIDENCE ON RECORD: WOMEN'S CLAIM TO RIGHTS

A. VOICING DEMANDS AND RESISTING UNFAIRNESS AT THE FACTORY LEVEL

The research included qualitative in-depth interviews of women workers from the garments industry as well as other groups such

as women workers from the electronics industry, factory inspectors, lawyers and also women litigants. The interviews of women workers were from three different locations in Dhaka where there is a maximum concentration of workers living close to or within walking distance from the factories that they work in. These interviews were of 78 women between 15 to 45 years of age.

Without any doubt women workers face a wide range of problems at work from low pay to ill treatment by managerial staff. Despite the problems they face their jobs are important to the women workers. One of the main objectives the interviews was to explore women's own perceptions of their life situation, and whether employment encouraged a change in consciousness of their own situation. It was clear that far from being complacent about their position and even under highly repressive conditions they have tried to assert their rights.[44] Even though women are unfamiliar with exact legislative provisions relating to various aspects of their work such as wages, overtime benefits, maternity benefits, etc. they are able to distinguish between what is fair and what is not. Moreover, they gain information on important issues from fellow workers and other social networks that are close to actual legal provisions. In the face of adversity, women have developed their own coping mechanisms and although their responses to workplace problems are almost always non-legal they are a testimony of women's own sense of fairness. They are in essence not resigned to realities and make day-to-day decisions to achieve what they deem to be appropriate and just.

The importance of informal social networks in disseminating information about factory employment point to women workers' own representations of their jobs in legitimising the possibility of such work for other prospective workers.[45] Similarly, the same social networks both within and beyond the factories help women

---

44. The data from the interviews was later matched with records from the three Labour Courts in Dhaka that also proved that women were using the legal system towards establishing their rights.

45. Kabeer, Naila: *Bangladeshi Women Workers and Labour Market Decisions: The Power to Choose*, University Press Limited, Dhaka, 2001, 94.

to cull the necessary information of their basic rights and entitlements at work. They rely on their relationships with co-workers and seniors to find solutions to their problems. The women respondents expressed having found a certain degree of solidarity with their co-workers on a range of issues. These were the timely payment of wages without any unfair deductions, illegal terminations such as those awarded for becoming pregnant or participating in union activity, harsh treatment by their superiors in the form of verbal or physical abuse, etc. Their solidarity was often expressed in ordinary ways for example if a fellow worker falls behind in her work due to extreme fatigue or illness, the others try to help by sharing some of it with her. Westwood found a 'shopfloor culture' among factory women she studied in England, according to her:

> the resistance generated and sustained by women on the shopfloor was a clear indication of the level of tolerance that they extended to the factory regime and management's authority. But more than this, it was a statement about the strength of collectivity and the importance of creativity in the lives of working-class women.[46]

Women actively resist day to day as well as long term control at work, whether in factories or in other settings.[47] Women workers also maintain communication with each other despite restrictions on their physical mobility as well as their freedom to talk within the factory floor.

Amongst slightly mature women in the study, particularly those who are aged 18 and above and have a longer working experience, there was a strong sense of their own situation. The women spoke spontaneously about their condition and the problems they faced but also about how they try to voice their grievances. Statements such as 'I complained to the management along with my co-

---

46. Westwood, Sallie: *All Day Every Day: Factory and Family in the Making of Women's Lives*, Pluto Press, London, 1984, p.101.

47. Ward, Kathryn: 'Introduction and Overview' in Ward, Kathryn (ed.): *Women Workers and Global Restructuring*, ILR Press, School of Industrial and Labour Relations, Cornell University, 1990, p.16-17.

workers against the delay in the payment of our overtime wages' or 'we demanded our Eid bonus and sat outside the factory till our demands were met' were not uncommon. However, few women expressed total dissatisfaction with their jobs, and most felt that the job was important to them because they had become income earners in their families. The social recognition as the breadwinners of their families was in no way less than the economic advantage. While explaining their working lives they showed clear notions about their basic entitlements as women as well as workers. For example, they frequently complained about the unfair limitations set on toilet visit and complained that a lot of them suffered from diseases of the urinary tract because of such measures. Complaints were also voiced against lack of water supply for drinking purposes and in the toilets as well as the absence of a designated dining area. Hosne Ara complained: 'Workers in our factory have no option but to take lunch on the roof of the factory building. In this heat can you imagine there is not even a shed to protect us from the sun'. Morjina was concerned about the quality of the water in the factory: 'Tap water in the factory was very dirty and smelly, and people were falling sick all the time. We complained several times to the management. Ultimately they agreed to have the water tanks cleaned. This has improved the quality of the water'.

The women workers are not always the docile creatures that some researchers have depicted them to be, nor are they 'voiceless', because they are able to voice their demands at different levels of their working and social environment. The absence of trade unions in most factories means that appropriate channels of communication between workers and management are often difficult to establish. Despite that, about a third of the women interviewed had either personally or in a group resisted at least one unlawful management decision that infringed upon their rights. Their acts of resistance are at times mundane such as leaving their jobs as a way of refusing to continue facing injustice. Leaving the jobs in protest in entire groups is also known. High rate of job turnover among women is a means of availing better opportunities for themselves. Similarly, when researching Indonesian women factory workers Hutagalung et al found that:

> Among the women and child workers, the only strategy by which they can improve their working conditions is by moving to a factory that offers higher wages, a situation that is reflected in the high turn-over of women workers.....(it) illustrates the different forms of resistance that women undertake... [48]

However sometimes the resentment expressed is not as subtle, and active organising with other workers on a particular issue was not uncommon among the women. Thus Fuljan, one of the respondents in Mirpur, described her experience:

> I had made a small mistake in my sewing. The supervisor stood behind me and started abusing me. For a few minutes I listened then something happened, I clicked. I turned around and threw my work to the floor. The supervisor shoved me down and attempted to hit me. At this point the women workers who were sitting next to me stood up from their seats. Seeing them standing he shouted at them to sit down, they did not. I quickly rose from the floor and ran to the production manager who was watching us from a distance. I asked for justice. He called us to his office along with the supervisor. The supervisor was warned not to abuse us again.

In the above case, women developed spontaneous forms of resistance and took part in sit-in strikes. Also as found by Aiwah Ong among Malaysian women industrial workers, crying when scolded was a common way to deflect disciplinary action or increased work pressure.[49]

There were also a few instances of rebellion in case of the women interviewed, when women workers along with their male co-workers had taken to spontaneous forms of resistance mostly on wage related issues or ill treatment of fellow workers. Nasima talked of one such incidence:

---

48. Hutagalung, Nurmal K.et al: 'Women as Wage Earners', in Grijns, Mies et al (eds.): *Different Women, Different Work: Gender and Industrialisation in Indonesia*, Avebury, Aldershot et al, 1994, p. 162.

49. Aiwah, Ong: *Women and Industry: Malay Peasants in Coastal Selangor 1975-80*, Ph.D.Thesis, Columbia University, 1982, p.343.

> Some of our male colleagues had gone to the factory manager to demand the overtime wages that had not been paid for more than four months. There a scuffle broke out between them and members of the management. Suddenly, we found ourselves locked inside the floor. Some of us tried to break down the door while others shattered the windows. We were not going to sit locked up inside like animals.

Quite a few, about a third of those interviewed had taken part in such direct resistance while others had witnessed them happening. Most said they wound would support such a move if necessary in the face of extreme decisions taken by the management.

Rosa affirmed that the consciousness expressed by women workers as contradictory, she states that their reality, hopes and aspirations interplay to produce a contradictory consciousness that often results in rebellion and spontaneous actions. The different determinants of their lives are not found in isolation to one another, but rather relating to one another. Thus a seemingly stable situation contains the possibility of volatility.[50] As confirmed by Pollert:

> ...concrete experience can quite suddenly override apparently stable practices and conceptions, and trigger a 'domino effect' whereby whole layers of self perceptions and traditions can be knocked down. Because of their gender oppression as well as class exploitation, the trigger can start from either or both experiences.[51]

In view of the above findings I found it extremely difficult to agree with some of the conclusions drawn by previous researchers, most of which tend to render women as mindless beings incapable of taking decisions or acting on their own behalf. This view again relegates women to the inferiority of helpless victims of a situation far beyond their control. Findings from my research suggest that although the constraints that women face everyday cannot be

---

50. Rosa, Kumudini: 'Export Oriented Industries and Women Workers in SriLanka', in Afshar, Haleh and Agarwal, Bina (ed.): *Women, Poverty and Ideology in Asia: Contradictory Pressures, Uneasy Resolutions*, 1989, p.210.

51 Pollert, Anna: *Girls, Wives, Factory Lives*, The Macmillan Press, London and Basingstoke,1983, p.110.

denied, women have proved to be determined and resourceful in protecting their interests, those of other workers, and their families. Their decision to enter factory work, despite the social restrictions on women's mobility, as well as their willingness to participate in fulfilling the needs of their families are examples of their struggle against existing social structures and evidence of consciousness of their own situation. At the same time when they enter the realm of the factories, this consciousness takes a step further when personal and group experiences provide them with the appropriate coping mechanisms to thrive in a new and often hostile environment.

B. WOMEN'S ATTITUDE TOWARDS THE USE OF LEGAL REMEDIES AND UNION ACTIVITY

Previous research on women workers found that they are unaware of the legal provisions relating to their employment. This lack of knowledge has been regarded as one of the primary reasons behind their sufferings and exploitation. This idea was based on the presumption that if there are good laws, and if women are aware of them, law will ultimately benefit them. Such an explanation, although partially correct, uses an overly simplistic approach that fails to delve deeper into the issues. That there are some aspects of law that may have contradictory effects on women's employment has been largely overlooked. Also that the legal system itself may suffer from certain inherent prejudices against women, and that there can be certain difficulties of enforcement of legal rights even for those who overcome problems of access to the legal system - are issues that remained neglected by the researchers. In order to achieve a coherent analysis of the problems of women workers and the extent to which law and the legal system is of relevance to them needed a different approach. It this respect taking into account women workers' own views of their own situation, their attitude towards the legal system seemed the most viable option for a research design.

Preliminary findings suggested that women reacted differently

when answering straightforward questions on 'law', 'justice' and 'rights'. Some tended to get overwhelmed by what they termed were 'difficult' issues, while others showed an apathy towards the subjects or a tendency to avoid answering questions on issues that they said meant little to them. In both cases a researcher can easily mistake these as indications of women's 'lack of knowledge' of legal issues. My approach to studying consciousness of legal rights amongst the respondents of my research was different in the sense that I chose not to ask them questions about legal provisions or remedies as I myself as a trained lawyer understood them to be, and did not expect my respondents to provide me with detailed description of their legal entitlements. In my study the first step was to explore women's attitude towards law in general and whether they knew anything about their basic legal entitlements. Following this I inquired whether they thought law could help alleviate their situation in any way. This approach ultimately proved incredibly worthwhile for this approach also has the potential to determine the possibility of using law as a means of social empowerment.

The majority of the women workers interviewed knew about their most basic legal entitlements. They have knowledge of the requirements of timely payment of wages and overtimes, they know they are entitles to weekly and festival holidays, to fair treatment, and so on. However, they were generally unsure of what law provides by way of remedies in case of the absence of basic entitlements. For example they knew little about the role of factory inspectors who are appointed by the government to oversee the maintenance of health and safety measures. The little that they do know of lawyers, cases, judges and Courts come from general knowledge and are commonly of the opinion that lawyers are employed in case of the matters relating to family or land disputes. The overall attitude of these women, with respect to law is one of a skepticism if not ambivalence. Rohima a woman in her thirties commented, "The law is only for the rich, how can we go to a lawyer, why would they listen to us and why should anyone

care about what happens to us?"

However a second group of women who formed a significant minority, took me by surprise because of how alert they were to their situation. Even though this group consisted of about a third of the total numbers interviewed and fell into the younger age group, they were remarkably aware of their legal entitlements. They were able to explain in greater detailed the legal requirements of overtime wages, maternity rights, leave and holidays. This group comprised of women who had come in contact with some leaders of garments unions, federations and NGOs working with women workers. These women had either heard of or joined discussion meetings run by these organisations. Some had even taken part in demonstrations. They had a clear notion of the problems faced by women workers in general and were willing to take the help of union leaders, lawyers, and even go to Court if necessary. Whereas the first group of women seemed unsure of the use the law despite having a generally positive attitude towards the same, the second group strongly believed that recourse to the legal system could help alleviate some of their problems. Pyara, 18, was most interested to discuss her own experience:

> I am going to the Labour Court tomorrow with all the others. Yesterday they announced over the microphone that tomorrow all those workers who have not received their salaries for the last three months have decided to go to the Labour Court. I myself have not received three months salary and seven months overtime wages. I joined the *michil* and demonstrated with our workers for our wages. People are willing to do anything to go to any extent to recover their hard-earned wages.

When asked why they felt that way, women in the second group typically answered that they knew of people who had gone to court and established their rights. For example Anowara Khanum who has considerable experience as a garments worker, explained:

> In M. Garments a woman worker was thrown out for arguing with the management. She was verbally dismissed without her due wages and salary. She filed a case in the Labour

> Court with the help of a lawyer. Having received a notice from the Court, the *malik* proceeded to resolve the matter by agreeing to pay her dues. She received all her back wages as well as compensation.

The workers in the second group also mentioned some of the names of activists, lawyers and organisations involved in bringing the cases of women workers to the Labour Courts. Preliminary findings from my other line of research that consisted of collecting data from the Labour Courts, confirmed the findings that things were indeed changing fast for these women, and that at least for some of them the legal system is no longer totally inaccessible.

The overall attitude towards the law, lawyers and the legal system, corresponding to the different levels of their knowledge, is mostly positive. The majority also stressed that they are willing to go and seek the help of law if they know exactly where to seek help. In this respect the role of trade unions and N.G.O's also featured prominently in their views for many believe that these can be helpful for disseminating the knowledge of legal remedies. In the study it was found that women generally know about workers' unions, or 'shomiti's as they called them, and were informed of their activities. Even though most women had heard about such organisations, they conceded that joining these was difficult for two reasons. Firstly, the management is often hostile towards women who join labour unions or go to N.G.O seminars and are always on the lookout for the 'leaders' amongst them. They also felt that the maintenance of secrecy when they do join the unions is essential. This need for secrecy becomes apparent from Kamrunnahar's views:

> We went secretly to these meetings. If the management gets to know they will surely throw us out. But we go to listen to the shomiti people, who provide us with a lot of information. I now know how many leaves we are entitled to, and what I need to do if I am thrown out without my wages. I also know that if we work well the management should also treat us well.

The second reason why many women are not able to join unions is simply because of their busy schedules. Women must perform all their familial and household responsibilities alongside their factory work, leaving them with little time for other activities. Fitting union meetings within their already overburdened workdays can be quite impossible.

Amongst the second group of women interviewed almost all had taken active part in demonstrations against management decisions and also participated in other activities under the leadership provided by federation of workers or N.G. O representatives. Shahar Banu, who appeared well informed of the activities of labour unions, reiterated that:

> In D. Garments they had held up four months wages of all workers. As soon as the Korean buyer had left the situation in the factory deteriorated. We joined the a*ndolan* under Safura's leadership. Finally we managed to recover our wages, but never received any of our overtime wages. Some of us were in severe financial problems. Safura saved our lives.

What was apparent from the discussions with these women is that they have already achieved the crucial first step towards the understanding of their issues and the implications of some of the legislative remedies that are available to them. The women have a long way to go and are still in the process of learning about their 'legal' rights as well as their obligations. They prefer to overlook many of the more minor problems and seek out lawyers and go to courts only as a last resort. Apparently they too thought of this stage as a preparation for the future, so that if and when they the need arises they would be better prepared to deal with it. However, for those women workers who are willing to go to court to establish their rights, the problems of access continue to persist. Therefore seeking out lawyers and organisations willing to help them is one of their foremost concerns. It can be rightly suggested that women workers are indeed conscious of their own situation, they are familiar with some of their legal rights and entitlements

and they even express solidarity with one another on common issues that affect their position as workers.

EPILOGUE

My efforts in trying to imagine why my respondents did not quite match the picture of women that was so carefully constructed by previous researchers became central to my research. A number of published material on the different sociological and economic aspects of Bangladeshi women, mostly by development scientists and a few by academics existed at the time when I began my study. However, almost none existed on law and gender relations. What little was available, took an approach that I was unable to relate to. As a Bangladeshi woman I was aware of innumerable injustices that surround the lives of women in my country. However, I was also aware of the infinite resourcefulness of women. Women carve out their own niches within this patriarchal system to find dignity in their lives. It was obvious that to treat women as inferior, or in anyway incapable to take care of their own interests mirrors the 'dominant discourse' that denies them their basic human traits and is far from reality. A partial view of women that fails to perceive them as active social agents is contrary to the hopes and aspirations of the creation of better socio-economic environment for them, and a legal system that upholds their human rights. Recognizing the ability of women to act on their own behalf is the first step towards a better understanding of their dilemmas, as well as in exploring the place of law and the legal system in their lives.

Initial findings of the research, contrary to popular view, that a significant part of women workers are conscious of their own situation and have some understanding of their legal entitlements, gave new dimension to the research. Women's knowledge of what constitutes a good working environment is based primarily upon their own understanding of right and wrong, based upon their own *'sense of justice'*. However, they do have clear notions about particular rights and entitlements that are of greater interest to

them, gleaned from information that they gather from co-workers and other social networks in everyday situations.

Eventually, a bit of soul searching and venturing into other disciplines of social sciences helped me to locate the appropriate theoretical materials that provided the necessary insights for reformulating and rethinking the research design. All this translated into taking a long hard look at interviewing techniques. Therefore the whole research experience was also an evolutionary process for me as a researcher and an opportunity that gave me better understanding of gender issues in Bangladesh.

Action and research on women must be designed with a view to empower women in gender relationship in order to create a more egalitatarian and non-discriminatory society. This is where the role of law and legal research becomes relevant to the whole issue of empowerment of women. Law is not only a tool of social control of the sovereign state. Law gets it's meaning from the intersection of legal and various other social systems of meaning. Social conventions interact with legal norms in different ways – sometimes to enforce and at other times to delegitimise the institutionised norms. The task of legal analysts therefore must be to unravel how various levels of meanings are constituted institutionally. It must therefore be acknowledged that meaning, including legal meaning is constructed rather than pre-existing and simply waiting to be discovered.[52]

It is futile to expect law to deliver a revolution but at the same time it is not possible to disengage from law. The task of legal scholars therefore, is to explicate the connections between the law and social, political, and economic systems.[53] However, while law is required to be uniform and consistent, women's experiences are different and diverse, and 'rights' exist in a realm of complexity.

---

52. Supra note 5, p.11.
53. Ibid, p.11-12.

That should not however stand in the way of women's use of law to achieve their human rights, because law is ultimately empowering for those who acquire knowledge of it and claim it. Often, as seen in my study women are keen to learn about their rights and can benefit from even a small bit of support from legal aid agencies, activists and human rights lawyers.[54]

Moreover gender sensitive legal research must rely on women's own experiences and claim to rights. It must therefore try to recover the voices of women that are absent in so many studies on their 'rights'. Gender sensitive research must try to give greater visibility to women's subjective situation. Therefore interviewing women is a strategy for documenting women's own accounts of their lives.[55] In-depth qualitative interviews, the primary method relied upon in my research, can enrich social science analysis, including that of law and legal issues, by providing us with access to the reflections and reactions of social actors who are directly involved in, and affected by, the structures of oppression. Through my work I learned that by listening to the 'voices' of women it is possible to understand how they articulate their rights and manage to resist oppression. This approach is also helps to break down their image of helplessness. Parpart confirms that:

> Women's realities can only be discovered by uncovering the voices and knowledge of the 'vulnerable' and that once that is done, this 'vulnerability' is neither so clear nor so pervasive. Attention to difference, language, and resistance provides

54. See also Mazumdar, Vina: 'Political Ideology of the Women's Movement's Engagement with Law' in Dhanda and Parashar (eds.), supra note 5, p.373.

55. Oakley, Ann: 'Interviewing Women: A Contradiction in Terms', in Roberts, Helen (ed.): *Doing Feminist Research*, Routledge, London, reprinted 1993, p.48.

> new insight into...people's behaviour...Attention to difference and to multiple power/knowledge systems can encourage self-reliance and a belief in one's capacity to act.[56]

Therefore, when considering rights assertions of women, particular, local and situational contexts must necessarily be taken into account. It is under such specific contexts that women articulate the significance of their rights, and their denials, for their political and social identities and for their thoughts and acts of resistance to hegemonic forces.[57] Women daily express their reactions to the mundane denials of rights and the effects such denials have on who they are - how they define themselves. As regards rights as being expressions of people's lived experiences, Villmoare further adds that:

> We become increasingly aware of the need to listen to such voices as they express the meaning of rights not only within the sphere of prosecution and courts but within the context of women's ongoing lives.[58]

Through the recovery of the voices of the women workers it was apparent that they engage in day-to-day struggles against the many odds they face. It also brings to light the extent in which law and legal rules fit into their scheme of things. A substantial part of my work also involved delving deeper into the issues and seeking out the 'explanation to the explanations' provided by the respondents. It was apparent from the interviews that a significant

---

56. Parpart, Jane E.: 'Who is the 'Other'? A Postmodern Feminist Critique of Women and Development Theory', *Development and Change,* Vol.24, 1993, p. 456.

57. Villmoare, Adelaide: 'Women, Differences and Rights as Practices: An Interpretative Essay and a Proposal', *Law and Society Review*, Vol.25, No.2, 1991, p.385.

58. Ibid, p. 398-399.

number of women workers resist workplace oppression and some are even willing to use the legal system to achieve their rights. These findings from interviews of women workers were compared with Labour Court records that too suggested a rising trend in the number of cases being filed by women workers.[59] These are indeed indications that women workers were already in the process of claiming and establishing their legal rights and are not 'resigned to realities'. The use of two different methods to examine the research questions proved invaluable.

Although this article began on a more formal note, it was inevitable that the conclusion would become more personal. Sharing any experience is sharing a part of one's life, and that is true even in case of 'research experience'. By presenting my own research experience and explaining the rationale behind taking an approach that recognizes women's 'agency', I have tried to build my argument in favour of gender sensitive legal studies in Bangladesh.

59. supra note 7, p. 433.