Sonargaon University (SU)



Research monograph

On

Affirmative action taken in favour of women under the constitution and other statutory provisions: In the perspective of Bangladesh

Submitted for the partial fulfilment of the award of the degree of LLM (1 Year)

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Letter of Transmittal

To

Md. Abdul Alim

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Subject: Submission of Research Report on Affirmative action taken in favour of women under the constitution and other statutory provisions: In the perspective of Bangladesh

Dear Sir

It is indeed, a great pleasure for me to be able to submit my Research Report **Affirmative action taken in favour of women under the constitution and other statutory provisions: In the perspective of Bangladesh**

I have given best effort and calibre in preparing this research and top make it a worthy one. In order to prepare this research, I have gathered some practical knowledge about the research matter. This will assist me to incorporate for professional life and will enrich my real knowledge.

I would therefore be very happy if the research report helps to understanding the mentioned topic.

Any shortcoming in this report is absolutely my fault.

Sincerely yours
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Declaration

I am Shahadat Hossain of Sonargaon University do hereby solemnly declare that this research paper is

Affirmative action taken in favour of women under the constitution and other statutory provisions: In the perspective of Bangladesh. I further declare that this dissertation was prepared by my own efforts and endeavour and this dissertation was not submitted

earlier to any institution for any degree or for other original papers.

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Supervisor's Certificate

This is to certify that the work presented in this dissertation is based on the work carried out by

the author herself under my supervision in the Department of Law, Sonargaon University (SU).

It is also certified that the work presented here is original and suitable for submission in terms of its style and contents for fulfilment of LL.M (1 year) program.

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Thank You.

Gratitude respect

Shahadat Hossain

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Abstract

This paper reviews evidence indicating that, as it has been enforced so far, affirmative action has contributed negligibly to women's progress in the workplace. Affirmative action can be modelled as a tax on employers whose female employment growth falls below a certain rate. Clearly, if labour supply shifts result in female employment growth greater than the regulatory standard, the tax constraint will not be binding. As we shall see, this may help explain an affirmative action program that is generally ineffective for women, although it has been effective for minorities. Federal anti-bias policies in general, and the system of affirmative action goals in particular, have been accused of instituting employment quotas. This paper reviews evidence on the homogenization of the workplace predicted by the quota theory, as well as considering more direct evidence on whether affirmative action goals are really quotas in lambs' clothing. I shall also review the slim evidence on the most fundamental and controversial criticism of affirmative action: that rather than reducing discrimination against women and minorities, it has induced discrimination against white males. A new methodology employing direct productivity measures rather than the traditional but limited wage equation residuals proves useful in exploring this issue.

Chapter -1

Introduction:

Affirmative action in the United States is the active effort to improve employment, educational, and other opportunities for members of groups that have been subjected to discrimination. Criteria for affirmative action include race, disability, gender identity, sexual orientation, ethnic origin, and age.

Opponents argue that these policies constitute racism and/or amount to discrimination against other minorities, such as Asian Americans, which entails favouring one group over another based upon racial preference rather than achievement, and many believe that the diversity of current American society suggests that ...

The term affirmative action refers to a policy aimed at increasing workplace or educational opportunities for underrepresented parts of society. These programs are commonly implemented by businesses and governments by taking individuals' race, sex, religion, or national origin into account. According to the Equal Protection Clause of the Fourteenth Amendment, affirmative action is unconstitutional. Since standards are lowered by preferential treatment, minorities only aim for those lower standards. The role of affirmative action admissions in the general institutional atmosphere is especially important in legal education and legal practice because of the continuing, albeit reduced, traditionalism and privilege that inform those environments. To talk of sex discrimination does not begin to describe the attitudes and structures that continue to exist in law schools, courts, law firms, and all the sites in which legal professionals work. Many recent studies on gender bias in the courts confirm that the judicial system continues to confront the challenges of sex discrimination.4 The reason that discrimination is an inadequate term is that our modem meaning of discrimination or disadvantaging treatment contains an underlying notion of a perpetrator - that is a bad actor who wishes ill.

Chapter -2

Definition of women

A woman is an adult [- human. Prior to adulthood, a female human is referred to as a girl (a female child or adolescent). The plural *women* is sometimes used in certain phrases such as "women's rights" to denote female humans regardless of age.

Typically, women have two X chromosomes and are capable of pregnancy and giving birth from puberty until menopause. Female anatomy is distinguished from male anatomy by the female reproductive system, which includes the ovaries, fallopian tubes, uterus, vagina, and vulva. The adult female pelvis is wider, the hips broader, and the breasts larger than that of adult males. Women have significantly less facial and other body hair, have a higher body fat composition, and are on average shorter and less muscular than men.

Throughout human history, traditional gender roles have often defined and limited women's activities and opportunities; many religious doctrines stipulate certain rules for women. With restrictions loosening during the 20th century in many societies, women have gained access to careers beyond the traditional homemaker, and the ability to pursue higher education. Violence against women, whether within families or in communities, has a long history and is primarily committed by men. Some women are denied reproductive rights. The movements and ideologies of feminism have a shared goal of achieving gender equality.

Trans women develop a gender identity that does not align with their male sex assignment at birth, while intersex women may have sex characteristics that do not fit typical notions of female.

Biologically: Genetic characteristics

Normally cells from females contain two X chromosomes, and cells from males contain an X and a Y chromosome.[16] During early fatal development embryo morphology of both sexes is similar until about week 6 or 7 when gonads differentiate into testes in males due to the action of the Y chromosome. Sex differentiation proceeds in females in a way that is independent of gonadal hormones. Because humans inherit mitochondrial DNA only from the mother's ovum, genealogical researchers can trace maternal lineage far back in time

Hormonal characteristics, menstruation and menopause

Puberty in females triggers changes in the body that enable sexual reproduction via fertilization. In response to chemical signals from the pituitary gland, ovaries secrete hormones that stimulate maturation of the body, including increased height and weight, body hair growth, breast development and menarche (the onset of menstruation) which generally occurs between ages 12-13

1 X chromosome - Wikipedia
2 Women’s Voice: a Search for Feminist Consciousness-16

Most girls go through menarche and are then able to become pregnant and bear children. This generally requires internal fertilization of her eggs with the sperm of a man through sexual intercourse, though reproductive technology offers alternatives. Typically between 49 and 52 years of age a woman reaches menopause (also known as the climacteric), which is the time in women's lives when menstrual periods stop permanently, and they are no longer able to bear children.

Morphological and physiological characteristics

n terms of biology, the female sex organs are involved in the reproductive system, whereas the secondary sex characteristics are involved in breastfeeding children and attracting a mate.

The ovaries, in addition to their regulatory function of producing hormones, produce female gametes called ova which, when fertilized by male gametes (sperm), form new genetic individuals. The uterus is an organ with tissue to protect and nurture the developing foetus and muscle to expel it when giving birth. The vagina is used in copulation and birthing, although the term *vagina* is often colloquially and incorrectly used in the English language for the vulva (or external female genitalia), which consists of (in addition to the vaginal opening) the labia, the clitoris, and the female urethra. The mammary glands are hypothesized to have evolved from apocrine-like glands to produce milk, a nutritious secretion that is the most distinctive characteristic of mammals, along with live birth.[30] In mature women, the breast is generally more prominent than in most other mammals; this prominence, not necessary for milk production, is thought to be at least partially the result of sexual selection.

3 X chromosome - Wikipedia

Chapter-3

Facts about women's rights in Bangladesh



Since achieving independence in 1971, Bangladesh has lifted 15 million citizens out of poverty and made great strides in tackling food insecurity. However, while its government has been tirelessly working to develop economically, it has also been fighting another battle for women's rights in Bangladesh.

Despite a patriarchal social framework, Bengali women have held the right to vote since 1947, and the country elected its first female Prime Minister in 1991. Women fought for their country in Bangladesh's Liberation War, and the constitution that the country subsequently adopted promised equal opportunities for women in all areas. The following six facts about women's rights in Bangladesh explain how the country has tried to uphold that promise, and what challenges remain.

1. The government has enacted numerous policies over the past decade focused on women's rights in Bangladesh. The Ministry of Women and Children Affairs has increased allowances for widows, eased the burden on lactating mothers in urban areas and provided job training in fields such as agriculture and electronics. The National Women Development Policy of 2011 aimed to establish equal rights for men and women but also

4 The fight for women's rights in Bangladesh – Asia Dialogue (theasiadialogue.com)
5 Women Journal-2018

included specific goals such as assistance for female entrepreneurs. To oversee the implementation of the development policy, the government formed a 50-member National Women and Child Development Council chaired by Prime Minister Sheikh Hasina. Hasina has also vocally supported women's empowerment in global forums such as the UN.

2. Men still dominate the country's political system. With Hasina leading the country since 2009 and the main opposition party also being led by a woman, Bangladesh might appear to be a model for women's empowerment in politics. However, out of 350 seats in the Bangladeshi parliament, only 22 currently belong to directly elected female legislators while 50 are reserved for women who are not directly elected. Female politicians and activists have described a culture of exclusion within the two main political parties, reinforced by male politicians who view their female colleagues as inferior. Still, the proportion of women in parliament has continued to rise over the past decade and women hold seats in 12,000 local political offices.
3. Maternal mortality has dropped 60% since 2000. This drop has been the result of effective investments in prenatal care. The Government and United Nations Population Fund (UNFPA), the UN's sexual and reproductive health agency, has provided critical support by coordinating midwife training programs. Trained midwives alleviate a major risk factor for maternal mortality, which is a lack of healthcare access for pregnant women. More than half of Bengali women opt to give birth at home, but the proportion of births in which trained health personnel are present has been growing and now makes up more than half.
4. Violence against women and child marriage remain major problems. Two out of three married women in Bangladesh have experienced6 domestic violence at some point in their lifetime. Religious law dictates customs such as marriage and cements discrimination against women. Almost 60% of girls are married before their 18th birthday, and their husbands' families may abandon them if they are unable to bear children. Grassroots and international NGOs have attempted to change this status quo; for example, Girls Not Brides Bangladesh is a partnership of 25 organizations that lobbies the government and promotes advocacy. The government has answered by passing the Domestic Violence Prevention and Protection Act in 2010 and the Child Marriage Restraint Act of 2017, but the results of these efforts have yet to materialize.
5. Civil society organizations have played a key role in improving women's rights in Bangladesh. An example of a non-profit that is supporting Bengali women is 7the South Moapa Underprivileged Women's Cooperative Society. This organization provides medical care to women in Cox's Bazar district. The group's chairperson, Kusuma Begum, escaped an abusive husband at the age of 16 and immediately set out to help pregnant women in disaster zones. Apart from domestic organizations like Begum's, international charities such as Save the Children have made large gains in infant health and early childhood education.

6 Bangladesh | UN Women – Asia-Pacific
7 October 5,2020, Global poverty 101, Online news portal

6. The COVID-19 pandemic has exacerbated existing inequities. An interagency evaluation by UN Women identified several factors that could erode women's rights in Bangladesh due to the pandemic, including lack of healthcare access, unequal care work burden and a lack of decision-making power in the pandemic response. Experts also documented a rise in gender-based violence during the initial shutdown, fuelling a spike in calls to national trauma hotlines. Luckily, local organizations on the ground have organized cash-for-work activities for women, such as mask making.

Law relating to women's right

The Bangladesh Constitution declares equal rights for men and women in all spheres of public life.[5] The word 'public' seems to be a major clue to solving this riddle. It is only in the spheres of state and public life that equality is guaranteed through the Constitution. This means that in the private or personal sphere women are pretty much on their own. So even if her husband for whatever reason continuously tortures a woman, until she is killed, the state is unlikely to intervene, as it is, we say, too gentlemanly to invade the privacy of the individual. The result is that women continue to be treated as inferior human beings by their husbands and by a society that tends to victimize victims instead of helping them.

Trying to understand the dichotomy of public and private spheres of our legal system is like squirming around in quicksand-- the more you want to get out the deeper you get stuck in the muck. According to Faustina Pereira, a Supreme Court Advocate and author of the book 'Fractured Scales' that deals with this very issue, the legal system of Bangladesh is categorized into two distinct branches. One is Constitutional Law and the other is General Law or those that are not directly governed by the Constitution. The Constitution being the supreme law of the land demands that any law inconsistent with its provisions is void. Thus, laws considered under the General Law must technically confirm to the constitution. But if we try to get a firm grip on what 'General Law' consists of, it becomes clear why so many women prefer to silence rather than seek legal help.

1. Women's Rights under the Family Laws

Code of Civil Procedure8 of 1908, the Penal9 Code of 1860 and the Criminal Procedure Code of The General Law consists of civil and criminal laws, which are governed respectively by the 1898. The Personal or Family Laws are under the General Law but mostly are governed by the civil law: the matters which directly affect women such as marriage, divorce, dower, maintenance, guardianship, custody, inheritance and restitution of conjugal rights are separately governed by each religious community's "religious personal law" system. For example, take marriage. Muslim parties, says Pereira, are regulated by, among others, the Muslim Family Ordinance 1961 or the Muslim Marriages and Divorce (Registration) Act 1974. Hindu parties are regulated by (among others) the Hindu Marriages Disabilities Removal Act

8 Code of Civil Procedure8 of 1908
9 Penal code 1860

1946 or the Hindu Widow's Remarriage Act 1856. Christian parties to marriage meanwhile, come under the Christian Marriage Act 1872.
The existence of separate laws for each community means that the kind of justice meted out to a woman is determined by the religious community she belongs to. Most of these laws are antiquated and originated from patriarchal mindsets and therefore do little to change the status of women from helpless, inferior citizens.

2. Women's Rights under the Constitution

Even some of the articles in the Constitution are patronizing towards women. Article 28 (1) states: The State shall not discriminate against any citizens on the grounds of religion, race, cast, sex or place of birth. But then Article 28 (4) states: Nothing in this article shall prevent the State from making special provisions in favour of women and children or for the advancement of any backward section of citizens. In "The Fractured Scales" by 'Faustina Pereira, she said, Lumping women with 'any backward section of the citizens', prejudicially protective, paternalistic attitude. The language of the law, all law, till now, has been the language of patriarchs.

1. Article 28 Constitution of Bangladesh

> (1) The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex or place of birth.
>
> (2) Women shall have equal rights with men in all spheres of the State and of public life.
>
> (3) No citizen shall, on grounds only of religion, race, caste, sex or place of birth be subjected to any disability, liability, restriction or condition 10with regard to access to any place of public entertainment or resort, or admission to any educational institution11.
>
> (4) Nothing in this article shall prevent the State from making special provision in favour of women or children or for the advancement of any backward section of citizens.

2. Article 7 of the Constitution declares that any existing law of the state which is inconsistent with any provision of the Constitution shall be void.
3. Articles 27, 28 and 29 of the Constitution declare the principles of non-discrimination.
4. As per Articles 36, 39 and 65 of the Constitution, a woman has the right to seek nomination and contest for any political opposition.

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3. Gender Discrimination in Citizenship

10 Constitution of Bangladesh
11 Women's Voice: a Search for Feminist Consciousness-18

There are also constitutional laws that directly discriminate against women. The Citizenship Act of 1951, for example, states that only a man can transmit nationality. A woman does not have the right to transmit her nationality to her children or husband. Strangely this prejudicial law has existed for decades in other parts of South Asia such as India, Pakistan and Sri Lanka. In 1992 however, the Citizenship Act of India 1955, was amended to allow both men and women equal right to transmit their nationality to their children and spouses. In Bangladesh the Citizenship Act, relegates women to second class citizenship. The Factories Act 1934, The Tea Plantation Labour ordinance 1962 and The Shops and Establishments Act 1965, gravely restrict women's right to movement or choice of employment. These laws prohibit employment of women and children between the hours of 8p.m. and 6a.m.

4. Some legal attempt to remove Gender Discrimination

There have been some attempts in recent years by governments to safeguard women's legal rights and improve their social status. The Dowry Prohibition Act of 1980 forbids anyone from giving or receiving dowry although the practice is still very prevalent in our country which indicates the lack of enforcement. The "Nari-O- Shishu Nirjatan Daman Ain 2000" (Law on the Suppression of Violence against Women and Children 2000), has for the first time expanded the definition of rape considerably although it does not acknowledge marital rape. Sexual assault and sexual harassment have been made punishable offences under this Act. The overall character of this new law is reflective of same level of participatory effort; the law on children is one of the best examples of the workings of a clear distinction between religion as a private matter and the area of personal welfare of citizens as subject to state intervention. The laws on children and personal disputes relating to children such as the Guardians and Wards Act, the Majority Act and the Child Marriage Restraint Act, are all applied uniformly to all children and citizens of Bangladesh, irrespective of gender or religion despite these areas being clearly within religious-personal sphere of citizen's lives.

5. Bangladesh is a member of (CEDAW) but under reservation

New laws have to be formulated to reflect Bangladesh's concurrence with international laws such as the Universal Declaration of Human Rights and CEDAW12. While religion and culture have to be respected, violations of basic human rights in the name of religion or tradition must be categorically condemned and shunned by the laws of the land. Most importantly laws that govern both public and personal spheres must be compatible to the Constitutional13 laws and be equally applicable to all citizens irrespective of sex, religion or the community they belong to.

Bangladesh continues to maintain reservations Articles 2 and 13(a). In September 142000, Bangladesh became the first country to ratify the Optional Protocol to CEDAW which ensures the implementation of the tools to eradicate discrimination. Maintaining such reservation to the very pledge to eradicate such discrimination is therefore contradictory and makes the sincerity of the state to remove gender discrimination, questionable.

12 CEDAW the convention

13 Bangladesh Constitution

14 Bangladesh | UN Women – Asia-Pacific

Under Article 2, states are required to domestically enforce CEDAW15, 16adopt appropriate legislation and other measures to prohibit all discrimination against women, modify or abolish existing laws, regulations, customs and practices which constitute such discrimination. Other articles of the Convention deal with many of the pressing issues that concern women such as women's right to determine their own and their children's nationality and removal of discrimination in education, employment, healthcare, social and economic benefits.

Part IV of CEDAW calls for equality before the law and equality within marriage and family law. Articles under this component for example guarantees the same legal capacity as men to contract, administer property, appear in courts or before tribunals; freedom of movement the right to choose where they will live; equal rights and responsibilities of women with men in marriage; the right to choose when they will have children, to choose their family name or occupation; and equal rights and responsibilities regarding ownership, management and disposition of property.
So ultimately the goal of the CEDAW cannot be gained by restricting thus articles. So, it can be said in a sense that the CEDAW is inactive in Bangladesh.

6. Other International Conventions & Reports to Treaty Governing Bodies Bangladesh acceded to the ICESCR in 1998 with a number of declarations. The interpretative declaration relating to Articles 2 and 3 of the Covenant states that equality of rights between men and women is to be implemented in so far as they agree with the Constitution of Bangladesh and, more specifically, subject to Bangladeshi state inheritance law. Bangladesh acceded to the Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages in 1998 with reservations to Articles 1 and 2, stating that the treaty would be applied in accordance with the Personal Laws of different religious communities of the country, and allowing for a dispensation as to age, for serious reasons, in the interest of the intending spouses.

7. Gender Violence: Laws under the Penal Code 1860:

1. Of the causing of Miscarriage, of injuries to unborn Children, of the Exposure of infants, and of the Concealment of Births:
2. Sec.312: Causing miscarriage
3. Sec.313: Death caused by act done with intent 17to cause miscarriage18 if act done without women’s consent
4. Sec. 354: Assault or criminal force to woman with intent to outrage her modesty (Of Kidnapping, Abduction, Slavery and Forced Labour)
5. Sec.359 kidnapping Sec. kidnapping
6. Sec.362 Abduction Sec. Abduction
7. Sec. 366: Kidnapping, abducting or inducing women to compel her marriage etc.

16 CEDAW the convention
17 Penal Code 1860
18 Labour Law

8. Sec. 366A: Procreation of minor girl
9. Sec.366B: Importation of girl from foreign country
10. Sec. 372: Selling minor for purposes of prostitution
11. Sec. 373: Buying minor for purposes of prostitution (Of Rape)
12. Sec. 375: Rape
13. Sec.376: Punishment of Rape (Of Offences Relating to Marriage)
14. Sec.493 Cohabitation caused by a man deceitfully inducing 19a belief of lawful marriage
15. Sec 494: Marrying again during lifetime of husband or wife.
16. Sec.495: Same offence with concealment of former marriage from person with whom subsequent marriage is contracted.
17. Sec.496: Marriage ceremony fraudulently gone through without lawful marriage.
18. Sec. 497: Adultery.
19. Sec.498: Enticing or taking away or detaining with criminal intent a married woman. (Of Criminal Intimidation, Insult and Annoyance)
20. Sec 509: Word gesture or act intended to insult the modesty of a woman.

8. Other laws; relating to violence against women

1. Dowry Prohibition Act, 1980
2. Nari O Shishu Nirjaton Daman Ain, 2000
3. Acid Crime Prevention Act, 2000.
4. Acid Control Act, 2000.

19 Penal Code 1860

20. Code of criminal Procedure

21. Bangladesh Constitution

9. Case Law: BNWLA VS GOVERNMENT OF BANGLADESH

Subject:
Sexual harassment, Protection against discrimination in employment and occupation

Role of International Law:
Use of international law as a guide for interpreting domestic law

Type of instruments used:

Ratified treaty;[1] Work of international supervisory bodies;[2] Foreign case law[3]

Sexual harassment/ Lacuna in national legislation/ Use of international law as a guide for interpreting domestic law

Following reports of sexual harassment, the Bangladesh National Women Lawyers Association (BNWLA) brought before the Supreme Court a writ against the Government of Bangladesh on sexual harassment. After noting that there were no specific legislative provisions for addressing sexual harassment of women and girl children, the Court found that there was an urgent need to address this issue. The Court invoked its responsibility 20under art. 102 of the Constitution for enforcing fundamental rights in the absence of legislation. Thus, the Supreme Court defined "sexual harassment" and laid down directives in the form of guidelines to protect women and girl children from sexual harassment at the workplace and educational institutions in both the public and private sectors "to be followed and observed … until adequate legislation is made in this field." In formulating these guidelines, the Court relied on various testimonials of sexual harassment, as well as on constitutional provisions, international instruments and foreign case law. More specifically the Court referred to articles 19(1), 26, 29 and 31 of the Constitution and observed that the principle of gender equality enshrined in the Constitution encompasses prevention of sexual harassment, especially if relevant provisions are read in light of international law:

"The fundamental rights (…) are sufficient to embrace all the elements of gender equality including prevention of sexual harassment or abuse. (…) The international conventions and norms are to be read into the fundamental rights in the absence of any domestic law occupying the field when there is no inconsistency between them. It is now an accepted rule of judicial construction to interpret municipal law in conformity with international law and conventions when there is no inconsistency between them or there is a void in the domestic law. Protection from sexual harassment and right to education and work with dignity is universally recognized as basic human rights."

The Court issued a series of 11 Rules to serve as guidelines. In drafting these Rules, it relied on the Convention on the Elimination of All Forms of Discrimination against Women and its Optional Protocol. It also drew on the General Recommendation No. 19 on violence against women issued by the United Nations Committee on the Elimination of Discrimination against Women, which postulates that "(17) Equality in employment can be seriously impaired when

22 Women and local government in development-25
23 BMWLA Case Reference
24 Code of criminal Procedure

women are subjected to gender-specific violence such as sexual harassment in the workplace". These included definition of sexual harassment and measures to be adopted including public awareness, complaints procedures and punishments.

Chapter -4

Government Polices or steps21

1. The Ministry of Women and Children Affairs:

The Ministry of Women and Children Affairs is the government ministry of Bangladesh responsible for the formulation of policies that promote the institutionalization and development of women and children issues

The implementation of Vision 2021, the government of Prime Minister Sheikh Hasina has taken various initiatives for the development of women and children. A large part of the population are women and children. Prerequisite for the development of the national development. Overall rights of women and children, empowerment and overall development is a key milestone in the implementation of government programs for incriminating.

In light of the election manifesto of Women and Children Affairs Ministry has taken various measures to alleviate women's poverty. Empower women, stop violence against women, trafficking of women, the protection of women in the workplace and women in the mainstream of socio-economic activity to ensure the full and equal participation of women in the overall socio-economic development with the main goal is to ensure. Women to increase efficiency by providing comprehensive training, employment, labour market participation confirmation, through small and medium entrepreneurs to patronize the extensive activities being conducted to ensure the economic empowerment.

2. Quota in mandatory jobs for women.
3. Preserved seat in public transport.
4. Women Policy.

Recommendation:

Affirmative action or **positive discrimination**, refers to a set of policies and practices within a government or organization seeking to include particular groups based on their gender, race, sexuality, creed or nationality in areas in which they are underrepresented, such as education and employment. Historically and internationally, support for affirmative action has sought to achieve goals such as bridging inequalities in employment and pay, increasing access to education, promoting diversity, and redressing apparent past wrongs, harms, or hindrances.

The nature of affirmative action policies varies from region to region and exists on a spectrum from a hard quota to merely targeting encouragement for increased participation. Some countries use a quota system, whereby a certain percentage of government jobs, political

24 The Ministry of Women and Children Affairs

25 http://www.mowca.gov.bd/

positions, and school vacancies must be reserved for members of a certain group; an example of this is the reservation system in India.22

In some other regions where quotas are not used, minoritized group members are given preference or special consideration in selection processes. In the United States, affirmative action in employment and education has been the subject of legal and political controversy. In 2003, the Supreme Court of the United States, in *Grutter v. Bollinger,* held that the University of Michigan Law School could consider race as a plus-factor when evaluating applicants holistically and maintained the prohibition on the use of quotas.

In the United Kingdom, hiring someone simply because of their protected group status, without regard to their performance, is illegal. However, the law in the United Kingdom does allow for membership in a protected and disadvantaged group to be considered in hiring and promotion when the group is under-represented in a given area and if the candidates are of equal merit (in which case membership in a disadvantaged group can be used as a "tie-breaker"). An alternative approach common in the United Kingdom and elsewhere in Europe is positive action. Under this approach, the focus tends to be on ensuring equal opportunity and, for example, targeted advertising campaigns to encourage ethnic minority candidates to join the police force. This is often described as being "colour", although the social viability of that concept is heavily contested in the United States.

In the United States, affirmative action is controversial and public opinion on it is divided, though there is greater support for affirmative action policies which increase representation of women than representation of racial minorities. Supporters of affirmative action argue that it promotes equality and representation for groups which are socioeconomically disadvantaged or have faced historical discrimination or oppression. Opponents of affirmative action have argued that it is a form of reverse discrimination, that it tends to benefit the most privileged within minority groups at the expense of the least fortunate within majority groups, or that when applied to universities it can hinder minority students by placing them in courses too difficult for them.

26 Grutter v. Bollinger - Wikipedia
27 Women's rights and laws-32

Chapter -5

Conclusion:

Affirmative action was introduced through the Employment Equality Act, 55 in 1998, 4 years after the end of apartheid. This act was passed to promote the constitutional right of equality and exercise true democracy. This idea was to eliminate unfair discrimination in employment, to ensure the implementation of employment equity to redress the effects of discrimination, to achieve a diverse workforce broadly representative of our people, to promote economic development and efficiency in the workforce and to give effects to the obligations of the Republic as a member of the International Labour Organisation.

Many embraced the act; however, some concluded that the act contradicted itself. The act eliminates unfair discrimination in certain sectors of the national labour market by imposing similar constraints on another.[1]

With the introduction of Affirmative Action, black economic empowerment (BEE) rose further in South Africa. The BEE was not a moral initiative to redress the wrongs of the past but to promote growth and strategies that aim to realize a country's full potential. The idea was targeting the weakest link in economics, which was inequality and which would help develop the economy. This is evident in the statement by the Department of Trade and Industry, "As such, this strategy stresses a BEE process that is associated with growth, development and enterprise development, and not merely the redistribution of existing wealth". Similarities between the BEE and affirmative action are apparent; however, there is a difference. BEE focuses more on employment equality rather than taking wealth away from the skilled white labourers.

The main goal of affirmative action is for the country to reach its full potential. This would result in a completely diverse workforce in economic and social sectors, thus broadening the economic base and stimulating economic growth.

Bibliography:

1. Bangladesh constitution
2. Penal code 1860
3. Others Law convention
4. Women's rights and laws
5. Code of criminal Procedure
6. Women’s Voice: a Search for Feminist Consciousness
7. Women and local government in development
8. Labour Law
9. Code of Civil Procedure