

RELIGIOUS & CULTURAL RIGHTS

WOMEN'S REPRODUCTIVE RIGHTS AND THE POLITICS OF FUNDAMENTALISM: A VIEW FROM BANGLADESH

SAJEDA AMIN*
SARA HOSSAIN**

Will it be we, the women living in the Muslim city, who will pay the price . . . ? Will we be sacrificed for community security in the coming rituals to be performed by all those who are afraid to raise the real problem—the problem of individualism and responsibility, both sexual and political?¹

[W]e do not accept—and we will not accept—the concept of a single parent family or the concept of a family in its plurality of forms. . . . Single parent family means a woman without a legal husband with a child without a legal father.²

As women are gradually becoming more visible in public life, and are breaking the bonds of patriarchal control, they are also facing a backlash articulated in terms of the reassertion of cultural, traditional, and religious values. In the ensuing struggle over women's rights, rival interpretations of Muslim laws, reformist and anti-reformist, are enlisted by each of the parties for their own aid. What is forgotten in the process, however, are women's own experiences, and the struggle to bring those experiences to bear on the formulation of standards by which to secure women's rights.

* Associate, Research Division, The Population Council, New York.

** Associate in the law firm of Dr. Kamal Hossain and Associates, Dhaka, Bangladesh, and a member of Ain o Shalish Kendra, a legal resources and human rights center in Dhaka.

1. FATIMA MERNISSI, *ISLAM AND DEMOCRACY: FEAR OF THE MODERN WORLD* 9 (1993).

2. Abdur Razzaq, Keynote Paper Presented at the Seminar on the Cairo Conference on Population and Development: Human Rights and Moral Issues, Held by the Center for Human Rights in Dhaka, Bangladesh (Sept. 9, 1994).

This Paper first attempts to elaborate the meaning of reproductive rights, as defined in international human rights law and elaborated in the recent Cairo Conference. It also outlines the provisions of the Bangladesh Constitution, which provides a legal foundation for reproductive rights, and the extent to which such rights are articulated by health and women's rights advocates. A brief description of the legal framework for the family planning program in Bangladesh is followed by an outline of the history of the program. This Paper argues that, in the context of a strong state-supported program for family planning which has made contraception widely available to married women in all parts of Bangladesh, there is not much evidence of specific religious opposition to the use of contraception or even to menstrual regulation.

This Paper considers the extent to which religious laws can be used, not merely to further the goals of family planning programs, but also to secure women's reproductive rights and freedoms. Although Muslim laws offer progressive interpretations supporting family planning, which have formed the base for a functioning family planning program in Bangladesh, fundamentalists³ have sought to impose more restrictive interpretations upon society. Fundamentalists assert a monolithic and repressive version of Islam that, through the force of law, provides for the subordination and control of women, and in particular, women's sexual and reproductive rights. The Paper briefly discusses the fundamentalism in Bangladesh and the use by fundamentalists of both restrictive interpretations and misinterpretations of religious law to violate women's fundamental rights to reproductive freedom, security, and health. While remaining, for the moment, politically marginal, fundamentalists have been able, by their increasing denunciations of both women who transgress social norms, and the agencies that enable them to do so, to create situations in which acts of extreme violence have been perpetuated against women perceived as having breached religious sanctions.

Because such attacks on women appear to be politically rather than religiously motivated, any response based solely on a spirit of cultural relativism fails to address the issue. In order to establish women's rights to reproductive freedoms, it is necessary to anchor the rights

3. Note that while the fundamentalist phenomenon is manifested today in all religions, in Christianity, Judaism, Hinduism, and Islam, in this Paper the term is used primarily with reference to fundamentalist activities in Bangladesh, and thus to Muslim fundamentalists. On fundamentalism and women's struggles, see Marie Aimee Helie Lucas, *Women's Struggles and Strategies in the Rise of Fundamentalism in the Muslim World: From Entryism to Internationalism*, in *WOMEN AND STRUGGLES FOR LIBERATION* 206 (1993).

within an appropriate framework. This framework must take into account not only Islam and Muslim laws, and their varying interpretations, but also the specific cultural and political context of any society. Most importantly, it must be based on a bedrock of universal human rights standards.

THE CONTENT OF WOMEN'S REPRODUCTIVE RIGHTS

INTERNATIONAL HUMAN RIGHTS LAW⁴

Of the international human rights instruments to which the Government of Bangladesh is party, the Universal Declaration of Human Rights⁵ and the Convention on the Elimination of All Forms of Discrimination Against Women (Women's Convention)⁶ are preeminent in protecting reproductive rights.

The Universal Declaration of Human Rights protects the right to life, liberty, and security of person.⁷ Both the Universal Declaration of Human Rights and the Women's Convention guarantee the right to sexual nondiscrimination.⁸ The obligation to eliminate discrimination against women is specifically stated in the Women's Convention to include the obligation to "take all appropriate measures . . . to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women"⁹ and "to modify the social and cultural patterns and conduct of men and women . . . with a view to elimination of . . . customary and all other practices which are based on the idea of the inferiority or superiority of either of the sexes or stereotyped roles of men and women."¹⁰

The right to marry and found a family is provided by both the Universal Declaration of Human Rights¹¹ and the Women's Conven-

4. For an overview of international human rights law and reproductive rights, see REBECCA J. COOK, *WOMEN'S HEALTH AND HUMAN RIGHTS* (World Health Organization 1994).

5. See Universal Declaration of Human Rights, *infra doc. biblio.*

6. See Women's Convention, *infra doc. biblio.* Bangladesh's ratification of the Women's Convention is subject to a reservation to Articles 2, 13(a), and 16.1(c) and (f) on the grounds that these provisions are in "conflict with Sharia law based on the Holy Quaran and Sunna." Fifth Meeting of the States Parties, Notes of the Secretary General on Reservations, at 30, U.N. Doc. CEDAW/SP/13/rev. For a discussion of Bangladesh's reservations to the Women's Convention, see Sara Hossain, *Equality in the Home: Women's Rights and Personal Laws in South Asia*, in *HUMAN RIGHTS OF WOMEN: NATIONAL AND INTERNATIONAL PERSPECTIVES* (Rebecca J. Cook ed., 1994).

7. Universal Declaration of Human Rights, *infra doc. biblio.*, art. 3.

8. See Universal Declaration of Human Rights, *infra doc. biblio.*, art. 2.; Women's Convention, *infra doc. biblio.*, arts. 1, 3.

9. Women's Convention, *infra doc. biblio.*, art. 2.

10. Women's Convention, *infra doc. biblio.*, art. 5.

11. Universal Declaration of Human Rights, *infra doc. biblio.*, art. 16.1.

tion.¹² The Women's Convention moves beyond the Universal Declaration of Human Rights and other earlier human rights conventions, in its explications of the right to health with respect to family planning. In Article 10, it provides for the right of access to educational information, "including information and advice on family planning."¹³ It imposes upon States Parties the obligation to "take appropriate measures to eliminate discrimination . . . to ensure access to health care services including those relating to family planning,"¹⁴ in particular to ensure that women in rural areas "have access to adequate health care facilities, including information, counselling and services in family planning."¹⁵ In addition, the Women's Convention guarantees the right "to decide freely and responsibly on the number and spacing of . . . children" and "to have access to the information, education and means to enable them to exercise these rights."¹⁶

THE CAIRO CONFERENCE

While the Universal Declaration of Human Rights and the Women's Convention comprise part of the essential foundations in international law for reproductive rights, the enforcement of these rights is dependent in effect upon the States Parties to these instruments. The Programme of Action of the International Conference on Population and Development (ICPD Programme of Action),¹⁷ held in Cairo in 1994, and adopted by over 180 countries, is the first U.N. population policy document that endorses a range of rights applicable to women's reproductive health and security, and recommends that national population policies respect international human rights norms.¹⁸

In the face of organized religious opposition, the Cairo Conference was able to adopt a Programme of Action that emphasizes that women's empowerment is "an end in itself"¹⁹ and brought the notion of reproductive health to the center of population policy.²⁰

12. Women's Convention, *infra doc. biblio.*, art. 16.1.

13. Women's Convention, *infra doc. biblio.*, art. 10.

14. Women's Convention, *infra doc. biblio.*, art. 12.1.

15. Women's Convention, *infra doc. biblio.*, art. 14.2.

16. Women's Convention, *infra doc. biblio.*, art. 16.1.

17. ICPD Programme of Action, *infra doc. biblio.*

18. ICPD Programme of Action, *infra doc. biblio.* For stronger formulations of reproductive rights by women's rights activists, see also Report of the International Women's Health Conference for Cairo 1994, Reproductive Health and Justice, *organized by* International Women's Health Coalition (IWHC) & Ciudadania, Estudos, Pesquisa, Informacao, Acao (CEPIA) (Jan. 24-28, 1994).

19. ICPD Programme of Action, *infra doc. biblio.*, art. 4.1.

20. ICPD Programme of Action, *infra doc. biblio.*, art. 7.2.

It virtually adopts the World Health Organization's definition of reproductive health, as follows:

[A] state of complete physical, mental and social well-being and not merely the absence of disease and infirmity, in all matters relating to the reproductive system and to its functions and processes. Reproductive health, therefore, implies that people are able to have a satisfying and safe sex life and that they have the capability to reproduce and the freedom to decide if, when, and how often to do so. Implicit in this last condition are the right of men and women to be informed and to have access to safe, effective, affordable and acceptable methods of family planning of their choice, as well as other methods of their choice for regulation of fertility which are not against the law, and the right of access to appropriate health-care services that will enable women to go safely through pregnancy and childbirth and provide couples with the best chance of having a healthy infant. In line with the above definition of reproductive health, reproductive health care is defined as the constellation of methods, techniques and services that contribute to reproductive health and well being through preventing and solving reproductive health problems. It also includes sexual health, the purposes of which is the enhancement of life and personal relations, and not merely counselling and care related to reproduction and sexually transmitted diseases.

The ICPD Programme of Action recognizes "reproductive rights" and includes within this term the "right of all to make decisions concerning reproduction free of discrimination, coercion and violence as expressed in human rights documents"²¹ and emphasizes the need for informed choice in family planning programs.²² It urges governments to provide reproductive health-related services,²³ and to "deal with the health impact of unsafe abortions."²⁴ The document repeatedly stresses the importance of giving attention to the "reproductive health needs of female adolescents and young women."²⁵

ARTICULATING REPRODUCTIVE RIGHTS IN BANGLADESH

The Constitution of Bangladesh of 1972, guarantees the right to life and personal liberty,²⁶ to equality under the law,²⁷ to nondiscrimi-

21. ICPD Programme of Action, *infra doc. biblio.*, art. 7.3.

22. ICPD Programme of Action, *infra doc. biblio.*, art. 7.12.

23. ICPD Programme of Action, *infra doc. biblio.*, art. 7.6.

24. ICPD Programme of Action, *infra doc. biblio.*, art. 8.25.

25. ICPD Programme of Action, *infra doc. biblio.*, arts. 7.3, 8.19.

26. BANGL. CONST. of 1972, art. 32.

27. *Id.* art. 27.

nation on the ground of sex,²⁸ and to equal protection of the law.²⁹ It provides the right to freedom from torture, and from cruel, degrading, or inhuman punishment.³⁰ The Constitution further provides, subject to "reasonable restrictions," the right to freedom of association³¹ and freedom of thought, conscience, speech, and expression.³² Included among the Fundamental Principles of State Policy, in Chapter II of the Constitution, is an obligation upon the State to take all measures to ensure the right to health and education of all citizens.³³

In spite of these constitutional provisions, to the extent that there is any articulation of reproductive rights in Bangladesh, it is focused on the right to health and derived from the principle that access to health and freedom from disease are basic needs.³⁴ The family planning program, instituted to meet demographic goals of reducing population growth, has been the principal source of contraception for women. Contraceptives are readily available at little or no cost to women all over the country. Denial of access to contraception, therefore, is not perceived, at least by married women, as a major problem. In these circumstances, rather than criticizing the availability of contraception, women's groups have frequently criticized the family planning program for its overzealous commitment to increasing contraceptive prevalence for fertility control, because the program diverts attention from meeting the full range of women's reproductive health needs. Demographically driven programs are accused of treating women as objects and a means towards achieving population control objectives.³⁵

It is not surprising, therefore, that women's demands for reproductive health services are voiced in terms of freedom from violence, coercion, and inappropriate use of reproductive technology. The equally important focus on women's needs in positive terms such as better access to health services, better quality services, more diverse health services, and services for health needs other than for fertility control, receives less attention. Again, there are few attempts to explicitly articulate the notion of the right to reproductive health or

28. *Id.* art. 28.

29. *Id.* art. 31.

30. *Id.* art. 35(4).

31. *Id.* art. 38.

32. *Id.* art. 39.

33. *Id.* ch. II.

34. Bangladesh NGO Preparatory Committee for Beijing Conference, Draft Report Prepared for the Fourth World Women's Conference (1995).

35. Unnoyon Bikolpo o Niti Gobeshona (UBINIG) [Alternative Development and Policy Research], People's Perspective on "Population," Report of the International Symposium (1993).

freedom, including the right to reproductive self-determination. Women's groups in Bangladesh have largely remained conspicuously silent on the issue of sexuality. This silence exists despite highly publicized events of extremely grave violations of women's rights. These violations have not directly infringed on access to the means of reproductive control, but instead, involved digressions from socially acceptable sexual practices.³⁶

LEGAL BASIS OF FAMILY PLANNING

All family planning services, other than abortion, are legal as long as they are not explicitly prohibited. Access to such services is determined by the relevant authorities in the Ministry of Health and Family Welfare. Periodic circulars, issued by the Directorate of Family Planning and Health, specify policies of dissemination. By social consensus, contraception and related services are only provided to married women.

Access to abortion services is the only area in which there is a major legal impediment. Abortion, except to save the life of the woman, is a criminal offence in Bangladesh under section 312 of the Penal Code 1860, which states:

Whoever voluntarily causes a woman with child to miscarry, shall, if such miscarriage is not caused in good faith for the purpose of saving the life of the woman, be punished with imprisonment of either description for a term which may extend to 3 years or with fine or both; . . . and if a woman is quick with child, then the person causing the woman to miscarry shall be punished with imprisonment of either description of a term which may extend to 7 years and shall also be liable to fine.³⁷

Despite these criminal provisions, abortion during the first trimester is widely practiced under the name of Menstrual Regulation (MR). MR services, which have been provided at government facilities since being introduced as a component of the Government's family planning program in the late 1970s, were initially justified as preventing botched abortions and consequent maternal mortality.

Menstrual Regulation finds its legal basis in an interpretation by the Bangladesh Institute of Law and International Affairs that views MR as "an interim method to establish non-pregnancy," effectively removing it from the purview of the Penal Code when pregnancy is

36. See *infra* notes 80-81 and accompanying text (discussing Dulali's and Shopnagar's cases).

37. 1 BANGL. PENAL CODE OF 1860 § 312.

not established.³⁸ MR services are widely available and provided at government health facilities free of cost by government functionaries who receive high quality training and safe MR kits from the Government.³⁹

Despite the widespread practice of MR, the criminal status of abortion undoubtedly contributes to the current moral ambiguity of the practice. In most rural contexts, MR/abortions are carried out secretly, because the woman obtaining the abortion and anyone known to have facilitated the process may face serious repercussions, including social sanctions. Although there are no reported court decisions regarding prosecutions for abortion, if a situation involving MR/abortion is exposed, it may be heard before informal village tribunals (*shalish*), in particular if the abortion is the product of an illicit relationship or adultery.

For example, in a recent study, two cases involving abortion came up for *shalish* hearing in a particular village. Both were instances of extramarital relationships that resulted in pregnancy and abortion. The *shalish* gave the same judgment in both instances. The male partner was ordered to compensate the female partner approximately Taka 5000 (U.S. \$125) for sexual violation. In addition, in one case, the person who facilitated the abortion by accompanying the woman to the health center was fined a small amount (Taka 200 = U.S. \$5).⁴⁰ Thus, the act of extramarital sex, rather than the abortion itself, appeared to constitute an offense.

HISTORY OF THE FAMILY PLANNING PROGRAM

The main objective of population policy in Bangladesh is reduced population growth. Family planning services are seen as the means by which to attain this objective. Although a family planning program has been in place in Bangladesh since the 1960s, the program has evolved in significant ways in response to changes in policy. In the former Pakistan, family planning programs wrongly assumed that the population problem could be addressed by flooding markets with contraception; media campaigns were simple but largely ineffective. The philosophy of the population campaign was expressed succinctly in the promotional message "*Chhoto Poribar Shukhi Poribar*" ("A small

38. See M.S. Ali et al., Bangladesh Institute of Law and International Affairs, Report on Legal Aspects of Population Planning 31 (1978).

39. See Ruth Dixon-Mueller, *Innovations in Reproductive Health Care: Menstrual Regulation Policies and Programs in Bangladesh*, 19 STUD. FAM. PLAN. 129 (1988).

40. Sajeda Amin, Bangladesh Institute of Development Studies, Study on Family Structure and Change in Rural Bangladesh (1992) (fieldnotes from village study).

family is a happy family"). In hindsight, the program has been described as ill-planned and ill-managed, and the media campaign uninformed. It is now generally accepted that the Bangladesh family planning program became effective in reaching its contraceptive acceptance goals only after radical changes were made in the late 1970s.

The Bangladesh Government declared population its number-one problem in 1976,⁴¹ and combined an elaborate family planning program with a strong motivational campaign, which has been backed by extensive external financial support. The program emphasizes access to contraceptive services and delivers them at the doorstep of women even in remote rural areas. The communication and motivation strategy is also strongly reinforced by "Malthusian pressure"; people from all walks of life are acutely aware of the spectre of the population bomb.

From its inception, the family planning program has been the focus of extensive research and writing. Early writings were primarily concerned with discovering the reasons for nonuse of contraception and motivations for high fertility. There was a notable absence of any reference of specific religious opposition to contraception, but the literature cited numerous other cultural and economic rationales for high fertility. There is, however, anecdotal evidence that religious leaders voiced early opposition to specific family planning methods, such as sterilization and IUD, in religious terms. For instance, women who refused an IUD insertion or sterilization would cite a threat of being denied a proper burial by local imams. In response, special efforts were made by the family planning program to increase knowledge and acceptability of specific methods among religious leaders, including special programs for training imams.

RISING CONTRACEPTIVE PREVALENCE IN BANGLADESH

Bangladesh has been noted for the very rapid rise in contraceptive use that has occurred over a relatively short period. Most demographers attribute the rapidly changing fertility profile that has accompanied rising contraception to an aggressive family planning program. A recent analysis identified the following critical changes in the program as reasons for its success in increasing contraceptive use:

- (1) Introduction of doorstep delivery of services to women by 24,000 family planning frontline workers;

41. M. Badrud Duza, *Overview of Findings, in SOUTH ASIA STUDY OF POPULATION POLICY AND PROGRAMMES: BANGLADESH* (M. Badrud Duza ed., 1990).

(2) Introduction of more culturally appropriate and intensive education propaganda campaigns, including radio and television, as well as many other channels of communication, such as face-to-face motivation by workers. Messages address issues such as the environmental impact of population growth, social responsibility, preference for sons, the benefit of contraceptive use for women's health, and child survival;

(3) Increased efforts to enhance the credibility of family planning workers by providing them with the resources to also perform some health care work, particularly for mothers and young children; and

(4) Provision of curative and preventive medical services to children in family welfare centers which previously provided only family planning services — a strategy referred to as the Maternal and Child Health-based family planning.⁴²

According to nationally representative Contraceptive Prevalence Surveys carried out among currently married women of reproductive age, the use of modern contraceptives rose from 7.7% in 1975 to 30% in 1989 and 45% in 1993. This trend is illustrated by Table 1 below. Thus, access to contraception went from being available to less than ten percent of married women to being available for nearly half of the relevant population.

These aggregate data have been corroborated by data from smaller scale studies that also show similar levels of contraceptive use among currently married women.⁴³ Several of these specialized studies have also shown that contraceptive use is even higher among women who participate in credit schemes meant to give women independent access to cash and income.

42. JOHN CLELAND ET AL., WORLD BANK, *REPRODUCTIVE CHANGE IN BANGLADESH: SUCCESS IN A CHALLENGING ENVIRONMENT* (1994).

43. See Sydney Schuler & Syed M. Hashemi, *Credit Programs, Women's Empowerment, and Contraceptive Use in Rural Bangladesh*, 25 *STUD. FAM. PLAN.* 65 (1994); Simeen Mahmud, *The Role of Women's Employment Programs in Influencing Fertility Regulation in Rural Bangladesh* (paper presented at the Population Association of American, Cincinnati, Ohio 1993).

TABLE 1: CONTRACEPTIVE USE IN BANGLADESH BY TYPE OF METHOD FROM CONTRACEPTIVE PREVALENCE SURVEYS AMONG CURRENTLY MARRIED WOMEN⁴⁴

Contraceptive Method	1975	1983	1986	1989	1991	1993
Pill	2.7	3.3	5.1	9.1	13.9	17.4
IUD	0.5	1.0	1.4	1.7	1.8	2.2
Injectibles	-	0.2	0.5	1.1	2.6	4.5
Condom	0.7	1.5	1.8	1.9	2.5	3.0
Female Sterilization	0.3	6.2	7.9	9.0	9.1	8.1
Male Sterilization	0.5	1.2	1.5	1.5	1.2	1.1
Safe Period	1.0	2.4	3.8	3.8	4.7	4.8
Withdrawal	0.6	1.3	0.9	1.2	2.0	2.5
Other Methods	1.4	1.8	2.2	2.0	2.0	1.1
All Methods	7.7	19.1	25.3	31.4	39.9	44.6

The increased use of contraception is most often attributed to the greater awareness among NGO members and gainfully employed women about the availability of services. Their connections with the world beyond the *bari* (homestead) also gives them greater exposure to government programs and messages that promote the use of family planning. Most NGOs incorporate some element of motivation for family planning in their educational messages.

Large scale national credit programs such as those run by the Grameen Bank, the Bangladesh Rural Advancement Committee,⁴⁵ and several NGOs show that contraceptive use is considerably higher among women who belong to programs to receive credit to engage

44. S.N. Mitra et al., *Bangladesh Demographic and Health Survey, 1993-94: Preliminary Report*, in DEMOGRAPHIC AND HEALTH SURVEYS (S.N. Mitra et al. eds., 1994).

45. Both organizations provide small scale credit to rural women belonging to credit groups, comprised only of the poor.

in small businesses, compared to women with similar backgrounds who do not participate in such programs. This data is set out in Table 2.

TABLE 2: MODERN CONTRACEPTION AMONG PROGRAM MEMBERS AND NONMEMBERS OF WOMEN'S CREDIT PROGRAMS⁴⁶

Study Description	% of credit recipients using contraception	% of nonrecipients of similar group using contraception
Schuler & Hashemi ⁴⁷ Grameen Bank Members Survey date: 1991	0.54	0.43
Mahmud ⁴⁸ BRAC, Grameen, and BRDB members Survey date: 1989	0.56	0.41
Kabir & Rahman ⁴⁹ Several credit program members Survey date: None	0.67	0

RELIGIOSITY AND CONTRACEPTIVE USE

A recent analysis of factors that affect women's contraceptive use shows that religiosity (as measured by both the frequency with which women pray and self-assessment) is not statistically associated with use of modern reversible contraceptives.⁵⁰ This is a carefully conducted statistical analysis that controls for the simultaneous impact of other

46. See Michael H. Bernhart & M. Mosleh Uddin, *Islam and Family Planning Acceptance in Bangladesh*, 21 *STUD. FAM. PLAN.* 287 (1990).

47. See Schuler & Hashemi, *supra* note 43.

48. See Mahmud, *supra* note 43.

49. See Mohammad Kabir & Bazlur Rahman, *Rural Poverty and Demographic Change: Evidence from Village-Based Women in Development Programs* (1994) (paper presented at IUSSP Seminar on Women, Poverty and Demographic Change, Oaxaca, Mex.).

50. Nashid Kamel & Andrew Sloggett, National Institute of Population Research and Training (NIPORT), *The Influence of Religiosity, Mobility and Decision Making on Contraceptive Use, in BANGLADESH FERTILITY SURVEY, 1989: SECONDARY ANALYSIS* (John Cleland et al. eds., 1993).

socioeconomic factors that may be related to religiosity. At least two other studies have also concluded that Islamic religious beliefs are not important or significant barriers to modern contraceptive use in Bangladesh.⁵¹

The first study, referred to above, however, indicates that religious fervor affects the decision to adopt sterilization as a contraceptive method. In other words, women who report themselves as most religious are less likely to use sterilization as a method of contraception. This finding is consistent with our general impression of differential legitimacy of various forms of contraception. Female sterilization, for example, has always faced the most severe opposition, primarily because doctors who perform the procedure are very often men. Sterilization, therefore, is perceived as a violation of the rules of seclusion that prohibit women's contact with nonkin. It is perhaps also relevant that the survey on which this analysis is based was carried out at a time of declining sterilizations. This decline is attributable to a withdrawal of donor support, which in turn led to weaker motivational campaigns for sterilization as a method of contraception.⁵²

Although at the individual level women's religiosity does not appear to affect their decision to adopt modern contraception, a community's religiosity may indirectly affect the level of contraceptive use. There is a strong regional pattern in contraceptive use, which indicates, for example, that the more conservative Chittagong region of Bangladesh has the lowest overall contraceptive use. Those familiar with the family planning program suggest that regional patterns in contraceptive use reflect a difficulty in recruiting female field workers in the more conservative areas; in general, contraceptive prevalence corresponds to the number of family planning posts that are filled. Consistent with this explanation, the Chittagong region has the highest level of vacancies and the lowest level of contraceptive use. Table 3 demonstrates the regional variation in contraceptive use in 1993.

51. See A. NEAZ & H. BANU, EFFECT OF PROGRAMMATIC AND NON-PROGRAMMATIC FACTORS ON CONTRACEPTION AND FERTILITY IN BANGLADESH (NIPORT 1992); Bernhart & Mosleh Uddin, *supra* note 46.

52. See Duza, *supra* note 41.

TABLE 3: REGIONAL VARIATION IN CONTRACEPTIVE USE 1993⁵³

Division	Traditional Method	Modern Method	Any contraception
Barisal	10.0	37.8	47.7
Chittagong	5.9	23.4	29.3
Dhaka	8.0	36.3	44.3
Khulna	12.5	42.8	55.3
Rajshahi	8.9	45.9	54.8

PROGRAMMATIC APPROACH TO RELIGIOUS OPPOSITION TO CONTRACEPTION

Religious leaders voiced early opposition to the aggressive family planning campaign to change attitudes towards birth control. The most common obstacles to birth control were social ostracization, refusal for burial, and lashings and other sentences imposed by *shalish* tribunals. As the program matured, this opposition gradually faded. It is not uncommon, however, for fear of religious reprisal to make women unwilling to accept certain contraceptive services. For instance, a recent trend in declining use of the IUD has been attributed to the fear of being denied a religious burial.

The family planning program has addressed religious opposition through educational programs for religious leaders. These programs provide information about the need to control population growth and the health benefits of reduced births. Additionally, there have been some concerted efforts to motivate religious leaders to make public pronouncements endorsing the use of family planning. For the most part, these pronouncements are based on liberal interpretations of the Quran that demonstrate Islam's relatively lenient position towards the use of birth control. In 1985, in response to a request from the Government's Planning Commission, the Islamic Foundation published a book highlighting these liberal interpretations.⁵⁴

53. See Mitra et al., *supra* note 44.

54. SHAMSUL ALAM, *ISLAM AND FAMILY PLANNING* (The Islamic Foundation 1985).

MUSLIM LAWS AND REPRODUCTIVE ISSUES

The practice of deploying progressive interpretations of Muslim laws in support of state-sponsored family planning programs has found favor in a number of countries other than Bangladesh. Eminent religious leaders have issued among others these *fatwas* (religious opinions):⁵⁵

I see no objection from the Shariah point of view to the consideration of family planning as a measure, if there is a need for it, and if the consideration is occasioned by the people's own choice and conviction without constraint or compulsion, in the light of their circumstances, and on the condition that the means for effecting this planning is legitimate.⁵⁶

There is agreement among the exponents of jurisprudence that coitus interruptus, as one of the methods for the prevention of childbearing, is allowed. Doctors of religion inferred from this that it is permissible to take a drug to prevent childbearing, or even to induce abortion. We confidently rule in this *fatwa* that it is permitted to take measures to limit childbearing.⁵⁷

Such *fatwas* derive from analogy to earlier-established interpretations in favor of contraception, and, within certain limits, abortion. Mussallam narrates how medieval jurists, in the absence of any explicit reference to contraception in the Quran, traditionally turned for guidance to the Hadith (sayings attributed to the Prophet Muhammad), and *quiyas* (reasoning by analogy), and *ijma* (consensus).⁵⁸ Several Hadith were cited as permitting contraception, with reference to the practice of 'azl (coitus interruptus). He points out that the eminent jurist Al-Ghazali asserted that coitus interruptus was permissible, on the grounds that pregnancy had four related causes: marriage, intercourse, emission of semen, and the arrival and settling of semen in the womb. He argued that because these four acts were interrelated, and that the first act, marriage, was not compulsory, its results could similarly not be held to be compulsory. The grounds on which contraception was considered permissible included economic, personal, social, and medical factors.

Many jurists, however, specifically rejected sterilization as a means of acceptable contraceptive practice, despite the absence of any

55. See, e.g., ABDEL RAHIM OMRAN, *FAMILY PLANNING IN THE LEGACY OF ISLAM* (1992).

56. Shaikh Hasan Mamun, Rector Al Azhar University, Egypt, 1964, cited in Zulie Sachedina, *Islam, Procreation and the Law*, 16 INT'L FAM. PLAN. PERSP. 109 (1990).

57. Shaikh Abdullah Al Qaliqili, Grand Mufti, Jordan, 1964, cited in Sachedina, *supra* note 56, at 109.

58. B.F. MUSSALLAM, *SEX AND SOCIETY IN ISLAM* (1983).

prohibition on sterilization in either the Quran or the Hadith. Some jurists have pointed out that sterilization should be allowed in the absence of any specific textual prohibition, particularly because "the preservation of reproductive power was not one of the obligations under Islamic Law."⁵⁹ In practice, in countries with significant Muslim populations, sterilization has been made illegal only in Iran and Saudi Arabia and is allowed in Egypt, Tunisia, India, and Bangladesh.

In contrast to the relatively liberal position that jurists take on the issue of contraception, the juristic interpretation of the right to abortion has been more limited. For every school of interpretation except one, abortion is prohibited, except to save the mother's life, after the ensoulment of the fetus. Ensoulment of the fetus is considered to occur 120 days from conception. Jurists differ, however, as to whether and when abortion is permitted prior to ensoulment. The Hanafi school, which prevails in Bangladesh, permits abortion with justification before ensoulment. Several countries with a majority Muslim population have legislation permitting abortion within the first trimester, on the grounds of saving the woman's life,⁶⁰ or for reasons of maternal health,⁶¹ or on any grounds whatsoever.⁶² Bangladesh has also clarified the existing law (which is not based on *shariat*, but is part of the Colonial Penal Code), thereby enabling widespread provision of MR services that do not fall within the ambit of the abortion legislation.

FURTHERING REPRODUCTIVE RIGHTS?

Given the liberality and the range of interpretations of Muslim laws on reproductive issues, any attempt to identify "a fateful triangle model that sees an inevitably ill-fated association between Islam, women and demographic outcomes"⁶³ appears doomed at the outset. Similarly, any attempt to assert a monolithic and restrictive view of the "Islamic position" on reproductive rights would be misleading.

While the framework of Muslim laws permits the development and operation of family planning programs, it remains unclear whether the framework of Muslim law alone can ensure women's reproductive rights. In contrast to other religious laws, Muslim laws are premised

59. See Sachedina, *supra* note 56, at 109.

60. These countries include: Bangladesh, Egypt, Iran, and Indonesia.

61. Egypt allows abortion to protect the mother's health.

62. Tunisia allows abortion for any reason.

63. Carla Makhlof Obermeyer, *Islam, Women and Politics: The Demography of Arab Countries*, 18 POP. & DEV. REV. 50 (1992).

on the need to encourage marriage for all members of the Muslim faith. Muslim laws also assert that both partners in a marriage have a right to sexual enjoyment. In spite of such provisions, however, and while Muslim law may condone family planning, the notion that a woman may, for her own reasons, choose to adopt a contraceptive method is derided.⁶⁴ For example, the Islamic Foundation, which elaborated the religious texts favoring family planning, also categorically asserts the limits of its position, as follows:

Free distribution and easy availability of contraceptives to unmarried, even married people away from families, is illegitimate. The uncontrolled distribution of contraceptives has opened the floodgates of adultery and fornication or adultery programme for turning our women folk, particularly of our high class society, into half prostitutes as in the west, and be condemned to the most perpetual hell⁶⁵

More importantly, personal laws that regulate rights within marriage in many Muslim countries establish a framework that denies women equality and inhibits them from exercising their right to self-determination within the family. In particular, in the South Asian context, it has been argued that the combination of men's right to polygamy or unilateral divorce and women's lack of alternatives to marriage restrains women from exercising the choice not to bear children.⁶⁶ In this particular social and economic context, a woman's sole safeguard may be her ability to give birth to sons.

Moreover, traditional interpretations of Quranic verses and other sources of law tend to emphasize the inequality between men and women. While asserting that the introduction of Islam improved the status of women in Arabia, these traditional interpretations emphasize that Islam sanctions gender inequalities, particularly with respect to rights in marriage, rights to inheritance, and also establishes that one man's evidence is equivalent to that of two women.

The failure to establish that Muslim laws or Islam are determinative in constraining women's reproductive choices does not mean, however, that Islam or Muslim laws and beliefs are irrelevant with respect to reproductive issues. The powerful ideological influence of Islam ensures its impact on reproductive choices. This prompted certain women's rights advocates (preeminently, Riffat Hassan and Fatima Mernissi) to adopt a strategy of attempting to reinterpret religious texts from a human rights and feminist perspective. They

64. See Al Ghazali, cited in MUSSALLAM, *supra* note 58.

65. ALAM, *supra* note 54, at xix.

66. ALAM, *supra* note 54, at 45-46.

argue that texts used to legitimize women's inferiority should not be relied on outside their historical context, but instead be seen as limited to a particular historical context, and, therefore, subject to reinterpretation in an evolving society.

While such reformist strategies, which clearly situate themselves within the parameters of a religion, are useful for any community, their limitations need to be addressed. Reformist reinterpretations are unlikely to be accepted by religious leaders, and can offer no solutions across religious groups. A more effective strategy for establishing women's reproductive rights would ground such rights within an appropriate framework that takes into account, not only Islam and Muslim laws, and their varying interpretations, but also the specific cultural and political context of any society, and is based on a bedrock of universal human rights standards.

THE FUNDAMENTALIST CHALLENGE

The women's reproductive rights movement has faced challenges from all religious orthodoxies, as well as recent religious fundamentalist movements. Otherwise pitted against each other politically, religious fundamentalists, of whatever hue, appear to share a common agenda regarding the control of women's rights.

Interestingly, while Muslim fundamentalists have not directly threatened family planning programs, they have reacted strongly to the assertion of women's reproductive rights within the context of such programs. In their effort to challenge the ability of women to assert their reproductive rights, fundamentalist groups have sought to impose a monolithic and repressive interpretation of religious laws and religious views.

For example, Moududi, a Pakistani religious leader, and founder of one of the leading Muslim fundamentalist parties, who was firmly opposed to family planning, selectively cited religious texts to support his claims that birth control was an anti-Islamic conspiracy, and that the introduction of family planning in developing countries would result in "the breakdown of the family and sexual promiscuity" and in women giving up their traditional roles.⁶⁷ Rahman shows that Moududi's attempted theological justification for such assertions amounted to less than ten percent of his book, *The Birth Control Movement*, and that such assertions were based on a less than comprehensive reading of religious traditions.⁶⁸

67. OMRAN, *supra* note 55, at 207.

68. See OMRAN, *supra* note 55, at 207.

More recently, the Cairo Conference saw a coalition of Christian (led by the Vatican) and Muslim fundamentalists attempting, and succeeding in part, in restraining the affirmation and elaboration of women's reproductive rights. Fundamentalists mounted a last minute campaign (combining street demonstrations with shuttle diplomacy) to persuade Heads of State to stay away from the Conference. At the Conference itself, the coalition strongly opposed the terminology used in the Chapter of the ICPD Programme of Action entitled *Reproductive Rights and Reproductive Health*,⁶⁹ a small number of Muslim countries also opposed the language on women's empowerment.⁷⁰ While some countries accepted the need for post-abortion counselling and care (including Bangladesh), the Programme of Action itself stated that no changes could be made regarding abortion law except by national legislatures.

An indicator of how fundamentalists will take up the challenge of Cairo domestically may be gauged by the following comments: "[W]e do not accept the concept of a single parent family or the concept of a family in its plurality of forms . . ."⁷¹ This commentator also appears particularly opposed to States providing reproductive health care, and information on reproductive health to adolescents and men.⁷² He argues that acceptance of these proposals would result in

a society in which extra marital sex will be socially and legally permissible. Parents will have no control over their children. This has been prevalent in the West for the last half century and this has led to immoral behaviour, sexual anarchy, sexually transmitted diseases, more crimes, and more particularly sexually related crimes.⁷³

In a more than faint echo of Moududi, he continues: "Does the UN Draft Programme then want to export these western social maladies to the Eastern and Muslim countries in the name of population control and development?"⁷⁴ In conclusion, he asserts: "As far as Bangladesh is concerned these offending clauses of the document offend our religious feelings, our culture and above all our civiliza-

69. For an outline of the points of opposition to ICPD Programme of Action by the religious coalition, see Centre for Reproductive Law and Policy, *The Cairo Conference, A Programme of Action for Reproductive Rights?*, in REPRODUCTIVE FREEDOM AT THE UN (1994).

70. See *id.* at 2. For example, Libya expressed a reservation to the entire chapter on *Gender Equality, Equity and Empowerment of Women* to the extent that they contradict Islamic law, in particular with reference to sexual behavior. *Id.*

71. Razzaq, *supra* note 2, at 4.

72. See Razzaq, *supra* note 2, at 5.

73. Razzaq, *supra* note 2, at 5.

74. Razzaq, *supra* note 2, at 6.

tion . . . to agree to such a proposal would be . . . unconstitutional."⁷⁵

Muslim fundamentalists thus deny more liberal interpretations of Muslim laws and foreclose the possibility of any further progressive interpretation. In seeking to impose an extremely authoritarian version of the *shariat* on an entire society, fundamentalists reveal their essentially autocratic agenda. This agenda includes attempts to impose a monolithic set of standards and forms, as well as denial of dissent and internal reform movements within society. In the fundamentalist view, there is no space for any form of diversity within society, particularly as this is reflected in the reality of women's lives and experiences. The fundamentalist view thus seeks to impose one identity, based on religion, for each citizen, and within that, to impose one defined immutable role for women. Any attempt by an individual to assert her own sovereignty or right to self-determination is viewed as a challenge to the prevailing order. The combination of the individual and collective demands of women for social justice, explicitly insisting on a change in the distribution of power, may in this context, provoke a violent response.

THE POLITICS OF FUNDAMENTALISM IN BANGLADESH

In Bangladesh, the rise of fundamentalism is connected to a history of military dictatorships and fragile democracies, as well as extreme dependence on economic aid.⁷⁶ Autocratic regimes have used Islam as a legitimating ideology. Similarly, democratically elected governments have asserted the need to uphold religion and religious values and sentiments (not only for populist reasons, but also to visibly demonstrate the maintenance of the status quo of the social order), and have thus facilitated the growth of fundamentalist politics.

The rise of fundamentalism has accompanied the gradual Islamization of the State. The creation of Bangladesh was a nail in the coffin of the theory of religious nationalism. The Constitution firmly established secularism as a Fundamental Principle of State Policy. Over the years, however, a series of constitutional amendments by two successive military governments resulted in the removal of the principle of secularism. The principle, for example, has been replaced by a clause enunciating "trust and faith in almighty Allah,"⁷⁷

75. Razzaq, *supra* note 2, at 8.

76. See generally Meghna Guhathakurta, *The Aid Discourse and the Politics of Gender: A Perspective from Bangladesh*, 65 J. SOC. STUD. (1994).

77. Proclamations Order No. 1 of 1977, reprinted in 29 DHAKA L. REP. 128 (1977).

and by the establishment of Islam as the State Religion.⁷⁸ State policies, such as the provision of government funding for *madrassah* (religious schools for Muslims), the training of imams, and the patronage extended to governmental institutions such as the Islamic Foundation, have facilitated the ability of fundamentalists to operate.

The fundamentalists' invocation of the cry "Islam in danger" to further their own political ends is a familiar one. The Jamaat-e-Islami, a leading Islamic political party, which calls for an Islamic state and the introduction of Islamic law, in particular, has raised this banner repeatedly throughout the country's history. It did so viciously in 1971, during Bangladesh's war of independence, when leading members of the party collaborated with the Pakistani Army and allegedly led paramilitary groups that perpetrated mass killings, rapes, and other atrocities.

Unable to make any significant headway through a democratic process, the Jamaat-e-Islami have played the religious card in order to enter the political arena. They have been particularly successful in doing so in periods of dictatorship. Banned from organizing immediately after the independence war, the Jamaat, together with other religious extremist parties, were able to recommence their activities after a military coup.

The process of rehabilitation of fundamentalists in political life essentially occurred under military regimes, which sought not only to play the religious card to obtain popular legitimacy, but to build up a political base. With their participation in later oppositional movements for democracy, and currently for electoral reform, the fundamentalists have now gained a level of legitimization. This process, however, has been threatened by a popular movement to hold war crimes trials in which front-ranking leaders of the Jamaat-e-Islami have been named as potential accused. The fundamentalists' potential rural support base has also been substantially eroded by the development activities of NGOs, many of which are focused on women's empowerment.

Fundamentalists have reacted by attacking all those engaged in social change, whether progressive intellectuals, writers, or development organizations. They have sought to justify their actions on the basis that individual or organizational reformers threaten public and social order. The fundamentalists' "ability to create tensions and law

78. BANGL. CONST. of 1972 art. 2A, *established by Constitution (Eighth Amendment) Act No. 30 of 1988, reprinted in BANGL. GAZETTE EXTRAORDINARY (1988).*

and order situations on a religious and sectarian basis"⁷⁹ has been a significant factor in their ability to gain political concessions, particularly in periods of political stalemate. Self-appointed guardians of a monolithic and repressive version of Islam, the fundamentalists have proven adept at twisting logic and extracting interpretations of religion that suit their own immediate ends.

ATTACKS ON SEXUAL AND REPRODUCTIVE RIGHTS

It is in this context, therefore, that the attack on women's sexual and reproductive rights has been launched. The increasing visibility of women in both urban and rural areas, prompted by women's employment in the garments sector and the activities of development organizations, has acted as a catalyst for such an attack.

The fundamentalists chose as their first target single women identified as having transgressed social norms. In a series of cases, *fatwas* were issued by imams or *madrassah* principals, accusing women of *zina* (adultery/fornication), and sentencing them to punishments such as stoning, caning, and, in one particularly horrifying case, burning at the stake. Three women have died in such incidents. Other women who were accused by *fatwas* now face social ostracization.

In each case, the *fatwa* was issued in the context of a *shalish*. A centuries-old method of alternative dispute resolution, the *shalish* is traditionally called upon to negotiate and mediate family or land disputes or petty criminal matters. Its judgments are usually accepted by both parties.

In the cases described below, *shalish* authorities stepped far beyond their traditional bounds. Invariably composed of community and religious elders, the *shalish* tried and convicted women for acts that do not constitute offenses under Bangladeshi criminal law and sentenced them to punishments that also are not provided for by the prevailing law.

*Dulali's Case*⁸⁰

In one case, Dulali, age twenty-five, became pregnant during an extra-marital relationship with Botu, another resident of her village. On discovering her condition, her family arranged her marriage to

79. KHAWAR MUMTAZ & FARIDA SHAHEED, WOMEN OF PAKISTAN: TWO STEPS FORWARD, ONE STEP BACK 10 (1989).

80. The following account is derived from reports in *Daily Jonokontho* from February to April 1994 and from the notes of Sara Hossain, who conducted onsite investigations in Noakhali in February 1994.

another man. Her husband, on confirming his suspicions that she was pregnant, however, divorced her. Dulali's family then reportedly called upon local elders to hold a *shalish* into the matter. At the *shalish*, Dulali was accused of *zina* and sentenced to be caned 101 times, to be administered seven days after the delivery of her child. No accusation was made against Botu, the man involved. The execution of the sentence was preempted by the intervention of national women's organizations and the consequent presence of the police in the village on the day appointed for the caning. Subsequently, all locals denied the *shalish*, the *fatwa*, and the sentence. Dulali is no longer able to live in the village.

*Shopnahaar's Case*⁸¹

In another case, Shopnahaar, age thirteen, became pregnant after she was allegedly raped by eighteen-year-old Shafiq. The incident occurred four days after her first period. Shafiq and his family promised that he would marry Shopnahaar. They revoked this promise, however, on discovering her pregnancy. Shopnahaar's father then called a *shalish*, which was presided over by the principal of a local *madrassah*. At the *shalish*, Shopnahaar insisted that she wanted to swear an oath on the Quran that "it is Shafiq who has harmed me. But they wouldn't listen to me."

The Moulana found that in the absence of witnesses, the allegation against Shafiq could not be proved. Nevertheless, he found it necessary to punish Shopnahaar "because she was pregnant." The members of the *shalish* sentenced Shopnahaar to be caned 100 times, to be administered forty days after the delivery of her child. On the date scheduled for the delivery, crowds gathered outside the hospital where Shopnahaar was confined to view her "bastard child." Shopnahaar was reluctant to return to the village, fearing that the sentence would be carried out as scheduled. In the meantime, the police were forced to act by the efforts of women's rights and human rights' organizations in the capital. A national women's organization arranged for Shopnahaar and her child to be given shelter in their refuge while the case continued.

Trials by *shalish*, as in the above cases, are clearly illegal. *Shalish* authorities have invariably invoked the *shariat* during these trials,

81. The following account is derived from reports in the *Daily Bhorer Kagoj* and the *Daily Ajker Kogaj* in 1994 and Sara Hossain's unpublished notes from an interview with Shopnahaar in Dhaka in November 1994.

although religious law is not applicable to criminal matters in Bangladesh. *Shalish* have no jurisdiction to hold trials for *zina*, which is not a criminal offence under Bangladeshi law. Although these *shalish* clearly violate the fundamental right to life and personal liberty, and the right to protection of the law, the failure of the State to respond promptly in each case has enabled perpetrators of such violence against women to escape with impunity.⁸²

In both of these cases, young women were targeted by the community, led, in particular, by religious leaders, for having transgressed social and sexual norms. In Shopnagar's case, the *shalish* refused to take note of her allegations of rape. In each case, the risk of exposure and the lack of information combined to ensure that the options of contraception or abortion, which could have preempted the *shalish* and its ensuing consequences, were not available to either Shopnagar or Dulali.

The focus of fundamentalist attacks shifted in their second phase onto development organizations. Both the staff and the beneficiaries of a number of development projects faced threats of violence and criminal intimidation.⁸³ Nonformal primary education schools, in which a large number of girls were enrolled and which provide secular education, were burned to the ground. Women receiving health care from NGOs were warned to boycott such organizations and were threatened with divorce if they failed to abide by such injunctions. Attacks continued to be targeted at sterilization programs, with women who adopted sterilization being socially ostracized or refused religious burial rites.

THE BACKLASH EFFECT

Religious opposition to reproductive rights, in the wake of Cairo, has been identified as being fuelled by extremist groups and fundamentalists. Such opposition appears to be based, not on religious considerations, but rather on purely political considerations. Thus, fundamentalists are unable to provide any clear or comprehensive theological justifications for their position. They are compelled

82. See AIN O SHALISH KENDRA, REPORT ON WOMEN'S RIGHTS IN BANGLADESH, 1994 (forthcoming); Amnesty International, *Fundamental Rights of Women Violated with Virtual Impunity*, ASA/13/09/94 (Oct. 1994); Amnesty International, *Taking the Law in Their Own Hands: The Village Shalish*, ASA/13/12/93 (Oct. 1993).

83. See AIN O SHALISH KENDRA, *supra* note 82; COORDINATING COUNCIL FOR HUMAN RIGHTS IN BANGLADESH, THE STATE OF HUMAN RIGHTS IN BANGLADESH, 1994 (1994); HUMAN RIGHTS WATCH, ASIA REPORT (1994).

to attempt to whip up fears of a disintegration of social and moral order resulting from the application of reproductive rights.

Despite a steady trend of Islamization of the Bangladesh Constitution since independence, some far-reaching legislative interventions have been made, at times wholly at odds with the position under *shariat*,⁸⁴ and judicial interpretations have in certain instances, also interpreted *shariat*, wherever possible, to allow for more equitable resolutions.⁸⁵ In contrast, the failure to legislate in the arena of women's reproductive rights effectively allows for the enforcement of such rights to be determined by community bodies solely on the basis of tradition or custom. In extreme situations, this combined with the denial of information regarding reproductive health care and the lack of any access to such care, can result in situations such as those facing the *fatwa* victims described above.

The recent reaffirmation of reproductive rights at the Cairo Conference, combined with the existing legal foundations in international human rights law, as well as in the Constitution, provides an unassailable framework for women's rights advocates to press for the enforcement of reproductive rights and freedoms. Specifically defining rights and elaborating their operation through the law is of importance insofar as this establishes easily recognizable and uniform standards to meet certain needs. The challenge for women's rights advocates is to effectively use human rights law and the policy pronouncements at Cairo to establish the rights to reproductive security, health, and self-determination for Shopnahar, Dulali, and all other women.

84. See, e.g., Bangladesh Abandoned Children (Special Provisions) Ordinance, *reprinted in* 24 DHAKA L. REP. 240 (1972) (permitting adoptions).

85. See Hossain, *supra* note 6.

